

CHARTER COMMISSION
MEETING MINUTES
JULY 2, 1992
COUNCIL COMMITTEE ROOM

PRESENT

Sherrilee Dodson (Vice Chairman)
Dolores Fabrao
Annette Mondoy
Robert Nakasone (Chairman)
Victor Reyes
Allan Sparks
Anne Takabuki
Jamie Woodburn
Deborah Wright
Lloyd Yonenaka
Susan Nakano-Ruidas (Staff)
Paul Mancini (Counsel)

EXCUSED

James Cockett

GUESTS

Dave DeLeon

I. CALL TO ORDER

Chair Nakasone noted a quorum present and called the meeting to order at 3:18 p.m.

II. PUBLIC TESTIMONY

A. Craig A. Furtado, representing Keia Lā Maui (Maui Today).

Furtado: I here today to represent a new and growing grassroot business/government hui of about forty members who started our group about three months ago. We meet weekly and we are a nonprofit corporation whose members are working together in the spirit of aloha. Keia Lā Maui, which translates as Maui Today, intends to integrate in concerns of the interests of the business, labor, government and betterment of the community in the whole. Our members strongly object to the idea of single member districts for our council members. We look at Oahu's county council works, as well as the of jurisdictions throughout the U.S. -- single member districts divide people -- they dictate narrow and mindless... They are a disaster for badly needed island wide infrastructure improvements, ranging from roads to wastewater management, to public and recreational facilities. Each council member under the single member district plan has no...is significant to be anything more than an armor-crat, representing only his district's interests regardless on how bad the decision might be for other residents in other districts. Taken in the reverse, six or seven or eight council members could easily gang together and vote to put a sewage treatment plant, a landfill, or a prison or other toxic facilities in the district -- anywhere but their own backyard -- and without any reason to be concerned about the impacts on the community. This would be terrible for Maui; we urge you to vote against placing an amendment on the ballot this fall posing a single member district.

Reyes: Basically you said that a single member district would be a disaster for public works, and so forth, and the example you said was like a councilman might be able to force to put a dump facility in a certain district...and not to his district...and he could gang up with some other members... Don't you think this worse case scenario that you're afraid of might happen...would be subject to the rules of the federal government, the EPA and the state health department? This type of scenario that you're very much afraid of -- in the first place won't happen either in a true multi-district, or in a true district representation. So, I think that the thing that you're afraid of...under the present law...will not be allowed in anyplace in the county.

Furtado: It's not so much just a landfill or prison and other items as such, but that someone might not want it in their own backyard, but would be able to vote it in another district.

Reyes: And what about the community plans...the general plan? It all takes precedence of this thing that you're kind of...might happen on a true single member district. I don't see the logic that this thing happening under the present rules and regulations from the federal to the state to the county level. What I'm saying is, I think you're afraid too much something might happen that can be taken care of by some other means; and it's not just going to happen because we have...because we might have a true single member district.

Furtado: And also, I feel that each member should be accounted for as a whole, and not as each true district...to work together with each other, instead of being spread apart.

B. James P. Rust, representative of the Operating Engineers Industry Stabilization Fund.

Rust: I'm speaking on behalf of the 600-plus members and their families with the Hawaii Operating Engineers Industry Stabilization Fund here on Maui. I've also been asked to speak today on behalf of several other organizations -- the Hawaii Building & Construction Trades Council, which is the parent organization of fifteen unions representing plumbers, laborers, bricklayers, masons, elevator constructors, et cetera; the ILWU Local 142, Maui Division; the Hawaii Carpenters Union Local 745. All members reside throughout the island, and a large percentage have never lived elsewhere. I mention this because it reflects the island attitude that is very different from other places; it affects how we think about each other, how we need to work together for the greater good of all residents. It also affects how we think about and nurture the natural resources of our island and its people. All of this affects how we should govern ourselves, which is the subject of today's hearing.

My members oppose single member districts for Maui County; single member districts are a step backward -- they beget narrow self-interest which pits one district against another -- this isn't desirable or fair. As important under our present system, each one of our council members actually represents each one of us. We have nine people that we elect to represent, and therefore we each have nine voices who are beholden to every one of us on the island. This is far better than electing just one representative from specific districts. With single member districts, the eight other councilmen outside your district won't have to listen to your problems. They can become very isolated and provincial; they don't care if the community outside their own has a problem...a sewage treatment plant, a landfill that has become a nuisance, inadequate flood control, bad roads, no fire station or emergency vehicles...these are not their concerns, if it is not in their districts. This is not the island way. The truly Hawaiian way of approaching governance was through a system called Ho'oponopono -- everyone had a say; there would of course be compromise, everyone winning a little -- everyone giving a little; but ultimately, everyone willing to accept the decision as benefitting the greater good of the community.

I don't want to sound idealistic or like we live in the past; however, our members truly believe that as the world and life here on Maui becomes more complex, the need to work together becomes more important -- not less. We understand that some see this move as a means of resolving public apathy; we do not think that the solution is taking away eight of our elected representatives, and giving us only one ear and one voice.

In closing, may I request a complete list of all proposed Charter amendments? And, media coverage and publicity of the work of this Commission has been minimal; yet your assignment will have a significant impact on every man, woman and child on Maui. Many people would be interested in a complete list of the proposals that you expect to recommend to be placed on the ballot this fall.

Sparks: I understand what you're saying about keeping an at large system, but I'm curious as to what you think about the ideas we've put forward for defining residency areas.

Rust: What do you mean?

Sparks: The requirement for a resident for each of these areas in our at large system. Have you got any feelings about the way we've done that?

Rust: Yes, some of your council members would have more people to represent, and some would have a very minimal amount of constituents to represent.

Sparks: Well, as you correctly stated before, they all represent the entire county; even though we've required one to reside in each area.

Rust: Yeah, well that's how it looks in the big picture; but when you get down into the nitty-gritty of things, it don't usually work out that way.

Sparks: So, is your testimony in opposition to this kind of a residency area breakup?

Rust: Yeah, we don't want single district...

Sparks: This is not single districts.

Rust: Well, it's...you...you...each...

Sparks: This is at large...

Rust: Yeah, well, we're for the...all nine members being responsible to all the people of Maui, and not just the voters in their district.

Sparks: And that's the way this would work; everybody would vote on all nine council people.

Rust: Okay.

Sparks: But, there would be a requirement for there to be a council person from each of these areas.

Rust: Okay, I agree they should be from that district.

Sparks: I like to call them areas instead of districts because people get confused with districts, but...so what I'm asking you is does this seem alright to you? As within the at large system, but requiring that each more or less unique and different community have a resident on the council. See for example, this East Maui area is not a large population area; if we require a resident from that area on the council, then they would have the feeling that somebody who's their neighbor, drives their roads and drinks their water, and so, lives with their problems, would be a voice at least for how it is to live there...on the council, but they wouldn't get to elect that person...the whole county would elect that person.

Rust: Okay, no...I think that's good.

Chair Nakasone: The Chair would like to expand what Al says...as far as the current decision of this Charter Commission, we've taken a tentative decision on having...rather than having the existing two at large seats, and district residency representation -- we established nine residential areas, but the voters vote at large for all nine members. So what we did was to eliminate the at large position right now...or no residency requirement. So, every area is represented, but the voters vote at large for all nine members. That's the current decision of the Commission at the present time.

Sparks: It's very confusing.

Rust: So, you're saying that each of...each council member would come from that district, but he would be voted on by all the people in the county.

Chair Nakasone: All nine, yeah.

Dodson: Just like it is now, except that we're getting rid of the two at large where they don't have to live in a particular area; and we're creating a couple more resident areas.

Rust: Okay, I have no problem with that.

Reyes: Just out of curiosity, you said that you represent six hundred-plus members... and you oppose a single member district because it'll be a narrow self-interest...that person would promote only a certain...or would represent a certain group. If there is a true single member district...the district would represent approximately how many, Al?

Sparks: About 11,000.

Reyes: About eleven thousand...don't you think the representative of that district representing eleven thousand is much, much more than what you represent as six hundred?

Yonenaka: Ah, he ain't explaining it right...

Rust: It's much more in number, yeah; but our members are spread out over the whole county, including Molokai and Lanai.

C. Anthony Ranken, individual and resident of Wailuku.

Ranken: I'm testifying today just as an individual who has concern for the future of Maui and making sure we have the best democratic representation possible. I would first like to say what I support in your proposed amendments to the Charter. I am very pleased to see the term limits in here; I think the spirit of county government is to involve the people as much as possible and that is accomplished better when you have some required turnover so you can bring some new blood in. So, I support that fully. Basically, I see several other good ideas in here; there's only one thing in these amendments that I object to, and quite strongly, and that is the plan to have residency requirements for all the districts, and to eliminate an at large seat on the council. I believe these proposed changes are essentially making our representation less democratic, and they are also likely to reduce the quality of the council members that we have serving us. The reason I say that...first of all, that it would make it less democratic, is just going over the numbers of the districts the way they are being broken down, there are gross disparities in the number of people residing in the different districts compared to the number of council members representing those people. So really, Kahului/Wailuku/Waihee and Waiehu are losing

Ranken: (Continued) quite a bit of representation per person. I understand that you're trying to compensate for the tendency possibly of that group to elect too many council members from that area by having everything at large, but it seems that just the way this is broken down we're going a little too far in the other direction. East Maui only has 2,270 people represented there by one council member, whereas Kahului has almost 17,000 -- and that's a very fast growing area with the new housing projects that are coming in, as well as Wailuku, Waihee and Waiehu are very fast growing areas. So, we're really going to weaken the representation essentially; I shouldn't speak in terms of representation because I understand that they are elected at large. What I'm really trying to say is we're weakening the pool there; we have essentially a pool of 2,270 people from East Maui, out of which we would now have to elect one council member; and we have a pool of close to 20,000 in some of these other areas...in Kahului and Wailuku...where we'd have to elect just one council member. Now, it could very well be that you don't find a very well qualified candidate in any particular year out of those 2,000 people in East Maui, and you find several very well qualified candidates out of the 15,000 or the 18,000 in one of these other districts around here. And, it seems to me a shame to lose that talent, to give up on...to say we can only elect one person from Kahului because that's one of our districts, and at the same time eliminating the at large seat. The at large seat right now serves a function where if there are two very well qualified people who we'd really like to see representing us on the council, and they both just happen to live in the same district, one of them can run at large and get on that way. So, I hate to see that eliminated because it will mean that we'll probably decrease somewhat the quality of the council members and the candidates for council that we have. I don't think either that we're really securing more representation of each individual area of the island, because the voting is still at large; so, I don't think that a person from...who's running from upcountry say under this plan, would necessarily represent the interests of upcountry since they are voted for by the whole island. They may just be a person, you know, who happens to live in Kahului and commute to work in...excuse me, live in Pukalani and commute to work in Kahului or Wailuku, and they really have no awareness or concern for the issues that Kula and Ulupalakua people are concerned about. So, I don't think we're accomplishing much there in terms of representation of certain areas of the island.

I would like to suggest that one possibility is of course, keep the system we have which I think is a fair compromise; it's working quite well, it makes sure that we do have representation from the areas that really have a unique identity, such as Lanai and Molokai in particular, and those areas that have special needs. And it also makes sure... it still allows for a more democratic voting process where the voters have more choice in electing people to represent them, and there's not as much restriction on who can be elected to the council. If you really want to secure representation of an area, I think the only way to do that is to make the voting by district, and I'm not advocating that either for the reasons expressed by Mr. Rust...which I think he summed up very well. That can have its own whole set of problems.

So, basically I would advocate...I've been tossing around, looking at this map, different ways to divide it. I think one thing to do is add Makawao and Paia to the up-country area; I think Makawao and Paia have a sufficient similarity of identity and locale with Pukalani, so that you could add them to that area and make that district of a size of a population that is more equal to some of the others. I think we have to look hard at having such a small population district in East Maui; possibly Haiku or Haiku and Paia at least could be added to East Maui; possibly even Haiku, Paia and Makawao added to East Maui, so that again that population would be more representative, and then that might allow us to keep at least two seats for the Wailuku and Kahului area, and still have one at large seat. Or, it might allow us to shuffle Paia into the Central district again and have three seats for Kahului for all the way from Waihee to Paia.

I'm just advocating a system to preferably keep an at large seat as an option, you

Ranken: (Continued) know, for when you have two people in one district that are really qualified and you want to be able to elect that second person. But, if you're not willing to go for that, I would urge that you at least try to balance out the numbers more so that you have a bigger pool in some of these districts, while at the same time dividing them according to the identity of the area. And in that case, I think it would make some sense to go back to a three member central district, you know...if there was an at large seat, maybe there'd just be two members, but without the at large seat, it would probably be a three member central district. And I say that because really I see very little difference in Kahului versus Wailuku versus Waihee in terms of the identity of those regions; it's all becoming so connected, they're all relatively urbanized areas, and I think it will be beneficial to allow for that whole pool to combine and vote for two or three council members. That way, if some year you have two or three really great people who all happen to live in Kahului, they can be elected.

Chair Nakasone: I have one question. You supported the term limitations?

Ranken: Yes.

Chair Nakasone: Is that the...isn't that a concern of a voter's choice? Who you want? When you set a term limitation, really you're shirking the voter's choice.

Ranken: Yeah, I understand that argument, and what I would say is realistically in politics, someone gets in office...they develop a constituency, and there's just no way they are ever going to get out as long as they want to run, because they have so many friends...people are used to seeing them there, they identify with that person as a council member. And yes, you may say the voters are choosing them, but I think a lot of people just start voting for the same person more because they recognize the name...the person's done something for them in the past, it becomes a habit, they identify with that person. So, yes, maybe it does go a little bit against the voter's choice, but maybe that's a healthy thing; they'd only have to be out for two years, and they can run and come back in. But, it gets the chance for new blood, and I think it's especially important if you do go with this plan that I testified against about having everything completely divided into residency with no at large, then you're essentially saying to a potential council member who happens to reside in say East Maui, and there's one very popular council member in their thirties who intends to stay in there the rest of their life...you are saying to the other potential candidate -- either you move or you never have a chance to get into politics. And, that's a shame to me, because I'd like to see more people get into politics; I like to see that new blood and new ideas come in, and I'd like to see people have the chance to serve their county in that way.

Chair Nakasone: On last comment. I just read in the paper...it was a letter to the editor stating that position against terms based on that we already have term limitations.

Ranken: We do?

Chair Nakasone: Yes, based on the voter's choice. [LAUGHTER]

Sparks: Before Anthony leaves, let me just engage him a little bit on some of these ideas. You said it's good to have unique areas like Lanai and Molokai...have a resident there. Doesn't that argument also work then for the Hana/Keanae area? So, that's one point. The other is I see a couple of advantages to breaking the county up into nine residency areas; one is the one we just talked about...where you have unique areas, you can guarantee it a voice from that area on the council. You can't guarantee that they can

Sparks: (Continued) control who that voice is with this system, but at least they have one of their neighbors there. And, you don't have to worry about the equal population business as you do in true districts; so, that's an advantage to this system.

The other is that you can have nine single seat races with what I think is a lot more interesting election contests, than when you have a multi-member districts...like you were talking about maybe getting back to three...when you have a multi-member seat, by having three seats for the central area right now, it's hard to run against anybody or anybody's record when there's the top three people going to win. You don't really know who you're running against, and the population doesn't either, so the whole election becomes more like a tepid popularity contest than a real election contest. So, that's an advantage in having single seats.

Your point about keeping what you call an at large, and what I'm going to campaign across the county for us dropping that term...what we have now is not an at large seat, it's a no residency required seat; because everybody's really at large. And so the language there is a problem that I get picky about, because I think it spreads a lot of confusion; in fact, it spread confusion on the front page of The Maui News awhile back when this came out. Your point is that that makes use of some talent that might be doubled up in one of the residency areas.

Ranken: Yes.

Sparks: That may be a valid point.

Ranken: Your point about more interesting contests, I think, is a very good point. In fact, I think you've convinced me that that very well might be advisable, rather than have a two or three member district; I hadn't thought of that at all. In that case, what I think would be my first preference is as I said to redistrict a little to balance out the numbers and keep one at large seat, so that you'd have eight residency required in one large race...all with one-on-one contests.

Sparks: Non-residency required; not at large. One non-residency required...it's a very bad habit we all have.

Ranken: Right...I'll get used to it! On your other question, which is really related... you said it's nice to have a neighbor on the council. I think the way this is drawn up, you know, you can't really say someone in Haiku is a neighbor of someone in Makawao or Paia; it depends, or someone in Pukalani a neighbor of someone in Ulupalakua, or Maalaea -- Kihei. There's always going to be some distance in these districts, so I think what we're really striving to look at is the character of an area and the special concerns that make up...that may be relevant for the residents in those areas. And that's why I think, really we...although it is a little unfair in a way to have Lanai and Molokai each have one person, we can't get rid of that because Lanai and Molokai...it's like the senate and the house of representatives in our federal system, we have to give some weight to the interest of a separate island, in this case, to be adequately represented. But, I don't think the same thing applies, with equal force, to East Maui, for example. I think you could extend the boundaries of East Maui to encompass Haiku and Paia, and even Makawao, and you're still dealing with people who are trying to live that rural lifestyle...who are not in Central Maui, and who generally share a lot of the same concerns; at the same time, you're opening up the bigger pool of people and making it more democratic, and making for more likely... making it likely that you'll have really qualified representation on the council. So, I would just urge you...the Commission to look at possibly dividing this a little more; again, breaking down some of these districts so you can try to preserve that identity of areas as much as possible, making some compromises on that in order to allow for first of all

Ranken: (Continued) balanced numbers, and for one at large seat.

Sparks: Non-residency required.

Ranken: One no residency required seat. I'll write it on the blackboard ten times!
[LAUGHTER]

Fabrao: I just wanted to comment on your supposition that...your stand that if we have an area with...like Lanai or Molokai or Hana with 2,000 people...that the pool of candidates would be so small. I would like to think that those...that pool of people would be given a chance to have someone come and represent them too on the council. Because, I think heretofore, they haven't had that chance. And, I think they deserve...being democratic... they should have that chance. So I think for that argument, you can get... I come from Lanai, and there are quite a few people there who would be willing to serve on the council, who are just as qualified and could run...and real talented...but you have to give them a chance. You can't give them a chance if they're pooled together in a big area, and you have to deal with the popular people being elected into office.

Ranken: Right; and I think that's why I said I support continuation of one seat for Lanai, because those folks are really... You folks over there have a very separate identity, very separate concerns and that needs to be represented; but I think the East Maui district could be expanded without ignoring the concerns...the person could be from Hana, they could be from Paia...and they would be likely to be aware of the issues concerning that whole coastline. It's a compromise; it's a give and take, because obviously the more you expand the districts, the less likely it is that you'll have a neighbor on the council. But, under the plan you have, it's not perfect either; there's still a likelihood that you'd have someone on the council who is not by any definition your neighbor... someone who lives in lower Pukalani, and you live out in Ulupalakua...and they never go past the store up there...the shopping center.

Reyes: Just another comment on what you said...that you're for a term limitation because it will enable more people to participate in government, because of the term limitation and new blood, and so forth. As you can tell, there are some members of the commission who have thought about this...that to encourage really more participation, that's the reason they support a true district, because it's a lot easier to run for office from a district rather than campaigning over the whole county. And, the present system has produced a council member who's been voted down by the area that he's supposed to represent; now how would you reconcile the two...you support one, but you don't support the other...but the one you don't support, really promotes what you want to come out.

Ranken: Okay, the one that I don't support being the residency requirements...or being the...

Reyes: District.

Ranken: District residency with no voting at large?

Reyes: A true district would allow more people to run and participate in government. It's a lot easier...

Ranken: You mean if there were no voting at large?

Reyes: That's right; no.

Ranken: I don't support that because I think it has its own dangers, in that there will be more selfishness creeping into the process. And, I do think Maui has enough of an identity...Maui County has enough of a complete identity to justify people being elected from the entire island; and also, I think...I'm not sure how much easier it would make it in terms of getting elected because the publicity that you hear...you know, we only have one newspaper that covers the whole island, except Molokai and Lanai each have their own little publications I believe, but you know, basically if you're going to be... if there's an article written about you, everyone on the island can read it. The only way it would make a difference really is if you're going door-to-door campaigning on a very small scale, really talking to the voters in that district; I think there is enough of an identity of the community that it makes sense to elect at large. That's a close question; I didn't think you folks were really even considering that as an option at this point, but I would tend to prefer an at large voting system.

D. Nelson K. Armitage, individual and resident of Kahului.

Armitage: I just came up here to listen to the issues that were being presented and discussed earlier. My concerns...it sounds very complicated at this point; the way you guys are asking questions and...it's kind of a complicated situation. If people are going to vote on this, I'm pretty sure that you guys are going to have to make it real clear so the general public can understand what you guys're trying to say.

An example, like the Sandy Beach Coalition...I couldn't even understand if you're going to vote yes or no; the words that they put in there are so complicated...I was for stopping the project, but then again, the wordings were you know... The majority of the people out here in Maui is a lot of working people; a lot of them partly educated, a lot of them not educated. You've got twenty percent of the people up here who is educated -- that can read and write, and the lawyers, doctors and everything else; then you've got the lower class people. If they're going to be voting and cannot understand exactly what you guys trying to tell them...tell me what's wrong. How can they understand you guys? That's totally wrong; if you guys trying to put wordings in there that they can't understand to vote on -- you guys confusing the real general public people. I mean, not the ten percent or the twenty percent people, but the majority people who cannot understand this thing. So, I urge that you guys try to make this as clear as possible, so people who can read and write...or halfway can get there...can understand what you guys trying to say. And, that's what I wanted to say.

Fabrao: I wanted to reassure you that the members of this Commission have voted to at least in intent, to make the language as clear as possible so a plain person...citizen like me can understand.

Armitage: Me, too. [LAUGHTER]

Fabrao: Because we're all plain citizens...common citizens; we all need to understand what we're voting for...so that is what our intent is.

Sparks: I think, Nelson, you've put your finger on a real problem, and one that I'm really concerned about, and I appreciate your comments a lot; and, I hope we can enlist your support.

Armitage: Yes, you've got my support.

Sparks: These things ripple out, so if we can get two or three people in your circle to really study it and understand it, and explain it to all their friends, then maybe we'll do a little better...we'll be better off. We'll certainly try to make the ballot

Sparks: (Continued) questions as clear as we can...with all those folks in mind. And, it's still going to be confusing...there's a real big problem...

Armitage: Yes, I can see it; just sitting here listening to you folks it's confused me already. [LAUGHTER]

Sparks: So, we're going to need all the help we can get.

Dodson: Also, we are going to try and do a twelve page ad in the newspaper; it's going to be a pull-out, and in that we can talk frank, and you know...some of the language on the ballot may not be as simple as we hope it will be because it has to, you know, be effective. But, in the newspaper and the publications we're going to do in trying to sell our ideas, we're going to try reach just all the people you mentioned, and get them to really understand so that they know that when they are voting for this -- it's not the Sandy Beach Coalition thing where they think they're voting yes, and end up voting no, or whatever it is. So, we'll try to make it as clear as possible in that, so if you can let people know to look out for it...to pick it up; and if they don't get The Maui News...to pick it up at the libraries or the county building, and so forth.

Armitage: You know, we're having a lot of good radio talk shows going on...Buddy Fo show, KNUI show...I mean, they speak to a lot of people and the media is perfect. A lot of the people listen to the station...their favorite station, and I think that's one of the best ways to get to the people that cannot understand -- to spell it out on the radio clearly. You know, Buddy Fo does a great job of communicating with the public; I think that he would be a great media for this coming up at large residential seats.

Chair Nakasone: That's under public service though, Al; it doesn't cost us nothing.

Armitage: Right. [LAUGHTER]

Sparks: Us paying all the taxpayers, right? I have one more point I'd like to make while I'm on this subject, and that is...when we do get done with our deliberations... about a month or two months or so prior to the general election in November, we will be making ourselves available to any group that wants to invite us. So, I'd encourage anybody here, if you belong to any association and you think the association could use some information on what it is we're proposing, let us know -- we'll get out there and explain it as clearly as we can in person to groups. I did this about fifteen years ago, and that was one of the ways that we got the word out; it seemed fairly effective.

Armitage: I think you guys got a good idea in the way Jimmy Rust kind of crossed over it... it kind of touched bases, but there's some things to be ironed out -- like what you said that people on the Lanai area...there is people there that can qualify.

Fabrao: Also for Hana.

Armitage: And Hana; those are the real people that know their lifestyle in their areas, and I think that's important. But then again, this is democracy, right? So we've all got a right, so we've got to work at it...

E. Edward S. Kushi, Jr., individual and resident of Wailuku.

Kushi: I'm not prepared to speak, but because of the crowd and what I've heard...and especially there's no press around...[LAUGHTER]...I wanted to say something. I am a board director of this Keia Lā Maui, which literally translates to "This Day Maui" which means

Kushi: (Continued) Maui Today. I'm also employed by McCormack Properties Limited as a project manager. But, I speak to you as an individual; my employer, of course, has not given his blessings. I need to point out to you...I want to speak specifically on the single member district concept. Keia Lā Maui, Maui Today has stated this position; Mr. Ranken, behind me, I'm not sure if Anthony spoke personally or on behalf of his organization, but his organization is Maui Tomorrow; but, they seem to agree on this single member district. How can you have two opposing...diametrically opposed groups on some issues... come together on this single member district? I need to point that out to you. I further need to suggest that if you proceed with the single member district, you will create more adversity; and, adversity is good -- I am also a non-practicing attorney -- but to create a single member district, you will have a situation where a person from Kihei would not campaign county wide; and, he could care less what the Hana people would think. Likewise, someone from Wailuku will not campaign in Kihei; it's a matter of creating groups -- from one island, to maybe nine separate islands not divided by water.

The other issue is a question of accountability; what is good for Kihei, in my opinion, should be good for the county. If it's not good for the county, it's not good for Kihei. Therefore, how can one be accountable in a single member district scenario if the issue is...it boils down to...not in my backyard. What if all nine people say not in my backyard? But yet, it's good for the county. I don't see what problems you would correct; I don't see what situations you could resolve; I think you would create more problems. Likewise, when the populous would vote on such an issue, we'd find out...take for example somebody in Hana...if he found out he couldn't vote for Wayne Nishiki, I think you have to make that clear. Likewise, somebody from Wailuku who finds out he can't vote for Howard Kihune, you have to make that clear also.

I just want to say this on a personal basis...I know the committee...your Charter Commission has gone over various issues, but I think this is a key one. As far as cutting up the residential districts, it should be proportionate, notwithstanding the special categories of Lanai and Molokai. I'd like to propose...just reading through this Section 3.3 about the residency requirements -- at least ninety days prior to filing; but it seems not to cover the residency within a district -- maybe that should also be ninety days prior to filing; it seems like you just have to be a resident of the state or the county.

Sparks: I think you made a good point about the person in where ever...Hana or whatever that wants to vote for Wayne Nishiki, and in explaining why if we went to something like that...I don't think there's much likelihood that we're going to get away from the at large system in any case, so I'd like to enlist your support also in explaining to voters why they are voting for somebody who resides in West Maui, or Lanai, or Hana. I think the majority of the confusion comes from that direction; the voters get to the polls and they find themselves facing a ballot that says a residency area seat for Molokai, and they live in Kula. "How come I'm voting for them? I don't know these guys." So, we need a lot of education in that direction; why they need to pay attention to who those people are that reside in other areas, and why those people are also their representatives in our system where they get to vote for them. So again, I'd like to encourage people to think about that confusion, and make that clear to as many folks as you can...that they need to study all the races, and be prepared to make careful judgments on all of the races for council seats, even though they're talking about...you know, they are voting on council races that are in other corners of the island of the county from where they live. That's a confusion that I worry about in this system that we're talking about proposing here, and in the system that we have now; I think it's been a continuing confusion for fifteen years.

Kushi: Well, again, I've lived and worked here for thirty...forty years, all my adult lifehood; and, I don't think they're confused, I think they know what they are doing. I think a person who picks up the ballot knows that regardless where he lives, he's voting

Kushi: (Continued) for all nine people. And, all nine people should be accountable to him and his supporters...his family. I don't see any confusion in that.

Sparks: Bob tells me that's more and more the case, so maybe you're right; maybe the confusion factor isn't as bad as it used to be.

Chair Nakasone: It took a while...

Sparks: The other question about residency here...what we're proposing is that you have to reside in the county for ninety days, but that you only have to reside in a residency area...

Kushi: At the time of filing?

Sparks: At the time of filing; so are you proposing that we expand that requirement too?

Kushi: It's my suggestion, because it could create sudden movements. [LAUGHTER]

Sparks: Yeah, you can appreciate it's a little dicey where to draw that line; by the time of filing which is July 21st...so we're talking about five months or so they'd have to live there before they served...before they actually serve. You're saying add another three months -- eight months or five months...why not twelve months, or twenty-four months, or whatever. The lawyers tell us that you have to have a rational reason related to governing for these residency requirements, or you're getting involved in individual rights to run for office. So, while the ninety days residing somewhere in the county, I guess has no problem in the courts, requiring that much more time to be in a particular area...it might have some legal problems. And, if they want to move just before they file, you can bet our press will be covering it and it'll be at their own risk, in terms of getting elected. On the other hand, it will also promote what we're trying to promote here -- they will have to live in the area they are supposedly...have a kind of special relationship to.

Kushi: I think you answered your own question.

Reyes: Just an observation...we all think under the present system that...we know everybody's elected at large, and the residency requirement is part of the process where we called them representative, where actually it's not representative in the true meaning that it, you know, applies to a true district. Don't you think, looking at the other side of the coin, that if a district has a real problem...and under the present system it's not being tackled actively because there's no true representative -- don't you think that that works against the people or the citizens of that area of the county as a whole? To cite an example...this is not personal or anything...I just happen to live upcountry, and everybody in upcountry's crying about the water problem; if you apply what people think today...that we have a representative from upcountry, and nothing's really being done in the sense that no one from upcountry is sponsoring 'let's attack the water problem upcountry' -- of course we have the board of water supply, or the department of water supply...that's their responsibility...but there's no one single individual who's trying to push 'hey, let's do something about the water problem upcountry.' The reason is because that person is not personally accountable to that district or area; don't you think that works against the people of upcountry?

Kushi: In that situation, yes; however, I think if you go to the single member

Kushi: (Continued) district, it'll be worse. Example...your example...at least the other eight council people are accountable to the people upcountry because they get their votes; in a single member district system, they could care less what you do because you don't vote for them.

Reyes: But, I would have someone...

Kushi: You would only have one; can one conquer...not eight?

Reyes: That's right, and he cares to be elected and he would have more incentive to really...you know, because he wants to be reelected by those people, and he would work very, very...or she would work very, very aggressively to address the problem because he or she wants to be elected; that's what I'm trying to say. You have somebody who's really accountable to the people where you live; you'd better do something about it, because you are going to answer to them during the next election. And therefore, that would be more conducive to have the problem really addressed at the council level.

Kushi: Yes, I see your point, but again...

Reyes: You cannot assume that the council will not listen because...I don't know, the art of politics...but there's always a give and take, and you cannot categorically say no one would listen to you because you're a single person; because they need you too, in some other area of concern.

Kushi: See but again, in a single member district it needs to be brought up also that if I live upcountry, instead of eight...nine votes, I only have one now; you are losing eight votes...in essence, you're losing your effectiveness. If the people of upcountry are so upset, there's nothing in the system now to actively campaign against the person from Lahaina or Wailuku, from Hana...you know, everybody votes for them. But, it can be a problem, but you put more pressure on your district member, that's true; but again, if you couldn't convince him before, if that representative couldn't convince the other eight members before, what makes you so sure a new guy could do the same or could do better?

Reyes: I'm so sure because with the present system, the other eight...they don't care because they can always duck the issue -- that's what's been happening; those other people...those nine council members are ducking the issue -- no one single person is responsible to the upcountry people, so all they do is duck, duck, duck...and nothing happens.

Kushi: But, you as the upcountry citizens can vote them out.

Chair Nakasone: Victor, you can take it up with your present council members. [LAUGHTER]

Kushi: That was just an example, right?

Woodburn: Just a point of clarification...at the present time, the Charter Commission is not proposing single member districts.

Chair Nakasone: That's right, but there are some articles that people are reacting to...I guess, whether it's an interpretation to our actions...I'm not sure, but it's led the public to believe that we're looking at single seat districts.

[RECESS/RECONVENE]

III. COMMUNICATIONS

The following communications were received and accepted by the Commission:

- A. Communication 92-45 Fax dated 7/1/92 requesting at large election of council members, submitted by Dominick Marino, President, Valley Isle Plumbing, Inc.
- B. Communication 92-46 Letter dated 7/2/92 requesting that at large election of council members be maintained, submitted by Al Boteilho, Vice President, FWA Builders
- C. Communication 92-47 Letter dated 7/1/92 offering suggestions and ideas for consideration if Water Board were granted autonomy, submitted by Patrick Tahl
- D. Communication 92-48 Petition dated 7/2/92 seeking to retain current voting at large with residency requirements for council members (79 signatures)

IV. COMMUNICATIONS

- A. Francis Cerizo, Land Use and Codes, was unable to appear at this meeting, and has been rescheduled for July 9, 1992 Commission Meeting.
- B. Review of all proposed amendments with public input received from second round of public meetings.

Chair Nakasone: I believe we went through the whole Charter, and as a result of recommendations on our proposed amendments, we've taken tentative actions. At this point in time, if any member has any proposals regarding any provision of the Charter...it should be brought up at this point in time. Any objections to that? Anybody have proposals?

Yonenaka: Lloyd does. Is that where we are? I wanted to bring up districting...[LAUGHTER]

Chair Nakasone: Lloyd, you have any proposals?

Yonenaka: Yes, I would like to consider an amendment under water, and...

Sparks: Are we going to...excuse me for interrupting, but does it make sense to jump around, or should we start going through the list as we...

Woodburn: We've already gone through the list, haven't we? [LAUGHTER]

Chair Nakasone: I think we've all got the list, and some members have some concerns that they would like to bring up...on all the items we've taken action on. I think after we get those out of the way, then have Paul come with the drafting and the language. Again, that would be our approaching the final decision making.

Sparks: Alright, jump around. [LAUGHTER]

Chair Nakasone: Lloyd?

Yonenaka: In keeping with the idea of water...the water department as a public utility, and public utilities necessarily do not discriminate on who gets their services, rather they just provide the service. I would like to see an amendment of some sort that states that the water department cannot refuse water to anybody in the County of Maui. I realize ...I haven't thought about it all the way through in terms of what this would do or wouldn't do, but at the same time, I think it's important enough that we give some direction to the department of water as to what the intent of the Charter is; and the intent of the

Yonenaka: (Continued) Charter is that the department of water supply will supply water to everybody in the county. I also realize at the same time that they may not do so immediately...for their problems now as far as infrastructure, and possibly even money. And, perhaps we could include in that amendment a time frame of say two years or three years; at that point, they cannot tell anyone applying for a water meter or requesting water...no. Part of the reason is to eliminate them and to do what they requested...which is basically what they want to do...is not have an impact in terms of who gets water, who doesn't get water in terms of controlling growth. And, I think maybe we can do that by saying 'well in that case, you can't...you just supply the water.'

Chair Nakasone: Before we continue, being that Lloyd...or anybody else that might come up with proposals...to please direct the questions to the person they are proposing the amendments...[LAUGHTER]

Dodson: What I've heard from the people at public hearings is that they don't feel that the current system with the water board being semi-autonomous will be able to achieve that, no matter what we tell them to do; and, that they would like to see it come back underneath the county, and let the county decide how it's going to be done with, you know, the hierarchy that we have -- the council and the mayor being more involved in the decision making. And then, if there is problems with the water board or the water department, that their problems will be addressed by the council and by the mayor.

Yonenaka: Yes, I take that in light of the fact that the other counties do have an independent water department, and they seem to be functioning. I agree that there could be problems if they don't live up to that amendment; at the same time, I think...my perception is if they can't do it, we'll find people that can. I realize it doesn't leave much room for leeway; but in looking at water and at how special water is...and trying to eliminate as much politics from it... The answer may be...and I know this is a retraction from what I said earlier...but the answer may be to let them just do their job...to not worry about politics in terms of who is the final decision maker -- this is your job, just do it. I don't know, maybe it would be better to come back, but right now that's my feeling.

Fabrao: We are all ready to discuss this, before...

Chair Nakasone: Yes, being there's a proposal now, it would be the time for discussion.

Fabrao: If it is not covered under Charter...they're semi-autonomous, or even if like they're asking for their own water rates...being able to set their own rates, they're actually asking for full autonomy. How can you make them do what is mandated by the Charter itself for all other departments? Because, they're going to make their own rules and regulations; I mean, how can there not be any politics involved in it? Because they're going to be governed by their own board...

Yonenaka: I understand that there's politics involved, no matter what; and right here there's politics involved. But at the same time, what I want is for the water department not to have the control to say 'we are going to have a moratorium...these people can't get water.' What is happening is that once you...my feeling is that if you give them that authority, they do not become the providers of water, they become just the people that control that. And I think...we've heard testimony from people who have waited for water for fifteen years...and my feeling is we're not giving...these people aren't forty miles from the nearest house -- they've got neighbors that have water. And, I think it's something maybe the Charter can say, that you know, this is your job...this is what you

Yonenaka: (Continued) have to do. I think water's so critical today...well, it has been used before to control growth; and, I don't think that's their function.

Fabrao: To bring up what Victor brought up during the public hearing...that there was no one person willing to take up the banner and say 'hey, let's go and do something about it'...and if a department is semi-autonomous, or completely autonomous, there won't be any councilman who's going to fight that. And so therefore, I voted with you the first time when you wanted to bring it back under the county...because, from what I'm hearing, even though I wasn't there at the two hearings...I read the minutes; and, I haven't heard them say 'just give them a chance' -- it was us who was giving them a chance. The people are saying to bring it back under the county, or have more control, because they're not doing their job. Are we going to give them another three years to decide they're going to do the job? Two to three years waiting for water is too long.

Wright: I don't understand why you think the change... I don't even understand for sure what change you want. Now wait a second before you say anything more; I don't understand what change you want, and I don't understand from what I've heard, the relationship between the change you want and getting people who've been waiting for fifteen years their water. Are you saying you want now...you think we should reconsider making it an autonomous board -- let's say it shouldn't be semi-autonomous but it should be autonomous? But, in the Charter we're going to put guidelines as to what this autonomous entity is supposed to do or not do? If you make them autonomous, then they would have the control over what they are doing; and if you put in the Charter...you're supposed to give out water... I mean, they can't in all circumstances, so I'm not sure I understand at all, Lloyd, what it is you're proposing, or how that's going to make it work...where it hasn't worked in the past.

Yonenaka: Yes, I'm not interested in giving them autonomy; what I am interested in doing is saying if the water department says they can't supply water to this area...we're going to have a moratorium...I want that call to come from the council. I don't want a body that is not elected to be able to say we're not going to have any growth or development, or you aren't going to be able to build your house in this area. And, I apologize because I have not written it out, or thought about it to where I can give you a statement; it is just something I've thought about and thought about. I've talked to so many people that have a problem with water; and, it seems the problem is not overwhelming. For many years, I've talked to people, and they have come to me and talked to me about it and said 'it's almost like we can't do anything.' And, I think we can; I don't think it's that difficult. I think it's just a matter of the department having a directive or just doing their job.

Wright: I don't understand how that's going to make them do their job, is what I'm telling you. I agree; I think there is a serious water problem...I live in Kula, and I understand about people who are next door to somebody who has water and they can't get a water permit. And then, I notice down the street where supposedly there's a moratorium... and there's more building going on than I've ever seen in an area that...supposedly has a moratorium. And, I don't understand how that works either, or why it works in a certain way; but I'm not sure how...that's what I don't understand -- how is putting it under the certain aspects going to make them do their job? That's what I don't understand; how will that make them do their job? And, you know, maybe they think they are doing their job right now; what I'm trying to say is how is it we're going to make them totally within the county...and then the council's going to have rights...or is going to have to approve what that they do? What is it that the council's going to have to approve or not approve... that you think will help the situation; are they going to have to approve moratoriums? Are they going to have to approve permits? I mean, where is the line of what has to go before the council, and what does the department do?

Yonenaka: I don't know.

Wright: That's what I was trying to get clear, so I made sure I understood.

Yonenaka: It's difficult because I was looking at it from trying to solve it without saying to the politicians 'you guys could solve it.' You know, that's what I was trying to avoid; and, I thought if we could take away their ability to say no, that you can't have water...

Wright: Then, you don't need them...everybody gets a permit. [LAUGHTER] If everybody gets a permit, there's no need for the board at all. Somebody's got to decide.

Yonenaka: Yes, but that's the idea. But, the idea is if you go through the county system and you get your permits for your building, and you get your zoning, and you get all these changes -- on your way out, you pick up your water meter. You know, that's what I was looking at.

Dodson: If there's no water there, a lot of good a water meter's going to do.

Yonenaka: Yes, but if we don't have any water there -- why don't we have any water there?

Wright: They don't have water there, speaking as somebody who's been on a severe rationing in the spring...they don't.

Dodson: There needs to be lines put out there; there needs to be all this infrastructure put in...

Yonenaka: Right; they need to get going on this and get it done.

Dodson: But, how if we tell them that you have to give everybody a water meter...is that going to get them to put in the line that's going to go down this route...down that route, and then eventually end up at this house who has a water meter?

Yonenaka: The alternative is you do their job for them, and say this is what you've got to do. If you want to pull them back into the county...well, we'll entertain that thought.

Dodson: I think we are.

Fabrao: We are. [LAUGHTER]

Mancini: One of the symptoms you are looking at is basically the Kula moratorium, correct? That seems to be your focus.

Yonenaka: Yes, one of the things.

Woodburn: Discretionary authority in terms of who gets what.

Mancini: The point is, they've had a moratorium up there for fifteen years...or whatever it is; and, they haven't done anything to implement a system so there's no moratorium. Consequently, you want to create a mandate so they would have to do that. Is that it?

Yonenaka: Basically, yes.

Mancini: Basically, if you put a requirement in the Charter...that all regions of Maui would have an adequate water service...it would state that there, and theoretically create the mandate; but, it would be practically impossible to implement, because we know it would be financially not feasible to provide an adequate water service... It's just because Kula has the moratorium, that that's sort of highlighted; there are other places that don't have water service. If you were trying to do a subdivision in Kauhakaloa, you're not going to get a subdivision through in Kauhakaloa or Kipahulu...

Woodburn: Or Huelo, or certain parts of Haiku.

Mancini: I think Kaupo probably has a water moratorium.

Woodburn: Well, they have an independent water system; but I don't know...when you do that, then you have to sign off from the county in terms of what your water rights are, and you have to demonstrate to the county that you have adequate resources...and put in your own tanks and own transmissions...

Mancini: I remember there was a moratorium in Kaupo...or close by there in Kula; those are the two moratoriums that I could recall...only because parties would come up with subdivided lots and say give me a meter...and there was on water there by the county...

Chair Nakasone: Lloyd, you know on this question of the Kula moratorium...that thing has a term...on a moratorium; and, that has to go through the mayor and council for extending the term of the moratorium. So, actually there is some accountability as far as the administration and the council in determining whether they should renew or extend the moratorium...I mean, terminate or extend the moratorium. And, by the Charter provisions, the rules and regs...that deals with rates also...has to be approved by the mayor; that's where the check is. The current provision also gives that check -- the mayor's still accountable to approving the rules and regs and rates; only if the council disagrees, then they have the power...but still there's that accountability up to the point of the mayor and the council.

Yonenaka: I agree with that, and I also understand at the same time that the mayor and the council really has no input in terms of the water department or the board...as far as what projects they complete or whether they complete on time -- as far as running that department. It's not like public works where the council has the budget to work with as far as they're concerned; and, the mayor actually appoints the person, and if the person's not working out, they get replaced...or if she says push this project -- let's go now; and, they pretty much have to do it. There's no influence like that in terms of the water department.

Woodburn: There would be if they were a department underneath the executive branch.

Yonenaka: In that case...if you would like to propose it, I will withdraw my motion.

Dodson: You don't have a motion on the floor.

Woodburn: I'd love to propose it; I think water should be an executive branch.

Dodson: I was just going to say...I'd like to move that we consider a proposal to bring back the water department underneath the county.

Fabrao: Second.

Chair Nakasone: The motion is to consider...

Dodson: A proposal to bring the water department back into the county as a department.

Chair Nakasone: Everyone understand the motion? Discussion? Wasn't there an action taken?

Sparks: To leave it as is, I think.

Fabrao: We did make a motion at one time, but that died because we didn't get enough votes on it; but, because of the testimony, I think we should...

Dodson: Essentially this motion would make null and void the other motion to leave it as is, because obviously it's in contradiction to that.

Sparks: I'd like to speak in opposition to the motion, and I'll start by reminding you that the mess that the water department's in now...without the adequate infrastructure to supply the water that you're talking about...was mainly created during a period of time when they were a county department. And, you want to go back to that system. Number two, the recent special Charter Commission on the water department is the one that's changed it to its semi-autonomous status...after a lot of careful study, and coming up with a number of good arguments, researching statistics from across the country that indicate some things like...well, I've been urging people to read it -- how many people have?

Fabrao: I read it.

Chair Nakasone: Which report are you talking about, Al?

Woodburn: Special Commission report on water.

Sparks: The Special Commission report tried their best to look at the history of our own water department and see whether they could determine whether it worked better under the county, or better under a semi-autonomous status...because it's been jerked back and forth to different status. Didn't really find too much conclusive evidence in that history, but did find that of the 44% of public owned water departments, that serve 80% of the population...the vast majority of them of any size are semi-autonomous. Let me just read a couple of key portions:

"Among publicly owned systems, the vast majority among medium and larger communities are managed successfully under an authoritative system whereby a board or commission assumes management responsibilities. It appears to be an accepted fact that the more separated the control of the utility from the affairs of general government and politics, the greater probability of achieving maximum efficiency.

It relates some compelling testimony by a Mr. Robert Chuck, who is the immediate past president of the American Water Works Association, and of long experience in water resource development and management in Hawaii. In four years as executive with the organization, he visited all forty-one sections of the association because of a personal interest in water utility management. He took the opportunity to study the management systems of the communities he visited. He found many small communities have their system managed by the city administration; these systems are characterized as being small, simple, and generally without great capital needs. On the other hand, most larger water systems are managed by authorities. His opinion was that these systems are best served

Sparks: (Continued) by long-term managers under the authority system."

The report also emphasizes the continuity of management under semi-autonomous boards or authorities, and ends...also reports on a study that "this commission did by going to the other counties in the state and found that the mayors in the other counties were supporting their semi-autonomous water departments. And, it is interesting to note that prior to becoming the chief executives of the counties, Mayors Kunimura and Carpenter had maintained the position that the water departments should become a part of the county administration. After talking the position as chief executive of their respective counties, both changed their views and now strongly support the semi-autonomous position.

And finally, the report deals with the fact that they were doing this in 1987... it was approved in 1988, and they knew our Commission was coming along in 1991. There was considerable discussion on whether or not this Special Charter Commission should indeed recommend changes at this time, in light of the close proximity of the next Charter Commission -- that's us. "If the measure of the Special Charter Commission is accepted by the voters and takes effect in '89, the Commission strongly recommends that the 1991 Commission allow its work to stand. The department has undergone many organizational changes in its history and has not been able to stabilize and operate on a long-term organizational basis for the benefit of the county. The Commission did not want to participate in the lack of any stability, yet the Commission felt it must recommend those changes which would best serve the people in the long run."

I think we're looking at a long run problem that was created when the department was under the county, and a short run problem that is probably more to do with the personnel and their competence, on the board and in the management of the department in the last few years, than the discontinuity because of somebody retiring, than we are at a structural problem that needs to be fixed for the long run. I think this Charter... Special Charter Commission did their job well, and recommended a structure that in the long run will serve us the best.

Chair Nakasone: Anyone want to speak in support of the motion?

Dodson: I agree that theoretically it would really be great if we had a long term administration in there, with a board that was committed to making substantial changes in the areas that need to be changed...like Kula; but what I've seen is it's not happening. And, the problem with the current system is it's not happening, and what do we do about it? There's nothing we can do about it; there's nothing that the guy in Kula who's been trying to get a water meter for twenty years can do. We bring it back into the county...and granted, you may only have a director in there for eight years, because that's what the tenure of the mayor is...at least you've got those eight years; you've got that director who'd be screwing up -- the mayor can get him out if he needs to be gotten out; you have a board who is directly responsible to the administration. So, if there's something that needs to be done...if they're in a situation like we're in now...where they're ineffective, not responsive...we have some avenue to go to. Right now, we've heard these people talk that they've been to the board; it gets them nowhere.

Sparks: Do you know what the board is doing in terms of long term planning and investing?

Dodson: No, because they haven't said anything...that they're doing anything. And, I asked them when they were here; I said what kind of long term planning are you doing. And they said we can't do anything without more money. I don't buy that.

Sparks: I don't recall that. I remember reading some articles that says they do have

Sparks: (Continued) some plans; they have some exploratory wells. And, I understand that they have gone out for bond revenues, and they have revenues...so, my hunch is...as irritated as I am with some of the things I read about them in the paper, and some of the things they've said before us...is that they are gradually on the track to developing a long term plan for infrastructure. And that jerking them around again may not be the solution.

Wright: I agree with you to a large extent, Al, that when something's only had maybe three years or whatever to get under way...that's not long enough for them to prove themselves. But, I don't get any feeling that they are on the track and have a long term plan; and, if I had some feeling like that, I'd say yeah...give them time; you can't disrupt something that...because nobody can turn everything around in three years. I mean, I agree there's just no way...and it may be more disruptive to jerk them back into the county. If we had any sense that they were doing anything but drifting, too...I mean, I was not present at the time that they came here, but I have notes from somebody, I read the minutes from the meeting...which were verbatim, I guess; I read all of that stuff. I didn't get a good feeling from that that they had any concept at all -- it was pretty scary. I mean, I read that and thought 'gee whiz, is this as bad live as it reads on paper?' And, it was terribly upsetting...you know, I read them and thought 'my God, this is worse than I thought it was'...because they sounded terrible. And then, like you say, some of the stuff that all of us have read about meetings that have been held, the comments made and things like this in the paper that we read about -- like when the water board is asked questions. But, it's just one of those things I agree with you, and I'm really torn on this because I don't think this is enough time to turn something around...or to see if something is truly going to work; but, we sure don't have...it sure doesn't give us a feeling that they're working towards a goal of any kind.

Fabrao: My feeling is that when we asked about that plan they could not give us anything definite, and that their main concern was trying to get their own rates put into place...I mean, to be able to have the opportunity or the right to put in their rates. My question then...coming from where I am...is well then, how high of a rate are they going to charge so they can do these things that they say they're going to have monies for...or don't have the resources. I mean, there's only so much that a common citizen can pay for water; and, already they were asking for \$3500 for a meter to be installed...and that was shot down real quick. I mean, how far can they go? Three years is not long enough, like you said, to turn things around, but they have to have some kind of track record for three years, and I don't see...

Wright: Or even, Dolores, you know if they said 'here's our proposal; if we raise rates to this level, then we'll have this much in funding...budgetary-wise, we figure... and we can do these certain things with it. If we can raise it to this level, then we would have approximately...' Because, that's how it works in most cities with water, they'll say the rates are going up; just like every time you have to go before a public utilities commission -- you say how much you need in increase, and you say what the costs are and what the plans are to use that money. If they came up with something like that, then at least you'd have a feeling well maybe a common citizen can afford this rate. But at least, I understand why they want that rate, because at that rate they can go and lay so much line, or they can go and connect so much up, or build more reservoirs, or do more exploratory wells, or something of that nature. But, right now all they say is 'we want more money.' Well, we understand that, but where is it going to go once you get it. And, I don't think any of us have a feeling that they have a plan for what to do once they get this money.

Sparks: I'm not real sure whether they have a plan or not; it would be very

Sparks: (Continued) interesting to find out and get some specifics on that. But, whether they do or not, what I'm concerned about here is that we distinguish the structural situation versus the competency levels, perhaps, of the people involved. And, you can have the best designed organizational structure, and still have screw-offs in there messing it up; I think we should all know that. Our task is not to respond perhaps to temporary problems of incompetence, but by jacking the structure around...it's to look at the collected evidence and history and experience that's there as to which structure...in the long run proves to be the best. That argument, I think, is for keeping it the way it is.

Fabrao: So then how do you take care of those people who are supposedly "incompetent" and not doing the job now? Do we wait another three years for them to continue on this way? We have no control over that; they're semi-autonomous, right?

Sparks: There's some checks, and Paul might have something.

Mancini: I didn't hear the testimony so all this is obviously interesting, but one of the things I'm hoping to generate from all of this is the report of the Commission. In the report of the Commission you can make certain findings and concerns, and those findings and concerns can certainly be transmitted to public officials; and, no matter how you go on the issue, it seems to me that you want to set a record of what you've found. And, it seems like you're fairly consistent with some of these issues relative to what you've found; what you should do with it, you're obviously split. But to answer the question that was posed...what do you do...you make a record of it, in any case.

Dodson: I was just going to say, Al, your comment about keeping these two things separate...the organizational and the competence level, and I don't think that we can. I think that the problem is that the competence level is that...is at a point because we don't have an organizational structure that can change it; I think you have to bring them together. You have to say, you know, this may...if we got rid of the entire board right now and we got rid of the director right now, and we put a whole new lot in there -- what's to say that lot is not going to screw up just as bad? You need somebody to guide these people; you need somebody to say 'hey, when you're out of line, you're out of line. You are not responding to the public, you're not responding to the needs and the problems of upcountry or Kaupo, or where ever it's going to be.' And, I think the direction has to come from somebody who's accountable to the people; you know, if the people don't like what the mayor says to the water department, they'll get the mayor out. Right now, there is nothing, absolutely nothing those people up in Kula can do about that water board or that water director; they watched his salary go up, they watched the board have all these meetings and they become outraged. And they say 'well, we heard our public speak, so we're not going to have Ohana units have separate meters; you know, we're being real accountable.' That's not true, in my opinion. They got a little intimidated for once in their life, and that's it; but the reality of it...they could have gone ahead and done that, despite the outpour of opposition in the public. And, we need somebody to say 'enough is enough.'

Sparks: Well, they couldn't do it without the mayor's approval, and the possibility of a council veto...that's in the system now. Just an aside, has anybody ever gone through the experience of hearing your own fervent lecture of a few years ago...fed back to you in a different situation? [LAUGHTER] I used to argue...I used to make exactly those same arguments when I was on the Charter Commission before. It's a little disconcerting, I must tell you. [LAUGHTER]

Woodburn: I was just going to speak to the issue of accountability. I think that as an

Woodburn: (Continued) executive branch, there would be more accountability. And, I don't have a lot of faith in the way it's presently structured...that would present any glimmer of hope for radical changes to the provision to the water in areas where there's inadequate resources; and, I think those situations and problems will be perpetuated.

Reyes: Well, I've voiced before that it's a matter of personnel; you know, who's running the department which is composed of the director and the board. And, we've heard testimonies from the other islands and they have a whole range of their system, and it seems to be...they might not be perfect, they might have some problems...but not as...you know, not what we have here on Maui. And to me what that tells is that, you know, it's the people running that thing; it's the relationship with administration, it's the relationship with the council; and, the ideas that come up within that body. And so, for us to change the system, I think will not only complicate the whole situation; you know, if you're trying to solve an equation, you have to go one unknown at a time...you can't have...you'd have to be a super, super...to resolve three different unknowns in one equation -- you can't do that. So, I know it's difficult, but I believe that it's just unfortunate that we have...you know, the problem is personnel, the people running the system. It's just unfortunate for Maui County, I believe. And, Al, according to the report...and I've read that report...it happened when it was under the county, and if the county or administration is freely responsive, why did they let it happen? And for the thing to react and go to the semi-autonomous... I am in favor of keeping the present system, Mr. Chairman; I believe that by changing the structure...the structure is not the one at fault here, it's maybe doing too much right away, and let's give it some time to... And, if the administration and the council really -- I was going to ask of Dolores what we should do about it -- go districts...in a single member, because that guy there can handle flack! [LAUGHTER]

Fabrao: Go see your councilman.

Dodson: Call for the question.

Woodburn: Let's take a vote on this; let's just move on.

Chair Nakasone: I just want to make a comment...maybe a couple; number one, you know, the report doesn't identify that the water board was semi-autonomous before it became a department. So, I'm not sure they screwed it up before it became a department [LAUGHTER] under the mayor.

Sparks: The moratorium came under...after '75, yeah? '76?

DeLeon: 1977.

Chair Nakasone: Oh, maybe that's where the screw up was. Okay, so that's really an argument that I say being a department under the administration wasn't the reason the water department got screwed up; I think it was just a carryover from being semi-...

Dodson: Was that your administration? [LAUGHTER]

Chair Nakasone: No.

Sparks: He didn't have an administration. [LAUGHTER] He tried. He tried.

Chair Nakasone: And number two, and talking from personal position, I was against it being semi-autonomous because of the same reason that Jamie stated...it was a question of accountability...not in terms of the operation, but decision making -- when they have

Chair Nakasone: (Continued) that force and effect of law question. They have a provision here that has that control. But also, that question of financing, you know; I think at this point in time, I really don't think we have any control in the question of financing. We heard some of the concerns that the bond money's being put into the bank because they don't get their act together to take care of CIPs, and what they get from the bank and what we pay for the bond...we're losing; so, it doesn't really make sense as far as their accountability in finance also.

And, the third thing of concern is how they became semi-autonomous was because of the votes cast. [LAUGHTER]

Dodson: Call for the question.

Woodburn: Let's vote on that.

Sparks: I have one more quick one, and that's on the line of some of your logic. The point that John Hirashima made when he was here, I think, that made some real sense was that one of the good reasons for semi-autonomous is that elected politicians, especially elected every two years are naturally a little timid about the huge investments necessary for long term infrastructure. Now, when the guy was here...I do remember him talking about how much catch-up they have to do, and it might come out to \$12 million a year for the next ten years, or something like that. Can we assume then that our elected politicians are going to take that bull by its horns, and say 'okay, we need this infrastructure and therefore we need the increased rates, and we need to increase taxes to pay for it'? There's not a good record of elected politicians taking those kinds of bulls by the horns...

Chair Nakasone: I have no problems with that. [LAUGHTER]

Sparks: Because it's so often political suicide; and so that is a strong argument for some insulation away from elected politics.

Takabuki: I just want to say that I'm really having a very hard time with this, too, and I have a lot of mixed feelings; but, what I'm kind of uncomfortable about hearing is how people seemed to have judged the competency level of the director we have now and the board that we have now. Really, it hasn't been that long...particularly for the current director to serve in that capacity. And, I'm just not sure that I want to be a part of that kind of conversation that is judging his competence level. But, on the issues, I think I have made my mind up...but that particular portion was bothersome.

Wright: Ann, I know the word incompetence came up...but all I'm saying, and I think a lot of us are...we're not really judging the competency but we're saying when we've asked for long term plans, and maybe it's too soon for that...we don't get any direction. It's not so much are we judging someone as competent or incompetent; but what we're getting is tremendous amount of complaints from the people saying that there is a need for change; which is what we are supposed to be looking at...is there a need for change. We've had a public comment that says we need change, and when we have asked for input from the department as to what are you going to do about these things...we weren't given direction, it appears to me from the very detailed or verbatim minutes. So, I think that...I don't know if people are trying to comment on the competency or incompetence; all I'm saying is ...and I don't think anybody else really wants to get into that...is that what we can't get is a sense of direction when we are saying...we keep hearing there's a serious problem...there's a very serious problem; now where is this department going? And, we don't get a response or a clear response; and, if it slid off into some other kind of comment, I don't think that was what was meant. What was meant was that we can't get

Wright: (Continued) direction, and at the same time, this is one of the few areas where we have gotten very strong public comment. A lot of areas we've asked for public comment and we're not getting much; but in this area, boy -- there was some public comment. So then we figured there really is some sort of problem in the public's mind that has to be addressed.

Takabuki: Just one more comment though; there is supposedly provision for accountability for the board and the long term or long range plan of the board in the Charter already. The council is, I think, required to take a look at that and approve it. So, maybe something is not being followed through with that, that should be.

Sparks: I feel uneasy like you...I always feel uneasy when you try to make a decision without adequate information. And, I don't think we really know what the department has done, and what initiatives they're starting to launch, or what plans they have initiated and where those plans are. And, I agree with Ann; the question of competency and incompetency probably isn't appropriate. It's raised its head because of what Debbie's saying...we haven't seemed to have gotten some response, so we're guessing what may be going wrong here. Maybe it's just they haven't had enough time, maybe it is a problem of mismanagement of some form; but my larger question is...if it's either one of those, it's not justification for changing the structure.

Fabrao: It seems to me that when they came to testify, that we did ask for some kind of plan; and, I thought we were going to get it -- I don't see anything -- I didn't get anything like that, did you? Did any of you? I thought that they said they were going to get something to us.

Wright: Mr. Chairman, it seems to me that there are a lot of people that have a lot of uncertainty; I don't know if it's appropriate to have a vote at this time, to tell you the truth, because I for one don't think I can clearly vote even on the structure at this particular point...and, I seem to hear that from a few other people. So I don't know... obviously there's a motion on the floor and something has to be done about that; but right now, I don't think I'd feel comfortable voting, to tell you the truth. I don't think I could decide on how I felt on the structure at this time. So, I don't know if that would mean I would be abstaining, but there may be others that would abstain also until further information. It may not be the appropriate time, is all I'm saying.

Chair Nakasone: Further discussion?

Woodburn: Aren't we running out of time?

Fabrao: Yes.

Wright: We're running out of time, but we still have some.

Woodburn: Isn't our next meeting it, basically?

Chair Nakasone: Yeah, with the final amendments.

Sparks: Can I ask for some information? Maybe Dave knows -- do they have, as they are supposed to have by the Charter, a long range capital improvement plan adopted by the board?

DeLeon: They have a water resource and development plan that the state requires.

DeLeon: (Continued) It's supposed to be associated with land use development planning. You're supposed to marry the two so they show you have the water resources for development...

Sparks: And that plan exists and has been passed?

DeLeon: The state requires it; I think it's been updated once. I don't know how detailed it gets; I don't know the extremes...

Jeff Kuwada: It's entitled the Water Use and Development Plan; it's required by the state water code.

Chair Nakasone: Jeff is with the council services.

Kuwada: The plan is entitled the Water Use and Development Plan, which is required by the state water code; and, there was a question as to whether or not the Water Use and Development Plan was the long range plan that is referred to in the Charter. I don't think that question has ever been raised to the Department of the Corporation Counsel; however, internally there was a memo generated within the office of council services which concluded that that plan was, in fact, the long range plan of the Department of Water Supply. And, that plan was approved by the council.

Sparks: Does it include capital improvements; does it spell out a pace of capital improvements and these specific at all?

Kuwada: I know it identifies various areas of the county, and there is mention made of, for example, the test wells that are being drilled out in the Maliko Gulch area, I believe; but, I'm not familiar enough with the plan to say exactly.

Sparks: No schedule of maintenance or replacement of aging lines, or anything like that?

Kuwada: I'm not sure that the plan is that detailed.

DeLeon: I'm almost certain it's not.

Sparks: Wouldn't that be a capital improvements plan?

Chair Nakasone: They have two separate funds, I think; one is general repairs and the other deals with CIPs.

Woodburn: I acknowledge that fact that there are certain people here that have some reluctance to move one way or the other on the motion, but can we make the motion and call for a vote and see where we stand, and move on? We've been on this for...

Chair Nakasone: The motion's on the floor already.

Woodburn: Okay, then let's have a vote. Let's move on; we've been on this thing an hour.

Chair Nakasone: My one concern is the...which was identified in the report...this idea of continuity, you know; and, I do support that position of the report, being that you run into this question of replacing the director every four or eight years. And, they kind of emphasized the question of continuity of management is a lot more effective, but it can be worked the other way also...it can be bad if you have bad management -- you'd have continued bad... [LAUGHTER]

Woodburn: Continuously bad management. [LAUGHTER]

Yonenaka: Maybe we can put term limitations on that.

Chair Nakasone: However, the other possibility would be something like, you know, if you are going to recognize being under the administration...would be to look at the question of continuity would be to have the director probably appointed by the board. But, you have that department under the administration.

Fabrao: I understand the idea of continuity, which is very, very important; but again, if there is a plan in place that gives the direction of the department, then no matter who gets into that position...should be following that...unless there's some reason to change it drastically along the line. I mean, that's what the general plan...or CIP plan...or whatever plan that's in place -- and certainly, philosophies do change, but basically what the intent of a plan is to go towards one direction. And, that could be a very important issue or criteria for determining that kind of thing, but I still think the continuity issue's not that big of a thing...to me; eight years you have somebody in place and then you could probably address it somewhere else...I mean, somehow, like you said.

Chair Nakasone: Okay, are you ready for the question?

Takabuki: I would just like everyone to feel comfortable and ready to vote; and, if Debbie is not comfortable, then I think we should identify what it is maybe you'd like to find out to make you to be able to make the decision, because everybody's vote is so critical in this kind of case. I would like to have your feelings...

Wright: I think all of us would like to see whatever plan... To tell you the truth, I didn't understand and maybe they didn't understand what we wanted; but, I didn't understand that there was any sort of plan, and it doesn't sound like it's real detailed. But, the feeling that we've had, and the problem that I've had to a large extent...that the only reason basically that I would consider changing it is that apparently there has not been an improvement during the time period that they've been semi-autonomous. And in fact, things seem to have gotten worse, from the comments we get from the public about this situation. And, it may just be a matter of time -- that there hasn't been enough time to turn it around; but then, maybe they should at least let somebody know what their plans are to turn it around...so that we know is it a structural problem, or is it simply a matter of time. And that's why I'm having trouble voting on this structure; because I can't tell right now if it's a structural problem. Do we jerk them back under the county and maybe screw things up even more because it's too soon; we haven't given them enough time? Or is it that it wouldn't matter how much time in the world they had, the structure is defective and it's not going to work like the way it's set up right now? A lot of what Al quoted from was for large water systems in major metropolitan areas; that's where the semi-autonomous and autonomous water boards work...I come from one of those areas...I understand that. It's not the same thing as here at all; and, it certainly isn't the same with the geographic limitations and situations. So, I have a problem with just because that report says 'well, on the whole semi-autonomous works better for eighty percent of the water being provided which is in major metropolitan areas.' To me, that doesn't answer the question of whether or not that's appropriate for Maui.

Sparks: A little addendum though; it does seem to be working well for Kauai and the Big Island.

Chair Nakasone: They've got water. [LAUGHTER]

Sparks: Those are more similar to Maui than Dallas, Texas.

Reyes: We have a lot of water.

Wright: Kauai has water.

DeLeon: The Big Island has a drought.

Chair Nakasone: Any further discussion? Ready for the question?

Reyes: Just one more...I believe that the present system has -- considering the two extremes -- has the characteristics of both what we want and I think it's got the best of both worlds...if you want to think about that. And, I think we might be sending a wrong signal if we all of a sudden make this change; and, I'd like people to think that it's a very, very serious subject...and we really don't know whether it's structurally defective or not. And, let's really give it a chance...the mayor has the input on this; the council has the input in this, so you know, we've got all of those components...and so it's collectively a resolve of what the system is...and so, I don't believe it's structure.

Chair Nakasone: There's always the possibility of adding a provision with the effective date of the year 2000... Okay, anybody else? Further discussion?

Fabrao: I just want to make one more comment. [LAUGHTER] We have to remember who are the services for -- the people, or the board, or the director. And, it would seem that I'm on the people's side -- I want to get the service; so, which ever way that's going to get to me, I'd like.

Chair Nakasone: Okay, roll call.

Dodson: Yes.
Yonenaka: Yes.
Woodburn: Yes.
Sparks: No.
Wright: Abstain.
Reyes: No.
Fabrao: Yes.
Mondoy: Yes.
Takabuki: Yes.
Nakasone: Yes.

MOTION CARRIED [7 yes/2 no/1 abstain]

Sparks: I thought we were on final decisions now. If you're on final decision, then we need eight.

Chair Nakasone: No, this is not final decision; we still have to go through the whole package.

Wright: No, no; not until the draft's been done.

Mancini: The motion passed, correct?

Chair Nakasone: You're not clear on our response to that?

Mancini: It was a very broad motion, but I can do my best to bring it back but...

Mancini: (Continued) You've got a board of water supply now under it; what I assume you're doing is taking the power from that board to appoint the director, and basically, to manage the systems from the board to the mayor. The rule making power, I assume you're taking away from the board and creating it similarly to all other rules...in other words, you do away with rule making power and then all the rules are subject to an ordinance. Do you understand my question? Some of this you've got to figure out what's going on there to decide how you're going to allocate powers. Now previously, you had a system...before this new board was semi-autonomous...where the board had some advisory powers; and that's when I think they came to the last Charter Commission...and the water board said if you're going to leave it that way, just do away with us because it's just a waste of everyone's time. And, no reason to have a board at all, because we don't have the ability to pass rules...and we don't know what we're supposed to do here...give pep talks to the director, but obviously the director's responsible to the mayor...at the time. So, there was some confusion at that time; but let's take inventory...the mayor appoints the director; the director manages the system...is there a board? And, if there is a board, what does the board do?

Sparks: See what you guys are getting yourselves into?

Chair Nakasone: Paul, I would suggest you look at the previous...

Mancini: We could just take the previous Charter provisions...

Chair Nakasone: Because that identifies the department as...

Mancini: The idea is to take the Charter that existed prior to this '88 Charter Commission?

Chair Nakasone: Right; it becomes simply advisory, and they identify what areas.

Mancini: Okay, we'll just go back to the way it was in '88.

Chair Nakasone: Okay, any more proposals?

Reyes: We've heard a lot of testimonies about the consideration of our proposed amendment to change the way our officers or people in the government are elected. And, we heard a lot of testimonies in favor of going further, and going directly to true single member districts; and, I realize that there is a minority here of those who support that, but in light of... I vividly recall when I was interviewed by the council on what I'm going to do in this Commission...I'm sure what I said is not very much different from what you might have said -- and that is, I'm going to listen to the people. And, I heard a lot that we had to go a farther step, and to go to single member...true single member district. And, I'm not saying you should agree or disagree with it; I'm not holding you to it, but I think because of this topic...this issue has received one of the most number of testimonies and a lot of interest...it is incumbent upon us to put this to the voters -- let the voters decide, just as we have discussed that we should let the voters decide on some other issues. So, we're divided and I feel very strongly that to uphold what I told the council during the confirmation process, that I'm going to listen to the people. I heard a lot; just like what we discussed previously about water -- we're tackling or trying to do something about it. And, I would like to propose that we really consider our previous decision and we go one step further and go to true single member districts to elect our officials. There's a lot of advantages...we've heard about that, we've debated about that; and, I truly believe...at one point or another, you might have interpreted that I'm kidding when I say the situation in upcountry wouldn't have been

Reyes: (Continued) there if there's a true single member district -- I happen to believe, more and more is someone was really responsible to the upcountry people, we might have a different water situation right now. You can look at it that way; but the bottom line is we heard...I heard from the people, and let's give them the chance. You can still, if you don't agree with single member districts, you can still vote against it at the ballot; but let's put it to the people and let them decide, Mr. Chairman.

Chair Nakasone: Do you want to make a motion to that effect?

Reyes: I move that we amend our proposed amendment to the Charter...that we should go to full district and it should be put on the ballot in this coming election.

Chair Nakasone: Is there a second?

Sparks: Sure.

Chair Nakasone: Okay, discussion? Can we discuss that at length?

Sparks: Let me clarify my understanding of the motion that I just seconded...
[LAUGHTER] We're making a motion to put the question to the voters 'shall there be a...

Chair Nakasone: Single seat district.

Sparks: Single seat districts by some future apportionment commission? Or, by ourselves?

Reyes: I know also that that's kind of difficult, but what I would like to...you see, the people also want that it has to be clear what our intent is; I would go along with whatever the Commission decides on how it should be put, but the intent has to be we should go towards a single member district. If the Commission is comfortable with let's have a future apportionment commission, I go along with that; but I think the public should be made aware that our intent is we would like to have a single member district.

Fabrao: That is what you suggested before, but we would propose...

Chair Nakasone: We would put on the ballot a question of...

Sparks: Can I amend the motion? As a seconder...am I entitled to do that?

Chair Nakasone: Yes.

Sparks: Let's amend it to say specifically that we'll put on the ballot the question for the voters to decide -- shall there be an apportionment commission to divide the county into nine equal districts for council elections by the 1996 election. Will you accept that amendment?

Chair Nakasone: Are you seconding the motion?

Reyes: I second. Since our counsel is here and you hear what is going on, we'd like it to be put in such a way that we're not confusing... [LAUGHTER]

Woodburn: We haven't even voted yet.

Sparks: My idea is it would be a scheme developed by an apportionment commission

Sparks: (Continued) appointed immediately after the next election, and then presented to the voters in '94.

Mancini: I think, if I understand your intent correctly, is to first have the voters vote on the fact that there will be nine single member districts; and, if they vote in favor of that, a reapportionment commission will be developed in order to establish those districts...and that would go into effect at a date after that commission completed its work.

Fabrao: Except that our resolution right...or our proposal is to do the at large system with residency requirement; didn't we want them to vote for that? We had to have something before we go that true district, so that would need to be clarified; that's where the confusion will come in.

Reyes: That's why my motion is to reconsider...so we'd do away with that...we would like to advance it one more stage -- this would be our proposal.

Fabrao: Except that that according to what I'm hearing...it's not going to go into effect until the next go around; because if we vote on it this year, it's not going to go into effect until two years from now -- what are we going to do in the meantime? We're going to use the same system?

Sparks: Actually, as the motion states...my understanding is we stayed with our recommendation for these...

Fabrao: We will stay with the recommendation? Okay.

Sparks: If they pass it in '92, that will be the way we do it in '94; if they pass the other thing in addition, there will be a true district system that will be used in '96.

Fabrao: Is that your understanding, Victor? That's not what I'm hearing from you.

Reyes: That's not my understanding. [LAUGHTER] I'd like to advance...

Sparks: We've got a problem here -- either in the motion or the second.

Chair Nakasone: We'll call a recess while you guys figure out what the motion is.

[RECESS/RECONVENE]

Chair Nakasone: If there's no objection of the makers of the motion to the amendment, would you withdraw and come up with one?

Sparks: Eagerly; I'll move and he seconds this time. The motion is to replace this proposal for at large with nine residency seats, with an item on the ballot that would ask the voters to approve the appointment of an apportionment commission to establish equal population true districts for the election of council; and, to have that scheme presented to the voters in the 1994 election.

Reyes: Second the motion.

Chair Nakasone: Discussion on the question?

Fabrao: So, you're saying that would go on the ballot in 1994, not this year?

Sparks: On the ballot in 1992 is what I just said; if the voters pass it, then what the apportionment commission does in terms of true districts would go before the voters in '94; and if they pass it then, it would go into force in '96.

Chair Nakasone: Okay, do we all understand the question?

Yonenaka: So we are basically asking the voters to vote for districting.

Chair Nakasone: Right.

Sparks: The argument for it is to give the voters a say in this issue, whether they want true districts or at large systems.

Fabrao: That's just to get the apportionment commission.

Wright: But, the apportionment commission is to do districting; it's not to just look at things in general -- it's to do the districting.

Yonenaka: We will have true districts; it's yes or no. And, we will have it by process of having this apportionment come up with districting, which will be approved at the next election. If they don't approve that...

Reyes: Then we'll have the present system.

Sparks: So, you're clear about what we're putting on the ballot before the voters this year?

Mancini: The redistricting commission then does not have any autonomy in themselves; all they put is another issue on the ballot?

Sparks: They are not a redistricting; they are districting...because we don't have districts yet. First of all, they would be districting or apportionment, not a reapportionment... An apportionment commission, I would say they would be appointed much like our Commission was.

Chair Nakasone: I think the question on the ballot is 'Do you agree to a single seat district. If you do...'

Sparks: Well, I think you need to be more precise than that; you have to agree to having districts made by an apportionment commission.

Chair Nakasone: Right; so it's a yes or no...'Do you want to see nine single seat districts?' If it's yes, then you automatically appoint an apportionment commission.

Mancini: But ultimately the voters have no say in the ultimate districts.

Wright: Yeah, because what the apportionment commission comes up with is then voted on by...

Reyes: In '94.

Mancini: So the vote that you have single member districts is a rather tentative vote, because those districts can then be rejected.

Sparks: That's right...but at least it is the voters getting to have some say about this subject in general, if not in terms of specific districts. And, both Vic and I have the sense that it's...the majority of the voters would...even maybe the majority of the votes drawn -- ballots drawn would pass such a thing.

Chair Nakasone: We can try look at that again if you want. [LAUGHTER]

Sparks: But they're not getting a chance to say what they think as long as the majority of this Commission isn't putting something on the ballot.

Mondoy: If that's the case then, when they go...when they hold their hearings, this apportionment committee, and the voters then have a chance to come in...

Sparks: Just like they have in our operations here.

Reyes: Just like when we went to Lanai and Molokai...

Chair Nakasone: They won't have a chance to agree or disagree once you identify your apportionment commission; they are the ones that are going to define the districts.

Reyes: But they will be going to the community and asking their input.

Chair Nakasone: The final decision is with the apportionment commission, though.

Sparks: Right; just like it is with ours.

Chair Nakasone: So, regardless of input, it's going to...they're going to make a final decision.

Sparks: But not final in the sense that they decide it; because then what they come up with has to go back to the voters.

Mancini: This is not like the Big Island.

Sparks: No, it's not like a reapportionment commission that just does it; they put the scheme before the voters in '94, and if it's passed, then it goes into effect in '96.

Fabrao: How do you clarify that?

Sparks: We just did; it's in the minutes.

Reyes: And, we have the counsel here, so...

Fabrao: Okay.

Chair Nakasone: So, the nine districts...

Sparks: We didn't say nine -- true districts.

Chair Nakasone: The '92 question is true districts, right?

Sparks: Right.

Chair Nakasone: And if the vote is yes, you'll have an apportionment commission that will put on the ballot...in '94...identifying the specific districts.

Sparks: The scheme...yeah.

Chair Nakasone: Okay? Everybody understands the question? Lloyd, you have a question?

Yonenaka: No, I was ready to vote. [LAUGHTER]

Reyes: I would just like to reiterate...bring it back to the body or the Commission that I really felt very touched by those people; and, I've heard both sides. And, just because I felt that that's my...or one of our missions...to listen from the public and represent for voting what has come back to us...that's the reason I feel very...I support it. And, the other apprehensions before...Molokai and Lanai might be outnumbered again, but Molokai now has a planning commission... I know it's not really related, but Molokai has a lot of say in what's happening in their area; and Lanai we have adopted a proposal to have a Lanai Planning Commission, and there's been no testimony against having Lanai have a planning commission...so I believe that the concern that Molokai and Lanai will be left out should not probably be that much of a great concern. Plus, when we were in both islands, we heard testimony that if we do go to single member district...they wouldn't mind as long as they lumped together Molokai and Lanai and Hana... or some areas where there is some commonality in the community.

Chair Nakasone: Okay, roll call.

Takabuki:	No.
Mondoy:	Yes.
Fabrao:	Yes.
Reyes:	Yes.
Wright:	No.
Sparks:	Yes.
Woodburn:	No.
Yonenaka:	No.
Nakasone:	No.

MOTION DIES [4 Yes/5 No]

Okay, Paul, your comments on the actions taken by this Commission?

Mancini: What I'd like to do is prepare a draft of the report, which would go through each of the amendments proposed, would give the reasoning for the amendment and the intent of the amendment; and then drafting the new section in each one. And I think as I go through, I probably will generate some questions as to the motivation, et cetera. And, I'd like to do that...maybe get it done within a week, if I could, and then present it to you; and, that may be a good format to start to go through all of it yourselves because I'm going to have to try to catch the reasoning behind it.

Chair Nakasone: So, would next week Thursday...we have a scheduled meeting on Thursday; would that be appropriate?

Mancini: I'm not sure I can finish everything by the 9th, but I think we ought to go at it anyway.

Chair Nakasone: Okay, I think we'd better.

Mancini: Whatever I can get done, I'll get done; if I finish it, I finish it.

Woodburn: Does Paul have the most recent one where we made changes to this?

Mancini: She just marked it up for me.

[Staff: If you read the bottom of the agenda, it says one will be available on the 7th.]

Chair Nakasone: Okay, so we can start working on the drafting and the intent.

Mancini: I'll do the report, and as I'm doing the report I'll draft each section on it; and, I'll give my best shot at...whatever I get done by Thursday you'll have.

Sparks: This is backing up a little bit, but there's a detail that did come up in the hearings that we missed; and that's when we change the terms of office from starting January 1st to the first working day of December...we also need to make a change on when the council first meets.

Chair Nakasone: Yeah; there's another section that has to be changed too.

Sparks: There's a section that says they first meet on the 2nd of January at 2:00 and all that...that needs to be shifted to the first working day in December...a detail we don't want to miss.

Chair Nakasone: Section 3-6, Paul.

Woodburn: In intent...once Paul drafts that...the direction of this body, and then we'll take final action on our proposed amendments?

Chair Nakasone: We'll go over his structure of the questions...I mean, the decisions, the intent; and, if there's any corrections to that, that's the time we should make them.

Woodburn: And then we vote at that time? And if we have eight affirmative votes, then those are the amendments that get put on the ballot? Once we get that far, are we still thinking about grouping certain housekeeping type things in one section? And then major issues as a separate... "I vote to amend the charter, and blah blah blah blah." And then I take individual actions on five or six issues.

Chair Nakasone: Certain ones.

Sparks: Okay, another procedural question...this may apply to more than just me...I'm going to be gone this month; could what Paul comes up with be sent to me?

Chair Nakasone: Yeah, we'll send a ballot to you. [LAUGHTER]

Sparks: I don't want to see a final product! I want to see what he comes up with and then I can make my yea or nay or comments and fire it back to you, right? So, I wouldn't be completely out of the loop during the month...

Woodburn: I'll need that too. I'm going to be gone.

Wright: Can you vote in absentia by sending in your decision on certain issues; that's really what the question is.

Mondoy: Me, too; I'm going to be gone.

V. NEXT MEETING DATE

- A. July 9, 1992 - 4:00 p.m., Council Committee Room, 7th Floor
- B. August 3, 1992 - 4:00 p.m., FINAL VOTE, Council Committee Room, 7th Floor

Takabuki: I just had a question about whether or not we were going to publicize the full twenty-five or so recommendations before we take a final; or, are we just going to vote on it and then publicize it? The reason I ask is because I know that when we went to hearings, a lot of people said 'well, I just got it, and I just had an opportunity now...' And, rather than have that kind of feedback after our decision making, I wondered if maybe we should try and actually disseminate this via newspaper or radio or whatever...

Fabrao: But, didn't you want to wait until Paul did his thing first?

Takabuki: No, I think...

Chair Nakasone: No, just tentative...exposure to what the Commission has acted on, and just have it publicized.

Sparks: In some kind of condensed form and tell them this is the final, final chance for public input before we make our final, final decision?

Takabuki: I was concerned because a lot of people raised that...not having seen the whole laundry list.

Sparks: I'm certainly not opposed to that; I'm not going to be around to read it.

Chair Nakasone: Do we have to buy space for that?

[Staff: Well, it sort of looks like that since I already gave them the tentatives and it hasn't run yet.]

Chair Nakasone: How about if we just buy space and then we know it's in there, and nobody can say we didn't... Any objections to that? Spend some money and get it run for the exposure?

Mondoy: Could that also be put in the Molokai papers? Remember, they said nobody reads Maui News on Molokai?

Sparks: Why is that? They don't want to be forgotten, but they don't even want to keep up.

[Staff: So, should I also put it in the Lanai Times and the Molokai -- how many?]

GENERAL CONCENSUS: Yes.

Reyes: How about Hana; is there a paper in Hana?

Woodburn: I just have a recommendation that when we go out prior to the election with what our final stuff is...is that we produce, if we're talking about producing some document that's lengthy and very exhaustive in its explanations...that it be a condensed summary up front...and that we consider maybe putting it in all the major food stores... Longs, Safeway and Foodland and Star Market...so that they can be there for people to pick up in addition to whatever else we do; because I think we may have our greatest impact if it's there to be picked up...rather than go to the library or go to the post

Mancini: A better procedure is that where ever you are, they just plug you in by phone.

Chair Nakasone: You could vote by conference call.

Sparks: I might be a long ways from a phone...when you guys want to meet. Suppose we fire back our comments and our votes...so maybe it isn't official, but then you wait for those final votes? August 5th or something like that?

Chair Nakasone: I have no problem with that.

Mancini: Why don't we just schedule your final vote? I'm sort of history after August 4 or 5 myself. I'm going to have to give you a final product the first week in August...you'll be back by then, right?

Sparks: Are you talking about writing our draft that might go to the public at the same time? That kind of wording?

Mancini: Yeah; what you want to do is justify the decisions you've made in a narrative form. What I was looking to do is...each one of these changes...devote a separate page for each one, give your reasoning, the intent of it and then rewrite the sections...and tell me whether the reasoning's correct or not...see if you like the language...so, you can vote them one at a time.

Sparks: I know Paul's pretty good at writing these sorts of things, and perhaps that report...that rationale part...will become our final report to the public...with some condensation...whatever's necessary; because we are going to go with a flyer...an insert to the public a couple of times.

Mancini: I think it's your report to the mayor and the county council; they appointed you for this position -- it goes to the clerk and it is filed as your record.

Sparks: Okay, agreed; but we do need to agree on the audience, because we're also thinking of the general public.

Mancini: That's part of your advertising campaign that you're going to have to do.

Sparks: Can you write with that audience in mind, too, so that at least what you come up with is...

Mancini: You mean you write intelligible for one audience and unintelligible for another one? [LAUGHTER]

Sparks: There's a little difference in a report to the mayor and an advertising brochure, let's say.

Mancini: There's a difference in what I think you want as your record; it would be like your legislative record, because this is like a constitutional convention here -- you want that clear, and you want it concise -- and there's another thing which would be a merchandising document which would be basically far more persuasive. So, let's see what the product looks like when it's finished.

