

CHARTER COMMISSION
MAUI CHAMBER OF COMMERCE PRESENTATION
MEETING NOTES
CHAMBER MEETING ROOM, KAHULUI
MARCH 27, 1992

COMMISSIONERS PRESENT

James Cockett, Committee B Chairman
Robert Nakasone, Commission Chairman
Allan Sparks, Committee A Chairman
Anne Takabuki, Committee C Chairman

Charter Presentation: 12:08 p.m.

Nakasone: Earlier, we were scheduled to have some kind of preliminary of the draft of any Charter amendments by the end of March, but we've changed that schedule to the end of April to give our committees more time to go over the proposed amendments. We've developed three committees, and the committees were broken down into three sections: one section is the legislative/executive branch deals with Article 1 through 7 of the Charter, Al Sparks is the chair of that committee; we have another committee that deals with the county departments, which is Article 9 [sic] of the Charter and Jim Cockett is the chairman; and the last committee is the finance and general provisions deals with Articles 9 through 15 of the Charter and Anne Takabuki is the chair of that committee.

I think we have some good people, a good cross section on the Charter Commission, and some good experienced people like Al Sparks who served on the Charter Commission before, and Jim Cockett the manager of the Sheraton has the management background to tackle management, and Anne Takabuki is the former managing director, is really experienced in the budget area and general provisions of the County Charter.

Today we just want to update you on what is happening with the County Charter, and being that Jim has to leave early, why don't we let Jim explain what is happening in his committee.

Cockett: My committee interviewed all the department heads and we had requested of them any changes that they would like to see that would make their department more efficient. We also wanted their reactions to some resolutions that are before us for some changes; for instance:

1) There are three where the director of finance, the director of public works and the director of planning; whereby the resolution is that they are confirmed by the council. Presently they are appointed by the mayor without confirmation, which gives her the balance of power. The full committee will be dealing with that.

2) We also had some other resolutions such as the establishment of a department of waste management, that would spin off of the department of public works;

3) And, there's another one creating a department of housing. Again, we'll be looking at whether it should be a separate department or if that department could be melded into another department;

4) we also heard from the Commission of Safety, and that group had lots to say about misnomer of their commission. At one time they talked about having their commission identify and be the umbrella group for the police, fire, emergency and so forth, which on the surface looks like a great idea, but making it workable is not that easy. So, they've asked that we

Cockett: (Continued) change the designation. Little things like that have been recommended to us.

5) Department of Water Works is another area that is working well in my opinion, but again it's something that the full commission needs to review. That basically brings me and my committee up to date. If there are any questions, I'd be happy to answer them.

Judi Gruetter: When you create a new department like that, do you know what would be the cost of that? I mean are they drawn from other departments or will it be an additional cost?

Cockett: It will be an additional cost.

Jim Waggoner: You said you are considering this, like the department of housing; is your committee recommending considering it or what's the status of this?

Cockett: Whatever they recommended to us we'll take to the full commission to be reviewed.

Jim Waggoner: So, your committee really has no status on these things right now.

Sparks: Nothing's firm yet, and I think that's one thing that needs to be said, and that's why we're coming to folks like you. There's still time to get your input.

Cockett: We've had some public meetings and we'll be having some more.

Don Malcolm: Have you considered a transportation department? Has that ever come up?

Cockett: That I think has been mentioned, not in the committee but as a department under the mayor's findings and she has brought that up.

Nakasone: I'd like to mention one thing. The Commission decided to go to three phases to deal with the Charter. Actually, right now we're in the first phase which is educational -- we're holding public hearings, meeting with groups like you to get some input as to what are your concerns about the Charter. The next phase, probably the latter part of April, we'll probably go into the deliberation stage where we get all the data together and have a fairly rough draft of what we want to consider as far as Charter amendments. After that then we go to another round of public hearings, and present it to the public as to possible amendments to the Charter. Then after that we go to the final stage, which is probably the end of summer, in which we will be deciding the final proposed amendments that will be put on the ballot.

Jim Waggoner: So you've got a lot of steps to go yet.

Alvin Amaral: Well, I'd be a little concerned with having the various department heads needing to be confirmed by the council -- planning department, public works -- I think that would be a real step backwards. We've had enough experience with just the few people that need to be confirmed by our council; and to add to that, wouldn't be a step in the right direction at all. I mean you have to have a separation between the administration and the

Amaral: (Continued) legislative branch and I can see prosecutors and so forth because they work in a close relationship, but I think other department heads confirmed by the council, in my opinion, would not be progress.

Cockett: We appreciate input like that from the public.

Nakasone: Anne is reviewing the Section 9 through 15 that deals with the questions of budgeting, recall, initiative...

Takabuki: I have four areas of thought here, and that's budget/financial procedures, code of ethics, initiative and general provisions. I'll start with budget.

We met with the budget director a while back and we were happy to learn that the Charter, as far as they were concerned, works quite well. They did suggest that we also meet with the Council Budget Chair Alice Lee.

When we met with Alice, she mentioned several problems that she sees, and one is the conflict area related to CIP, Capital Improvement Projects, appropriations. And what Alice mentioned was that perhaps the council should be able to identify, or the council should have the authority to initiate CIP budget items. Let me explain that. In the past, the language in the Charter is quite vague on this issue. And in the past, it has been interpreted that the council cannot initiate CIP projects. This gives the council concerns because many times their priorities are not implemented. So, that is one of the things she asked our committee to address to require the administration to carry out projects that have been identified as priority by the council. On the other hand, identifying CIP projects is a function of the mayor, and carrying them out is within her purview. We will be looking at this rather complex issue. Alice is asking for some kind of mechanism whereby we could require the mayor to spend. The difficulty right now is even if we require the mayor spend by some mechanism, if in her judgment it shouldn't be spent, there's a problem. But, we will be looking at that.

Other suggestions that we've had is to consider a two year biennial budget. On one side of the coin on that issue is it has been suggested that a two year budget requires longer term planning, in otherwords, you look at the broader picture. A two year budget proposal has really not been well received by both the council and the administration. Both would prefer staying with an annual budget because, first of all, it allows for more public input on an annual basis. Another supporting factor to that is the council would feel they a better chance to review the budget annually, where if we went to a two year budget, only certain items may come into focus. We will be looking at it, but right now it would be difficult to implement without their support.

Waggoner: Before you leave that subject, you've been on the hot seat before as the former managing director; what do you think about a two year budget, personally?

Takabuki: Well, the good point would be longer term planning. Right now what happens is you get into the budget in October and by the time you get it passed it's May already, and you go right into the budget and before you know it, it's time to start again. The process is very time consuming and it would be nice to kind of step back for awhile

Takabuki: (Continued) and plan. But, the point on the other hand, you could build in a yearly review, in other words you could require the mayor to go out to the public on an off year, when it's not a budget year. The council stresses that this is important so that they know what is happening with the budget. But, I'm not sure... Without the support of both it would be difficult to implement.

Don Malcolm: Does that include having a supplemental?

Takabuki: Right now we have a supplemental every December/January.

Don Malcolm: Right. So you'd still have that.

Waggoner: How does that work? The supplemental budget when in effect we have an annual budget?

Takabuki: What happens is that the budget has to be passed by May 31 and it is implemented by June 30. As the year goes along they will have some idea of how much revenues are being assessed, and what then will happen is a bill will be sent down, probably in October or November to appropriate that carry over or excess. During the year of course there are amendments between departments and things might change, like she might decide to not do a project, there are all kinds of small things...

Amaral: Anne, in that area too, you know, I think we have enough examples, not only here in this community but even Congress, whereby a budget can be a force of numbers. The council, for instance here we have nine people versus one mayor; in Congress we have about 100 versus one president, so they can load up the budget with all kinds of political items that will never be carried out but just put in there for political reasons, and then the mayor or the president gets left to pare it down. So, I think the system we have on Maui is better than having the council have an additional method of getting more money spent. I think right now the mayor can say, well we have x number of dollars that are not part of the big picture, and right now we don't have enough employees to take care of various programs, so to force the administration into spending money just because it's in the budget... I don't think it's again in our best interest. I see what is going on in Congress, it's just a mess.

Takabuki: And yet, the council does set certain policies by the budget, and in the sense that these are not carried out, they tend to get upset.

Amaral: But, they also know the amount of monies that we are collecting, you know.

Nakasone: I can add something to that, Alvin. There's a reason why the council doesn't deal with pork barrel; because that question too about capital improvement priorities...why is it too that the administration only has the right to determine which CIPs are done? I think the priorities... You have two bodies reviewing the priorities of CIPs, and sure, they don't necessarily agree on all of them, but right now the way the budget requirements are on spending, it's strictly by the administration. And, whatever the council puts in, she doesn't have to fund. It's kind of frustrating, I don't know whether I'm taking a biased position or not...

Sparks: He never takes biased positions.

Takabuki: He never does.

Nakasone: But it's frustrating, you know, when a member of the council identifies an immediate need, and because it's not on the schedule of CIPs, it'll possibly lapse; and more so now because of the eighteen months requirement. You can only encumber the funds eighteen months, then they lapse. And, you look at a two year term of the council and a four year term for the mayor, it makes a heck of a lot of difference, too.

Amaral: But at the same time, Bob, you know it's nine people sitting around the table, and I'm saying to you Bob, I'd like to see this particular program in the CIP, and you want your particular program, and we'll exchange this -- we'll exchange our votes and get the programs in the budget. And so, it may not become the priority of all the members, it becomes the priority of exchanging our votes and picking and choosing...

Nakasone: As far as six members...

Amaral: Right.

Takabuki: We've also been talking about whether the eighteen months lapsing period for CIPs is enough, or if we should add time for projects to get started. As you probably know, at the end of December CIP projects lapsed; then the funds have to go back into the general fund and then get reappropriated.

We've also received a recommendation on the table that would require that proposed budget summaries come out by March 15th. These are primarily about twenty-five page summaries of the 600 page document. The budget chair has to sift through that but the summaries could be made readily available to the public.

And finally we have a proposal on a five year operating plan which would be part of the budget. Right now there is a requirement for a five year CIP plan. This would require more intensive planning between departments not only for twelve months but for five years down the road.

Judi Gruetter: Is there anything that obligates the county to honor proposals or that requires them to see a project through when they have put it out for bids? I mean, sometimes business people have submitted their bids and then the project doesn't get under way or somebody changes their mind; is there any kind of obligation on the county that would require them to honor those proposals that they have put out to bid?

Takabuki: Generally, the county should have an intent to go ahead with a project before putting it out for bid, but the county can reject bids and the usual reasons are lack of funding, or they see something in the bid that they are not happy with, or whatever. They really do not have to accept bids.

Joe Donaghy: On that bidding, we bid the War Memorial football stadium. It was a matter where the county was advised by the designing

Donaghy: (Continued) engineers who said this job could be done for \$350,000, so they allow \$350,000 in the budget. We were low bidder at \$700,000, so needless to say, they have to go back in and redesign. This is a perfect example; they didn't have to accept the bid -- they just didn't have the funds. I just didn't want the job at that cost because it would be piddling away my tax money too; and, it was done at our price.

Takabuki: Anything else on the budget before I move on?

Donaghy: I had another question...why aren't these CIP projects awarded? Especially now, the construction industry, we're hurting.

Takabuki: I can't speak for the present administration, but there are a number of possible reasons; one, either there is not enough money or they might see something in the bids that they are not comfortable with, or they want to change something along the way...

Donaghy: No, my question is why aren't they being put out to bid?

Takabuki: Oh, they aren't being put out to bid...I'm sorry, I don't know why they aren't being put out to bid. Maybe the mayor has certain other priorities that she wants to accomplish. I know in the past there's been some concern about the Public Works handling too many projects, and being unable to really control... That's a question for the mayor, I don't know the answer to that.

Gruetter: There should be some sort of guidelines when they do actually put something out to bid, and if a certain amount of money has been appropriated, then the bids come in within that appropriation; but, it shouldn't be such an arbitrary decision to decide not to award a contract once the bid has gone out, once the money has been appropriated and the bids come in within that range. It seems that perhaps there should be some guidelines so that the process of putting out a bid...I should think there should be some way of making that more responsible...

Amaral: Do we know that there are projects that have been funded and have not been put out for bid?

Gruetter: We know that there are projects that have been put out for bid, and bid proposals have been submitted, and then the project isn't started. That's what I'm saying, Alvin, that when they put one out for bid and they receive bids within the parameters, that it shouldn't be such an arbitrary decision whether they should proceed. So that when it goes out to the public and they start soliciting the time and effort of contractors and business people, there should be a serious commitment to fund this project. And especially, if the bids come in within the parameters of the proposal; that they should just not be able to arbitrarily decide not to award that bid.

Nakasone: I think that this is really a state wide concern, not just on the county level, so I'm questioning whether there are some statutes that could tie in with this so called commitment. There's a bid, the funds are available, the administration cannot decide 'well, I'm not going to do this project.' It seems to me that statutes would govern that type of...

Gruetter: The biggest thing is this mass transit in Honolulu; I mean millions have been spent to bid this project, and then they say, Oh, yes, the bid has been awarded to so and so...

Amaral: I can see that being a statute kind of thing, but that's not a Charter type of thing. That's what I'm trying to get at, that's not a Charter...

Gruetter: But I'm saying that there should be some governing body with respect to that, because some of these proposals are quite expensive, people are spending millions of dollars for a project that may or may not really happen.

Nakasone: Well, it seems that the statutes governs whether its a closed bid or an open bid, I think they have a minimum of what the cost is you have to go with a closed bid. And, I would think the statutes would somehow apply to this question of being obligated to release funds after it's been put out to bid... Somehow I feel that maybe there is a statute...

Takabuki: But, it happens at both the state and county levels, and the county follows the state in bidding laws. But, I know what you are talking about when you say the bid should be accepted except for good cause, for example there would have to be good reasons for not going through with a project.

Donaghy: That depends on the administration of the county, and even state. We do quite a bit of government work, and unfortunately, they rely on the designer or the engineer or architect for an estimate of the cost. And, unfortunately our designers, engineers and architects are not out in the field to see what the costs actually are. We had an instance with the previous administration where they put a job out to bid, which was the Memorial track. There were only two bidders; they accepted the lowest bid -- unfortunately he wasn't even a licensed contractor in the state of Hawaii. We went to war, and the thing is they dilly-dallied around long enough to allow this guy to come in, make his bid and get licensed, and he got the job. But, by statutes, they should not have even accepted his bid. But again, like I say, the non bid requirements are any job under \$15,000 they are required to get three bids...

Takabuki: Formal bids.

Donaghy: Three formal bids. Anything over that then they go to the bid process. But, unfortunately, they are misled by the designers...

Gruetter: I understand that, but that's not what I'm talking about...

Amaral: Let's go on...

Takabuki: Okay, let's talk about the fourth thing which is something that has gotten a lot of attention over the past years. We asked the County Board of Ethics to our meeting and they did submit a proposal which would incorporate a number of the state law provisions. And, that on the face seemed easy enough; except that we found some technical concerns about provisions that deal with when an official can come out and say I'm

Takabuki: (Continued) involved in a conflict of interest. Now in state law there happens to be an escape clause which would allow an individual to act on his or her own matter, provided they file this on their disclosure statement. And, we were concerned about that so we will be talking again to the Board. Any suggestions that you have would be welcome.

Amaral: I have one suggestion and that is that you do away with any financial statements prior to an infraction of any rule. I don't think any governmental body has the right or the need to receive anybody's financial statement to serve on a Board of Ethics or the police commission or the planning commission, or any commission, whatever. It should not be the determinant factor unless the person does something wrong. I mean some of the questions are not germane to what he is going to be serving in. There's different levels of commissions, different authority, and some of the things that are asked for, to me are not proper. And I for one would be all in favor of either curtailing the information requested or having an ethics commission to handle things that are found to be done improperly; but not prior to... The way the ethics commission operates it seems you are almost -- guilty before innocent, you know what I'm trying to say. Why is it necessary for this guy who is going to serve on the street lighting committee to be putting in all those things? I mean it's totally ridiculous what we are going through here.

Takabuki: I think what we thought on that point was that it may be necessary to narrow those who have to file it. I think there are definitely some who should not have to file it. There are cases like the planning commission who should be required to file it, but they are confidential, they are not public.

Amaral: It could be in a narrative form, but it should not be in a numerical or that type of thing...

Takabuki: So you're talking more about streamlining the form and making it a little more germane to what...

Amaral: That's right.

Donaghy: Maybe that break could be made between the judicial board and an advisory board. If you have the kind of board that has the power to change, then you would require a financial disclosure; but a street lighting committee or any other advisory committee...

Amaral: I know of people who have refused to be appointed to government because of it, and I totally agree.

Takabuki: The next topic is initiative, and we did meet with the county clerk on this matter, who would actually be the person in charge of processing a petition. Now he had some very good proposals. There was one proposal that we should consider deleting the thirty day qualification for the filing of a petition, once the requisite affidavit is filed. Right now five people can get together and file an affidavit and say that they intend to file an initiative, and they file it with the county clerk. The current law requires that within thirty days the petition be completed with all the signatures, and that is viewed as probably being a great deterrent to an

Takabuki: (Continued) initiative being filed. So, we'll be taking a look at that. And, we'll also be looking at changing the number of signatures required. Right now the Charter requires 20% of the registered voters in the last election. And again, 20% of the voters coupled with the thirty day requirement... It should be difficult, but it shouldn't be so difficult that no one can file one. So, we'll be looking into that also.

Teena Rasmussen: Are you basically taking the tack that you really want to make it possible for the county to have initiative? Because I always thought the law was designed so that we really wouldn't do an initiative.

Takabuki: It shouldn't be so difficult, because I wouldn't think you would want to have all things put on the ballot, but at the same time, it shouldn't be so difficult that you...

Rasmussen: So you are looking at a happy medium there.

Takabuki: Right, exactly. The City and County requires a 10% of the voters in the last election, and Hawaii county 15%, so at 20%...

Rasmussen: Do they have the same days limitation?

Takabuki: I don't recall off hand.

Wayne Hedani: One of the things though on initiative quota, using California for example, you can end up with a hundred different items on the ballot and it's discouraging to the people who show up to vote.

???: There's another issue and that's that there is not enough information disseminated previous to the elections for the voters to make an intelligent choice. I think making it easy to do initiative would be a mistake.

Wayne Hedani: The county council, the legislature should be the people doing their jobs and check out every issue to its complete depth, you know, they have the time, the energy and the resources to investigate...

Sparks: So your recommendation is many people think we shouldn't even put it in there in any form. It seems to be clear to me to not have it in there at all, than to have it in there and still make it impossible to do.

???: If you start cutting back, you start a trend of cutting back...

Rasmussen: I think government has to have one of the two things and that's either initiative or term limitations, and if they don't have one of those two, then I don't think the people are getting what they... Politicians that are in year after year after year get out of touch with what the public really wants, and their focus becomes to get reelected; and I think that's when you need one of those two things.

Takabuki: I have one more area that I'm going to cover and that's boards and commissions. We received public input from the various places we had our hearings that they feel geographic representation should be

Takabuki: (Continued) required; right now, it isn't required but the mayor does give due consideration to all areas. We are also considering whether the term of five years for boards and commissions should be reduced. That's something that we will have to look at in the future because it is such a long period, and I think it was also argued that you need new blood, you need a changeover more often than every five years. So, we will be looking into that.

And, one more...whether we should have a Charter Commission in another ten years.

Malcolm: Are there any alternatives on that latter? You could put it on the ballot in five years or something like that, like they did for the state constitutional convention, and you ask the voters by putting it on the ballot.

Takabuki: Another alternative would be that we could pinpoint areas that you want to be examined within the next ten years, like something with the water board, the water department -- we had a special commission because they felt this was an area that needed further study. And, that could be done -- you could single out a couple areas, rather than having the whole Charter looked at.

Waggoner: While we're still on that, I want to go on record that I certainly hope we do have another Charter Commission ten years from now. But, second of all, I would also like to know what's wrong with giving the mayor a little more freedom? I mean this idea of...he or she is going to have to have sixteen lawyers just to tell them you have to do this, you have to do that...she or he knows where they are elected from, you know... I think talent should will out.

Takabuki: Is there any specific area that you...

Waggoner: No, no. In fact, quite the opposite... No, this was in reference to the representation from the different geographical areas that you were talking about. I just think we should stop trying to tie their hands, you know.

???: They were elected for their judgment; and if they got reelected, it was for their judgment.

Waggoner: [Directed to Takabuki] I know you're a lawyer -- the latest combined wisdom is that by the year 2027, everybody in the United States is going to be a lawyer. They are graduating them that much faster than the population growth.

Sparks: Then they can handle petitions on ballots, right?

Rasmussen: Instead of 46 pages in the yellow pages, they'll have ALL the yellow pages.

Amaral: Whose area is it if you were to limit the terms of the councilmen, who's...

Nakasone: Al. Al Sparks.

Allan Sparks: Before I get started, what's our time limit? Used up?

Nakasone: It's Al Sparks, here, that's dealing with the question of term limits and some other proposals...

Sparks: The big item I wanted to focus on was how we elect council, but before I get to that, there's some other items that have come up in my section of the Charter. One is the perennial question of should we elect them for two year or four year terms, and the four year argument has some good points in that they would be in there long enough to learn their jobs and accomplish some things, and wouldn't be interrupted so often with all the problems of getting reelected. And, from my point of view, they wouldn't have to go back so often to all the financiers of their reelection -- they'd have a chance of being more independent of special interests that are paying for elections. So, I personally think there are some pretty good arguments for four year terms, but it's been tried a number of times already in this county, and it's apparently clear where the public stands on this issue. So, I'm not inclined myself to go and push that issue before the public again.

Rasmussen: Have you considered coupling it with term limitations?

Sparks: Well, that's the next thing I'm going to point out. The hot item nowadays is limiting terms, due to certain national problems. There was something I read in the paper that said California is not just limiting it to eight years, they can't just set out and then come back again. They are really serious about it over there. In my committee we've discussed this at some length and we're recommending to the larger commission, I think we recommended a limit of five two year consecutive terms.

Another area that's in my area is the Salary Commission, which we are recommending be moved to a different location, but we talked to the Chair of the Salary Commission, and one of the interesting conflicts that they had was that they are obligated to set the salaries for the department heads for all departments; but another section of the Charter, under the Water Department, says the water commission sets the salaries for the water director. So there's a conflict there that needs to be fixed. And our recommendation is to fix it by removing that power from the water commission and moving it to the salary commission. Not the water commission, the water board. But, in recognition of the fact that there are three commissions, I think, that hire their own directors, we're inclined to require that the salary commission consult with those commissions before they set those particular directors salaries. At any rate, the idea here is to have one more or less non-political independent body setting the salaries throughout the department head structure of the county, so that it all makes sense and it doesn't get out of whack.

The other one I'm sure you'll be excited to hear that we're going to fix is the mess they got into when the mayor appoints somebody and the council rejects, and the mayor doesn't remove them from their authority, referring to the corp counsel and prosecuting attorney. So, we're going to fix some language there -- Anne's working on it, using her legal skills -- to make sure we cover those contingencies so there is no longer any doubt how that's supposed to work.

Okay, the other issue is how we elect council people. This is a fairly astute group, so I'll assume all of you know now that we have an at large election system for council, and that we do not have an election by districts. How come it is then that there is a resident of Lanai, Molokai, East Maui, West Maui and now there will be South Maui, and so forth, elected?

Sparks: (Continued) Because it is a residency requirement, not a district system; very confusing to most of the voters. I'm sure a lot of them go and shake their heads wondering why am I voting for somebody from Molokai. They don't understand that it really is a truly at large system with all nine elected by all of the voters in the county. That's one powerful argument, I think, for looking seriously at the true single member district system. There are some other arguments, just thinking about the difference between at large systems and single member district systems in general, before we get into the complexities of our geography. Single member district systems of course, each person is running for a seat in front of a smaller population, and it could be less costly to run an effective race. Name recognition and so forth wouldn't necessarily be an overwhelming factor; in other words, new people can get in through a lot of grassroots hard work and run an effective campaign in a smaller area, and that should encourage more people to run and maybe create a diversity of people actually elected.

I've read some studies done across the nation where they compared different municipalities and local governments, and it's fairly clear that when you have district system as opposed to at large system you get a lot more direct communication contact between the elected representatives and their constituents, more direct assistance with community problems, more direct communication. Exactly why, I'm not clear and nobody I've read is real clear either. My guess is that if you're an average citizen, right now you can go to all nine because you vote for all nine, but you may think that they're representing everybody, whereas if there is one in your region, you think of that person as your representative and you'd be less reluctant to go to your unique representative who doesn't have to provide services for everybody else in the county. I'm not sure what the whole dynamic of that thing is, but anyway, it's proven clear that there's a closer connection and a lot more direct assistance to the constituents with a district system. So, an elected representative can think that that's not necessarily good because it takes up a lot of time, but that one part of their job generally considered.

Another argument for district system as opposed to what we have now that doesn't necessarily come immediately to mind is that under a district system, each seat on the council can draw on the same potential pool of candidates, the same size pool. Right now because we have these restrictions for residency requirements, the area of residency is not all equal. That's the point of it and you can get around the constitutional requirement of one man, one vote, and you can use more logical communities as our residency requirements. But some of those logical communities are very small and some are quite large; that means that the potential pool of good candidates from various small residency areas is not really going to be that great, compared to a fairly large residency area. It's not just a matter of fairness to potential candidates, but I think it's a matter of fairness to the general population. I think you can assume in the long run that you get better representation if you have a larger pool of candidates.

Well, those are some of the arguments for true districts. And, that has led us to give it some pretty serious consideration. There's some disadvantages, of course, one general one, and that applies no matter what your geography is, and that there is some evidence of, that representatives of a district only, that are elected by those voters only, have to pay primary attention to those voters in their district; so, it gets to be a district focus as opposed to county wide at large focus. There is some

Sparks: (Continued) evidence in their study that that is in fact true. There's also some evidence however that it's not as big a problem as a lot of people think. They've done surveys, one study I read was a survey of about 1,000 different local elected officials in 42 different states. While they would indicate that their primary focus was on their district, they also had a very high attention on the general community. So, I think we may be don't do our elected officials justice when we assume that they are just going to ignore the whole rest of the area because they are only elected by one area. There is a little more politicking going on, especially around CIP projects, certain ones being favor trading, logrolling and all of that, but think about all the projects connected or in some way affect the whole county. Most projects don't just affect one little district, maybe a part or something like that, but roads, transportation, utilities will affect the whole county. So, that argument is often brought forward, but I'm not so sure any more that it's that powerful of an argument. If you stop to think also that we are used to district systems, and we are used to this approach and it seems to work reasonably well in the state legislature...I'm not even going to mention congress now, because I did that the other night and somebody started thinking about what congressmen do these days and started associating that with what might happen if we had districts here...

At any rate, another argument against districts could be that you are now only voting for one councilman and you have only one representative on the council, and what if you don't like that person because you lobbied against them, or campaigned against them, then where else can you go when the other council people don't have to pay any attention to you... That's certainly true, but I think we may forget however that the most important thing we have to contribute in a campaign is not our vote, but our time and our money. And, there is nothing about districts that keeps you from contributing time and money, if you have it, working for other campaigns, instead of the one that happens to be your district. In fact one of the arguments against districts is that money doesn't have to stay within district boundaries, only votes do. I'm sure if you ask an astute politician whether they'd rather have your one single vote, or three weekends of your time, they'd know which was most important. So, our vote isn't all that critical, plus we still have the mayor elected at large. So, giving my objective analysis here, you're not really stuck with only one person to go to. Does anyone have any questions?

Waggoner: Several years ago, maybe like fifteen years, when we used to elect council under the old way, where the top nine went into the council with the exception of the one from Molokai and one from Lanai. What was wrong with that system? I thought it was a damned good system, except that I always begrudged the fact that one had to come from Lanai and one had to come from Molokai. [Directed to Bob Nakasone] You were elected under that system, weren't you? What was the thing that made you change that system?

Sparks: He has to pass the buck to me. I was on the Charter Commission when it was first passed in 1976, and that's when we made the change; and Bob didn't like it then and I don't know whether he... One of the things that brought it up at that time was that West Maui had gone for a long time without a representative on the council, and they were starting to get real organized with the West Maui Taxpayers Association and so forth, and they just couldn't see the logic in that and we got to looking at it;

Sparks: (Continued) and I looked at it more and more, a strong argument for me was that that old system was pretty much of a straightforward popularity contest. There wasn't much chance for anybody to run against anybody else's record, because it was a list, as I recall, it was a list of around thirty names usually and the top nine would end up on council. Well, you're running in that kind of election, whose record are you running against. You can't, there's no way, you're just trying to tell everybody what a good boy you are, and hope to be popular enough to be in the top nine. So, the argument that was kind of persuasive to me, and I haven't heard a better one yet, that if you have actual races -- names with credentials -- you have a chance for that kind of campaign, and you also a much more interesting campaign that will attract more participation from voters.

Waggoner: We did have more diversity under the old system...

Hedani: We had guys like Alvin [Amaral]...

Amaral: We had everybody from Wailuku; I remember the Board of Supervisors once upon a time, everybody was from somewhere around Market Street.

???: I have a question on the at large versus district system. Couldn't there be a balance made with the district system where there is a fair representative of a geographical district as well as from an island wide perspective? I would think there could be an overall balance...maybe increasing from nine to eleven and making four at large positions...

Sparks: That is a scheme that we've thought about too. Other municipalities do that -- elect a certain percentage of their council by district and another percentage at large. There's even a scheme I've read about where in the primary you elect by districts and in the general at large.

???: I just think that Maui County isn't ready for a district system, because no one from Lanai or Molokai ever wins by that vote, and I think it's a farce because...

Sparks: Let me talk about the geographical problem; that was one thing I hadn't gotten to yet, and that's always Lanai and Molokai because we're a three island county, because those islands are such small populations. I think the idea of a district scheme kind of runs up against that reality. When you have the smallest one, Lanai, have its own district then you end up with thirty members on the council and you never get anything done. So, then you are talking about districts where Lanai and Molokai will each be a piece of a district, a small piece in Lanai's case; Molokai not quite so small. I've done some calculations. If you based it on the population now, Molokai would be about 58% of a district and Lanai would be about 20%. So, when you talk to people over there, they're generally inclined to like the system the way it is, even though they may not have much electoral control over who their resident on the council is, at least it's a resident that they can throw eggs at when they don't like him or something because he has to go back and live with them. So, they are inclined to not want to change that. I like to make the argument to them that, you know, maybe it's

Sparks: (Continued) not such a bad trade after all. Right now they have, like Lanai's case, they have something like 2 1/2% control over nine different seats; in a district scheme they'd have 20% of the electoral control over one member of the council. That may not be such a bad deal, even though probably he would not be a resident there, it would be somebody who really has to pay attention in any kind of a race because 20% of your constituents are not peanuts.

???: But still, if you had more elected at large...

Sparks: If you had at large seats, as well. I see... I don't think that's the concern so much as losing their guaranteed resident.

Amaral: Well, you're the expert in this area...

Sparks: I've never run for office...

Amaral: I'm in favor of districts, not necessarily...in fact I'm not in favor of a single member district. I wouldn't know how to divide this island up as far as districts are concerned because I wouldn't want to go up to an eleven member council, God forbid...nine is enough. I'd like to see a district representation. I fear a single member district for many reasons, personal reasons. But, you said something that was very, very true. When we were running in districts and we had a two member district, when you go into the legislature mode, you don't get down into the nitty-gritties of your own district. Sure, there's CIPs and stuff, but when you are serving in there, you're looking at the big picture, and I'm sure that would be true with the council. The single member district though, you can get hurt; you can hurt a district if the council is made up of a big majority of one side. Secondly, a small group of people in a district could, for a reason that, say an individual has done a real good job while he was serving, may have voted on one particular issue that is not accepted by the community, or by a small minority in that community. They really can so call pile up on him and get him out, although he was doing an overall good job. It's kinds of things like that...I look at a district...at least a two member district. I personally am not in favor of a single member district, and I think our legislature right now is a good indication of what is bad in a single member district. It's so dominating by one party, for instance, and I think the single member district is the cause of it. I think there is more control in a single member district by groups, than in a district with more than one person.

Waggoner: Can I ask you what would be your suggestion?

Amaral: Districts with at least two members, not less. But, single member is a...

???: How many districts do we have right now?

Sparks: We don't have any districts right now. We have one district and that's the entire county...with residential requirements.

Malcolm: By those residential requirements, they define the districts.

Sparks: Whoever wrote the last version that called them residency districts, I personally think it's a bad way to refer to it because it just adds to the confusion. If we think of the district as one thing and residency requirements as another then we can kind of keep it clear.

Malcolm: I find I'm intrigued with that chart you have up there on the wall. Does that bear on this question?

Sparks: Well, that's one possible way of making nine equal districts.

Malcolm: That leaves out the two other islands, I presume.

Sparks: Well, it doesn't, no. In this scheme... And, let me explain, I got from the Clerk what he is now telling me is approximately accurate population figures by precincts. So, with those population numbers and sitting down with simple math, and taking our last 1980 census of 100,000 plus a little, dividing it by nine, you get 11,000 plus a little population for each district. Not voters now, that's illegal. You have to use population or population over 18.

Waggoner: Could you repeat that? Not voters but population over 18?

Sparks: Population over 18 you can use total population but you can't use registered voters for equal districts. At any rate, adding up those population figures...and you can easily imagine there's an almost infinite number of ways you might do it. But, certain kinds of common sense criteria comes into play. You want to have them contiguous, if possible, and logical communities bunched together -- that sort of thing. This is just one scheme that I came up with. Each one of these is about 11,000 in this configuration. In this particular one I put this section here from Honokowai to Kapalua with Molokai; and this section of Kauhakaloa down through this part of Wailuku with Lanai. But, you could put another piece of Maui with those. Now, a lot of people think they should go together naturally, but if we've got to have 11,000, if you put Lanai and Molokai together you still don't have quite enough. You'd have to have Lanai, Molokai and a piece of Maui. If we went to eleven members, you would have enough with Lanai and Molokai lumped together. But, I'm still not sure that would be the best way to go because from the point of view of the representative trying to do their job, you've got two canoe districts basically, right? If you lived on Molokai and you represented Molokai and Lanai, and you worked over here all the time it would drive you crazy and then the voters wouldn't win that way. So, fifteen years ago this didn't dawn on us; somehow we were always thinking in terms of Molokai and Lanai lumped together... It makes more sense, I believe, for all those voters to have good representation to have some section of Maui combined with each of those other islands. This rather bizarre line right through the middle of Kula is a result of following the state's reapportionment lines. I tried to follow existing representative district lines so that the ballots are maybe easier -- but, we wouldn't have to do that either.

The other question was, if we should decide to put something like this on the ballot, should we put a scheme forward saying how, and actually do the apportionment process at that time; or should we, like they did on the Big Island, put into the Charter that there will be a reapportionment commission that will be appointed and they will do all this stuff of dividing up. We had some testimony the other day that if you

Sparks: (Continued) leave it up to a reapportionment commission, then the voters when they vote on our Charter, they are buying something that they don't know what they are buying. They are not sure what the reapportionment commission is going to do to them.

???: I think without seeing the actual reapportionment statistics, that's equally important as the concept of districts itself. I mean they are equally as important and I think you're buying one single package and to separate them like that is unfair to the voter.

Sparks: Well, I'm inclined that way myself anyway, because I think that we've got a hell of a good commission that represents a lot of talent, and I think we could sit down and do as good a job as any reapportionment commission.

Amaral: I think so too.

Hedani: [Directed to Alvin Amaral] How does a two member district work?

Amaral: Similar to a single member but its...you know, you would take a couple of districts and put it one and assign it to two members. I remember once upon a time that you had, for instance, one district, you remember Bob, we were Kahului all the way up to Kula. Something like the senate district is now, for instance. I think this would be a great time for something like this instead of the apportionment. I mean, you tie this in to your suggestion of having a limit on the terms; this would be a real fine year for it. But, the thing that I'm surprised in is your two five year terms, when you have the president with two four years, the governor with two four years, the mayor with two four years...

Hedani: Five two...

Amaral: Oh, I'm sorry, I'm sorry...

Sparks: Well, it could be four two year terms.

Mike Singlehurst: On limiting the terms, say like you run for ten years... When is the...and who has the authority for the retirement for... Do the people that run for ten years, do they get a retirement when they are sixty-five? Do they get retirement right away?

Amaral: Right away.

Singlehurst: And, how do we change that?

Nakasone: State Statute. The county is all tied in with the state retirement.

Gruetter: Bob, how long did you serve on the council?

Nakasone: Ten years...

Gruetter: So, if we limit it to eight...they'd never get... We'd save a lot of retirement!

Amaral: Al, my own personal opinion is we shouldn't follow, if we're going to get involved in limitation of time, we shouldn't follow what California is doing. To me, that's unconstitutional. I think if a guy serves two four year terms here as a councilman, he should have the right to run for the state legislature or U.S. Congress or whatever... Or, at least stay out one four year term and then he can seek reelection to the council again, but not...

Sparks: Right now our suggestion is sit out one two year term.

Gruetter: You're not thinking of changing it to a four year term?

Sparks: No.

Gruetter: I think if that went together, you know, a four year term...

Amaral: With limitation, it would fly. It would fly.

Gruetter: With a two term limitation, yeah, that might fly. Can you give A, B, C? Can you give three choices?

Sparks: That was another problem that we had. How to put all this on the ballot.

Nakasone: I don't think the commission would give a multiple choice question to the voters.

Gruetter: We can hardly handle true or false.

Sparks: Do I hear a lot of support for two four year terms for council?

Waggoner: Absolutely.

Gruetter: Yeah.

Amaral: Yeah.

Waggoner: I wanted to say, Bob, that back in the past -- we had some Charter amendments come up on the ballot, and we got some enthusiastic responses and endorsements than we have ever had in our membership. I'm sure we'd be happy to get a thousand flyers printed and out to our membership. Like a poll. We did that before like on that changing the two year term to a four year term and we had about 87% against.

???: I'd like to go on record as supporting the two year term because you have to realize that that's the legislative arm of our county government, and in all levels of government, if you want a truly responsive legislative branch you have to make them responsible to their constituents -- their peers. But, I also favor term limitations and I like that concept of the five two year terms.

Sparks: Keep in mind that the argument against two year terms was that they spend too much time campaigning...it doesn't stop.

Amaral: That's true.

Sparks: But, if you go to districts you make it a lot easier to campaign, so that argument shouldn't carry quite as much weight.

Amaral: But again, you go back to president, governor, mayor all have four year terms; you go to the planning commission, board of water supply, those are all four year or five year terms. A two year term, and this is strictly from experience, the first couple of years you are finding your way to the bathroom. You're find out what the rules and regulations are, how to introduce a bill, all that stuff; it takes a little while. A four year term is, to me, a real time that will allow you to do something, and yet time goes by pretty fast, and I think it's interesting if we can come up with two four year terms. That will be fine.

But the only thing I ask you guys is -- a yes on the ballot means a yes -- and a no means a no. You know, a lot of times our Charter Commission's end result comes out to be kind of cute, you know there's little cutie words in there. Make it simple, meaning if you vote this way, the total vote is going to be the total vote, not the combination of this going to be something else. You know, give us the true thing -- a yes vote is a yes vote, and a no vote is a no vote, it's not some magic. It's very confusing at the end how things have been done in the past.

Sparks: Yeah, I've been thinking about that as you were talking about how confusing it is with all these commissions. Because, we're really stuck with that because no matter what we do it's fairly complicated for the average voters and how do you put it on the ballot so that they can vote intelligently. Obviously it's a huge obligation we have to do a lot of education, and that's where maybe you can help us alot with whatever we come up with. Whether you agree with it or disagree with it, they have to know what they are voting on. And, there's no real clear way to say yes or no sometimes, because you've got a whole lot of small changes maybe. The Charter's a very complex legal document, but we'll deal with it somehow.

Gruetter: People who are running for office try to educate people, but for these kinds of issues, who has a budget or a commission to provide this kind of education?

Sparks: Well, we do and there's supposed to be enough in there to educate the voters.

Malcolm: Going back to the four year terms, have you considered staggering them?

Sparks: Yeah, we'd have to do that. There's another topic that it would be good to get your feedback on. When we were talking to the salary commission, one of their...one that they got a lot of heat from the council was how much should council members be paid for their job. Apparently there's a tradition, not just in this community but throughout the nation for a long time, that local elected representatives are supposed to be sort of ordinary folks doing it part time, right? And, we expect them to do other things because this is not their livelihood, they are not professional politicians.

Waggoner: A dollar a year.

???: And love?

Sparks: And, that may have been fine for a long time, but I'm not so sure that it's fine anymore because the business of government, even our own little government here, is so complicated that good, conscientious political leaders find themselves spending a lot of time...ask Alvin or Bob. They spend an awful lot of time at it. Should we make sure that they have to have some outside sources of income and eliminate all those other people who can't do that? Should we make a kind of provision where there's enough salary for a family, let's say, to survive on so they wouldn't have to be depleting their energy and become perhaps even more vulnerable to corruption? It just seems off the top of my head that there might be an argument for a full time type salary, that any professional within the community is expecting to make in order to take care of their family. Certainly not a rich type salary, but a median type salary might make sense. But then, I'm not at all sure we could sell that to the voters either, because politicians are not their most favorite people...

Hedani: Double the salary and cut the number in half.

Gruetter: Four and a half...it sounds so...

Waggoner: We'll be real liberal...say five.

Gruetter: Al, what are they making now?

Sparks: It just went to \$30,000 plus a little bit more for the chairman.

Hedani: Oh, don't cut the salaries then.

Gruetter: They really can't survive on that.

Waggoner: In your '76 Charter Commission, did you not have a recommendation to have three council members at a dollar a year, and hired a managing director for those folks? Well, it worked in Florida.

Sparks: Everytime we explore the county manager's notion, that is a very popular form in the south, but like the rest of the county [sic] we favor the strong mayor.

Amaral: You know, Al, we have to look at this, not just the individuals...sometimes we get carried away as to the liking or disliking of the individuals that are now serving, but I think we should put that aside and see do we like the type of government that we have. And if we do, then we have to take all things into consideration. Would we, as individuals, like to serve in a time consuming job, because you know it's time consuming just by picking up The Maui News and reading how many committee meetings they have per day and per week. And, would we be willing to serve in that job for a dollar a year or whatever it is. I'm sure some of us would not like to serve even if it was \$50,000 a year. So, we have to look at it as to the responsibility of the government that we have and pay them accordingly. It's not an easy task to be serving in public office... You know, everybody else's job is easier than mine, until you get that person's job

Amaral: (Continued) and you find out how difficult it is. And, fortunately we have people, and we do have a lot of people who are considerate and enthusiastic about serving in public office, and it is important that we elect good people to office and pay them like we would pay any other job. And, we should have some mechanism, the salary commission should maybe set the salary of the council for that matter...

Nakasone: That in fact, that's what the salary commission is all about, but personally I don't think they should identify council as a full time job. And, I think there is a reason why the Charter does not identify it as full time. I would agree with Alvin...we have a mechanism now that deals with the merits of the position and the compensation for it. I don't believe the Charter should get involved in the decision of whether it's full time or part time. Alvin knows that the amount of time you put in and what you get out, you have to limit yourself anyway.

Amaral: That's right. A person is a business man and he has an employee, and that employee becomes an elected official. Can you afford that individual being out of your office or out of your employ and the time that these guys are now spending up there? Can you afford that? So it becomes where maybe only those people who can afford to run for office will run for office, and not one of ours, you know, one of your employees or any member of the community.

Donaghy: Bob, how many hours a week did you put in? What I'm getting at is federal law says 19 1/2 hours is part time. It blows my cool to see these department heads and the revenues or salaries that they are getting and you know what council has to deal with because they are up there hounding them all the time, and yet \$30,000 a year...they could be pumping water and getting \$78,000 is it?

Sparks: It's a real dilemma. If you pay them a living wage, then there's this feeling that we've got professional politicians. If you make it a full time job, that kind of runs against the grain of the American tradition of a politician. On the other hand it doesn't make any sense for them to be working fifty hours a week and taking all that guff all the time for peanuts.

[END OF TAPE]

1:45 p.m.