

COMMITTEE C
CHARTER COMMISSION
MEETING MINUTES
APRIL 30, 1992
COUNCIL COMMITTEE ROOM

PRESENT

James Cockett
Dolores Fabrao
Anne Takabuki, Committee Chair
Robert Nakasone
Allan Sparks
Lloyd Yonenaka

EXCUSED

Susan Nakano-Ruidas (Staff)

GUESTS

Dave DeLeon
Travis Thompson

I. CALL TO ORDER

[NOTE: No time indicated on tape for meeting beginning - scheduled time was 2:00 p.m.] Chair Takabuki noted a quorum present and called the meeting to order.

II. PUBLIC TESTIMONY
None.

III. APPROVAL OF MINUTES

Minutes of the March 25, 1992 and April 2, 1992 committee meetings were approved as circulated.

IV. DISCUSSION OF RECOMMENDATIONS FOR CHARTER AMENDMENTS TO ARTICLES 9 - 15

Chair Takabuki: Today what I thought we would do is go right into trying to work out some of the recommendations on Article 9, Financial Procedures, and Article 10... and if time allows, then we'll go into Articles 11 and 12.

What I'm giving to the subcommittee is a list or a draft of all the different proposals which, as far as I can tell, have been brought up to the commission or to the committee. And, what I've also done here is to note what the changes [were]...give the rationale as was stated by the particular party, whoever it was who actually suggested it; and finally, make a preliminary recommendation -- I want to make sure everyone knows it is preliminary -- because we need to discuss these things, but I thought to expedite things I would make some kind of comment and we can talk about it.

Article 9-1 we've had some discussion that we consider a biennium budget. The rationale is that it promotes long term planning, reduces time and money spent on production and passage of the budget. On the other hand, it decreases the opportunity for public input -- that was the position of both the mayor and council member Alice Lee. Although there were some very good points brought up for it, I personally feel it's very difficult to try and do something like this without the full support of the parties who are going to prepare and pass it.

Cockett: We're going to take this section by section, rather than line by line, for approval? I realize the biennium budget gives them the opportunity to do some advance planning, but I would like to pass this on to the full commission.

Chair Takabuki: So you'd like the commission receive it without a recommendation, or just for discussion?

Cockett: I think the what you've laid out is really a recommendation and it would be enough for the discussion to either accept or deny.

Fabrao: I'd like to go along with that too, because it would be in line with what the state is doing, even though it may not be the best system. But, the only thing is too, when you see them hassling over the budget like they're doing now, that you wonder if the two year would be better as opposed to the one year... They spend so much time going over the budget, and by the time the budget does get through...it's almost half a year gone.

Chair Takabuki: I think the one positive point that struck me is that, I think it was Alice Lee that brought it up, is that with an annual budget...it gets a chance to get closely reviewed and scrutinized...what the progress was on the current budget, and where the administration's heading in the future. That's helpful; and I think if they didn't have this process, maybe some of these things wouldn't have come to light.

Fabrao: Sure, but even if you had a biennium budget you could also have a review committee or somebody reviewing the budgets as an ongoing...it should be done anyway, just to see where you're at. Even with a two year budget, you still have to see in quarters or halves, or whatever, where the money's going...like the state is doing.

Cockett: But their practice now though, in other words if there's an overage of funds...that can be used for something else; how would that be affected by the biennium...

Chair Takabuki: Anytime the mayor certifies that there are some surplus funds, they can go in at anytime and amend it...as far as operational matters. That's not a problem; even now, in a one year budget, there are numerous amendments during the course of the year...things change, more monies are realized... It's very flexible.
Okay, we'll pass it on. I have my reservations because unless both sides are really committed to doing this and making it work, it's going to be difficult.
Section 9-4...it was suggested that we change the timing requirement on the public hearing. Right now it reads that the public hearing shall be held no sooner than the first day of April, and no later than the thirtieth day of April. I think the suggestion was what was the point in not allowing it to be held before April 1st; the council asked that maybe they should be allowed to call for an earlier public hearing in order to get testimony that much earlier. They still have to comply, of course, with sunshine laws...I don't think the public is being cheated, so I have no problem with that.

Fabrao: No; I think we've kind of generally agreed on that one.

Cockett: I concur.

Chair Takabuki: This next one is going to be very difficult to deal with. It was proposed that language be put in the Charter to require the administration to expend funds appropriated for council initiated CIP projects. I know we had quite a bit of discussion on this; I know Bob and some of the other members...as well as the council, were real concerned about this. But frankly, I'm not sure what the mechanism is...that's to me, the real problem; how do you...

Fabrao: I think it's like what is going on now...there's still that hidden agenda, well not necessarily hidden, but the council feels that their projects have not been put forth...that's the way they are reacting right now, but...

Cockett: I was referring to the minutes of March 25, page 28...and there's

Cockett: (Continued) a discussion between Councilwoman Lee and you. She said, "Do you want me to make up new language or just leave it the way it is?" And, you replied, "If you want to come up with the language, that's great. We can always take a look at it." The question is...is she coming in with language?

Fabrao: She hasn't sent it yet.

Chair Takabuki: I haven't done anything yet; I will inquire whether they've given that some thought. But again, I just can't figure out what the mechanism would be. And, maybe you're right...they can come up with some kind of a draft. This is another one where I noted that we should talk about suitable mechanisms, and I thought we should defer that...if not in this committee, we'll send it over to the main committee.

A change has been proposed to make budget summaries available and publish budget summaries in the newspaper by May 15th...

Fabrao: March 15th.

Chair Takabuki: I'm sorry...March 15th; and the rationale was to give public notice as soon as possible to enable the public to give testimony earlier. This is another one I really don't have a problem with, and I would recommend approval -- unless there's a timing concern with placing notice in the newspapers. Providing there's no timing problem, I don't see why...

Fabrao: I would ask the question...March 15th is just two and a half months away from...let's say a new administration takes over in January, and the budget's supposed to be ready before March 15th; and the county is just such a big, big thing...the document is this big...how can anybody get a thing like that by March 15th?

Cockett: But the fiscal year starts July 1, though.

Chair Takabuki: It starts July 1, but the package must be put together by March 15th. I think if you recall, we had a discussion on that...whether the term should start in December. And one of the thoughts was that the new administration does need time to get acquainted with these things...with thirty days more, they could get a better handle. What happens when you go through a change in administration...we were working on the budget, when I was working for the former mayor, we were actually starting to formulate some things -- of course, we couldn't make any decisions -- but I think the point of preparation was such that when the new mayor came in, she could pretty much get into it and I don't think she had too much difficulty in preparing the budget. It would just depend on how smooth the transition is.

Fabrao: And how well the budget was done from the previous time.

Chair Takabuki: That, too. If I remember the comment...the budget package is usually prepared before March 15th in order to go to their printers anyway. So, I'm not sure there's really that much of a problem to have that notification put in the papers -- if they're done with it anyway. I don't know the answer, unless the administration has a timing problem.

Cockett: Do you suppose this timing is, again, a check and balance thing? Because of the way the council may add or delete some of the items that the mayor is proposing versus the mayor not promoting everything for fear of being...

Fabrao: Cut out... Cut back...

Cockett: No. Having some of her proposals eliminated...could that possibly be the reason for that short period?

Chair Takabuki: I'm not sure if that would be the reason though...

Cockett: It shouldn't be though...

Fabrao: I think it isn't because what's going on right now...it's kind of apropos talking about this...that this is already April 30th, and it's fifteen days past when it was first supposed to be introduced -- the summaries for the budget, so...

Cockett: So like the Charter states, it has to be done before the thirtieth of April...of course, that came out Monday, I think...we had all the objections and counter proposals...

Chair Takabuki: The budget needs to be passed by May 31st, so there's still ample time for that.

Fabrao: So, I don't think that's a question...the timing thing.

Chair Takabuki: So you think it's not a problem...

Cockett: I recommend that we just go with the rationale you've given and recommendations on Section 9-4.

Chair Takabuki: Okay.

Fabrao: Will the...I guess they're monitoring our minutes anyway, so they'll probably get this...

Chair Takabuki: What I'll do is inquire of the budget director to see if there is a concern, if there is a difficulty...

Fabrao: Will you give them a copy of this? [Referring to preliminary Committee Report]

Chair Takabuki: Yeah, I can...this is just in draft form... I could sure do that. Maybe Dave will come and we can ask him to check on it too.

Section 9-6...it's been proposed that we clarify council authority to initiate changes to the capital program at any time during the fiscal year; and it should read: "provided the appropriation is unencumbered, unexpended and not otherwise deemed necessary." And the rationale given for this was that the council should not be restricted from initiating changes and priorities in the area of capital project appropriations, provided the funds are available.

When we talked about this one, it seemed that most of us felt there was some basis for them to have a say...

Fabrao: Yeah, but again, we have to remember that they're legislative... policy making. So, why would they want to do something in midstream...unless they felt that the monies were going to go and be wasted or...it never gets lost because it goes back in the general fund, so there's no fear of that really... So, I don't see why... I have a problem with this one.

Chair Takabuki: I think the way I recall, it was expressed that there are times

Chair Takabuki: (Continued) when there are shifts in priorities, for whatever reason they may occur, and I guess the council...some of the members might have felt they need to be able to reflect their feelings in that and be able to suggest that certain things be changed -- a reprioritization, provided it doesn't interfere with what the mayor has already done. For instance, if she's issued a contract...there isn't any way that she should have to rescind that, because it's a binding agreement. But, if the money's not encumbered and there's just an appropriation without any expenditure plans...then is it really not within their prerogative to try and reestablish priority?

Fabrao: I think, again, that they could talk it over with the mayor, but I don't think they should be given the authority just voluntarily to initiate the change, without first going through administration. I think if you're going to think about checks and balances; I wouldn't...if I were the administrator at our hospital...want the director of nursing to go ahead and initiate changes without first consulting me.

Cockett: Well, there's the question that came up too from Councilwoman Lee about prioritizing the budget -- A, B, C...whatever -- that they thought they should go that way, versus what the mayor would prioritize...that seemed to be the stumbling block right there. By whose priorities would you spend funds...council or hers?

Fabrao: I think if you looked at the total picture, the council and the mayor do have to work together to come to their priorities, even though the mayor has her own priorities and the council; but you cannot have two different bodies getting their own priorities...because the council... The head, titular head of the county should actually be the one responsible for everything that goes on, so even if the council initiated a change, it still would behoove the mayor to give her approval, right?

Chair Takabuki: Well, she would have to...

Cockett: Two things come to mind here...if they had a project and it came out \$200,000 over the budget, there's a problem; and if it comes in \$200,000 under the budget, the mayor has a priority for using those funds for some other project...and I think that's where the question came out whether council would have the ability to prioritize their projects...

Fabrao: I think that they could do that, but when it says clarify council authority to initiate changes to the capital program at any time -- I have problems with that. The language needs to be changed, if that's what we want to do...

Chair Takabuki: Right now, this is the way the language reads under 9-6.5: "At any time during a fiscal year, the capital program may be amended by ordinance." It doesn't say who initiates, but I think what was the council's concern was that corporation counsel's office has been fairly restrictive and says it has to come from the mayor. And, I think the council is saying...I don't think it says that. I mean, what was the intent there and what should be the intent there -- that's the question.

Fabrao: Then maybe we should expand the language to indicate that in any process the two parties have to come to an agreement. Of course, that's understood, yeah?

Chair Takabuki: Right. So, if council initiates it, the mayor still has her input... because it has to go through full hearing, it has to be...

Cockett: I'd like to review that rationale that the council should not be restricted from initiating changes in priorities in the area of capital project appropriations. The mayor's authority is protected by veto power, so that's your check and balance.

Cockett: (Continued) Your recommendation -- approve subject to funds being available for transfer...

Chair Takabuki: I mean they can't go in and change something...that she's committed to.

Fabrao: Where would you see a situation where there would be funds allocated and not be actually designated for a specific purpose?

Chair Takabuki: No, they would all be appropriated, but I suppose the thought is here's a project that is not going to go...for whatever reason...and the council feels that money shouldn't just sit there -- it's the mayor's prerogative to either let it stay there or move it. Right now, they can't do anything, and I think that's what they are saying -- well, what if we feel the money should be spent on x project -- shouldn't we be allowed to at least initiate that? And then, the mayor should be able to come in and say yes or no; she doesn't agree with it or she wants to veto it... I think that was the perception I got.

Cockett: Well, I go with the recommendation here...approve, subject to funds available for transfer. If you don't have the money, you don't worry about it.

Fabrao: So if there are funds available and they are just sitting there, they can initiate... Okay, the veto power -- how powerful is the veto power? There's something in the Charter that says the mayor can veto, but the council can override that veto by a total 100%...

Chair Takabuki: I don't think it even takes that...

Fabrao: So therefore, if the council itself votes...that means it has a majority to vote on something...chances are that even if the mayor vetos it, for whatever reason, that the council would still go through with its project.

Cockett: Well, it would be for a good reason...

Fabrao: It would have to be for a good reason, but I wouldn't suppose that nine council members would do anything that would not be for a good reason.

Cockett: No, I don't think you'd have nine unless they go unanimous. I recommend that we approve, subject to funds being available for transfer.

Fabrao: Yeah, I don't have any problems with that...there's checks and balances.

Cockett: Well from here we'll be discussing it with the full council.

Chair Takabuki: Okay. The next item...clarify that the capital program will be set forth in a separate ordinance which may be amended at any time during its effective period. And we did discuss this at one of our meetings where the question came up as to whether it should be separate ordinances, and I looked at the language and it seemed to say, in fact, that it should. My understanding is that corporation counsel's office said that it didn't have to be, and that's their opinion and that's fine; I think that when we talked about it, it made a lot of sense that it should be separate since the lapsing period varied. So, if it were separated then, conceivably you could go back and amend the capital program anytime within a two year period, even though the operating budget is lost...it's dead after one year. So, I think it's more of a housekeeping thing. I don't know if anyone has any problems, but I think...

Fabrao: I don't think so, because there are some budgets that take more than one year; and in fact, there's hardly any project that can be done in a year... big projects.

Chair Takabuki: The next item was brought up in a memo from Alice Lee; in talking to her afterwards, I asked her for clarification on this recommendation. She indicated that after talking with some of her staff, they withdrew that -- 9-7. It was kind of confusing...I wasn't sure what the point was, but she said really it has not been a problem, so she withdrew that...unless anyone else wants to bring it up.

There's that language under 9-7.1...it says, "Any condition, limitation or restriction to be controlled by the council with respect to the disbursement of any appropriation shall be set forth in the budget or in the capital program, as the case may be." And I guess the concern was that it implied that control by council continues after the passage, and that everything must be set forward in the budget. But, in talking to her, it didn't seem to have a specific problem...so unless anyone has any concerns, I'd just like to...

Fabrao: Our English language is funny, anyway... Mindboggling...I have a hard time understanding that one.

Chair Takabuki: Me-too; I had a hard time with that, so that's why I questioned her and she said it's not really an issue, so she withdrew it.

Okay, Section 9-7. Restriction on Budget and Capital Program; Revenue Rates. The suggestion is to recognize procedures established by state law relating to the setting of fees, rates, taxes and assessments. This is again, more of a housekeeping type of thing...because in certain cases state law will set a procedure for establishing certain fees and rates, and county will require another procedure. What has been suggested is that one procedure should suffice, and that state law should be recognized because it does supercede.

Fabrao: I have a question. Does this in any way relate to what the water board is asking for rate setting...does that involve them too?

Chair Takabuki: No. That is not within the authority of the council since it's...

Fabrao: Don't they get any monies budgeted to the water board from the budget?

Chair Takabuki: The general budget? From time to time they do.

Fabrao: So, wouldn't that impact on them if they had their own rate?

Cockett: They can also float bonds. That's the difference.

Fabrao: They also want to be entirely autonomous, which I don't think they should...but I guess we'll talk about that more...

Chair Takabuki: Getting back to your question, as far as fees under the department of water supply...the department establishes by rule and reg fees and rates, and the council and the mayor have the authority to disapprove...so there is a connection.

Fabrao: Okay.

Chair Takabuki: But that's not the fees, rates and assessments discussed in 9-7;

Chair Takabuki: (Continued) those are your general, you know, property tax, fuel tax, license fees...

Cockett: And a new one they want to pass on this spending 7 1/2% on tourism.

Fabrao: That's already in effect...that's by ordinance, right?

Cockett: I recommend that we approve.

Fabrao: Yeah.

Chair Takabuki: Okay, no objection. We'll go on to Section 9-9. Appropriations and Changes...two parts to this; one, allow the mayor to certify additional estimated revenues to be received; and two, require the mayor to certify actual revenues received. The rationale is that in certain cases there is a reasonable expectation of the receipt of certain revenues, and I guess in certain cases you want the authority to start moving ahead and making plans for the expenditure of the monies. The example given was bond revenues...revenues -- as far as revenues actually received, these are revenues that are taken in but not necessarily disclosed. The suggestion is that the mayor should be required to make this report or certification to the council, so the council then can look at these surplus monies and make some sort of appropriation plan. Right now, the mayor has discretion as to when to report such revenues to the council, and may carryover and accumulate until the next fiscal.

Just to me, as far as the recognition of estimated revenues, I think there are probably some situations where it's okay to do that...in my experience with the county. But, what I'm afraid of is if we just blanketly allow that, it could result in a problem where you're appropriating money that you don't get, if for some reason it doesn't come in.

Fabrao: Yeah; I have a problem with that because you don't... That's what the economy of our whole nation is like...just expending money that you think you're going to get. I think until the money is actually received...then and only then should she be required to certify...

Chair Takabuki: Well, this first part is giving her more authority; it's allowing her to say, "I'm pretty sure I'm going to get these monies...I need to move ahead..." And of course, there's always some money in the general fund, so she wants the authority to spend so that she can start the project going. So this allows her to say these are going to be expected and we're going to get it in x days, and go to the council and say please appropriate so I can start spending for this purpose. That's what they are trying to do; and it gives her more flexibility but, my thought is -- this is fine if you can identify a specific situation where it's so sure that you're going to get the money, that it's not a problem. But what I'm concerned about is the situation where you think you're going to get the money and it doesn't come through. So my recommendation was to approve this to a specific situations, as can be identified by the administration and the council...but not to give a blanket type of authority there.

Cockett: Okay, I go along with that.

Fabrao: Yeah, we're going to have to have specific language for that, yeah?

Chair Takabuki: Yeah; I think what we need to do is to consult with the appropriate administration or council officials and find out what are the situations that they feel comfortable with, and doesn't pose a risk to the county...

Fabrao: And then mention them...

Chair Takabuki: Yeah, specifically so there's no...so that the risk is not there. The second part of that proposal, which would require the mayor to certify the revenues that are received...

Cockett: This certification of revenues that can be done on a periodic basis... quarterly -- is that something new here that we're recommending?

Fabrao: Quarterly is every three months...that's not bad...

Cockett: Is that something new?

Chair Takabuki: Right. And right now it's pretty much silent and I guess it's been determined that the mayor has discretion...whenever she wants to decide to certify it; that could be once a year, twice a year, or not at all. So the suggestion was that there be some type of regular reporting... I was looking at Kauai's -- the mayor is required to certify at any time...I think that's a little too demanding. If she's required to certify at any time, she conceivably could have \$1000 in excess, and you mean to say she has to certify every time she has an excess? That's too difficult.

Fabrao: Too much, yeah? Twice a year, to me, is pretty good.

Cockett: That four times a year...that's the recommendation; why don't we look at?

Chair Takabuki: Okay.

Fabrao: I would go with...but it's an annual budget...you could go quarterly reviews. I don't have any problems with that and at the same time she could report the revenues, too.

Cockett: I understand we're talking about additional revenues, after the budget has been established.

Fabrao: Yeah, I know; but, I still go with reviewing the budget every once in a while during the year to see where they're at.

Chair Takabuki: I think what I heard was that they send these quarterly reports anyway; it's required by some ordinance.

Fabrao: And that could tie in with the certification of the monies.

Chair Takabuki: Okay, if there's not objection we'll go with that then for our preliminary recommendation.

Item 10 -- clarify that appropriation changes within the executive branch are initiated with the mayor and that the council chair has the authority to initiate changes to the legislative budget. I don't think that's controversial...that each branch should have the authority to propose changes to their own budget. It makes sense; it's just not stated in the Charter. I think that's fine.

Fabrao: Yes.

Cockett: Okay.

Chair Takabuki: Let's skip from number 10 to number 13, because it was very similar -- this proposal would authorize the council chair to initiate appropriation transfers within the legislative branch...now it's being a little more specific. So again, the rationale is that council should have the authority to initiate transfers within its budget. I think they both tie in together -- one is general, to say that any time there's a change in the legislative budget...that the council chair can initiate it; they actually go hand-in-hand, really.

Cockett: 10 and 13...I recommend approve.

Fabrao: Yeah, I'd go with that.

Chair Takabuki: Okay, 11 -- I believe this might have been suggested by the administration or budget director...I'm not sure where this came from, but this one would allow transfers between the departments to be done by resolution; at the current time, it's done by ordinance. And, that's a longer process and often when the monies need to be transferred quickly it's been a timing concern. The ordinance process is good in that it requires that full two hearings, but I think that the argument is that it's all within the mayor's operating budget.

Fabrao: Does this have anything to do with her moving positions? That's part of appropriations, right? So if this gives permission to do that, or that's the way it's been written, then what she's done was altogether legal...

Chair Takabuki: This would still cause council action...resolution, right? And I think the situation they're referring to is nothing...no notice...nothing.

Fabrao: But it seems to me, I recall that she said she had...she didn't officially mention it I guess, but she had mentioned it to somebody...

Chair Takabuki: I don't recall. Was it in the paper?

Fabrao: I don't know, it seems to me it's just... No, I didn't see it in the paper... She had mentioned to somebody that she was going to move these positions.

Cockett: I think it was in the paper that she was making some changes; I think from the CDBG to her office.

Chair Takabuki: The question that was raised was whether she could do that unilaterally or whether she needed council approval -- or at least notice. I don't recall...was it resolved to say...

Cockett: I think they can object to that; I guess when she did request for some additional people for her office, that's when they came down hard on her...those additional positions.

Chair Takabuki: And clearly, those the council can object...

Cockett: Not transfers...additions.

Fabrao: So those transfers...they made statements about that, but they did not object to that as they would the new additional positions? How would she make the additional positions without any additional appropriations?

Cockett: No, she had asked for it in her budget...for those new positions, but they lined it out...

Fabrao: That's the reaction...

Cockett: Are we on 11 now?

Chair Takabuki: Yes...this one would just eliminate the ordinance requirement and make it a resolution.

Cockett: Okay, I recommend we approve.

Fabrao: I do too.

Chair Takabuki: Okay. 12...this proposed change would authorize transfer between the two branches, and this stems from, I believe, a legal opinion many years back that stated that you couldn't have the mixing...you couldn't have monies transferred from the administrative or executive side to the legislative side, because the language in the Charter talks about transfers between departments...and council's not considered a department. So, that was kind of a technical thing that's been a real straight jacket in trying to move monies to the council side, for instance, with county wide costs... There's this big fund in county wide costs where things such as collective bargaining raises or whatever, some kind of surplus funds for certain county wide costs; in the past they've had some trouble where they have tried to do it and I guess it hasn't been stopped, but it's not in accordance with that opinion that you can't move it. So what I believe they just want to do is clarify that yes you can move monies from the administrative side, or the finance department, over to the council. I don't think that's a problem.

Cockett: What do you say, Dolores?

Fabrao: I don't have any problem with that as long as the language is clarified.

Cockett: Okay, I go along with her and approve.

Chair Takabuki: Okay, 13 we took care of. 14...allow for the reduction of an appropriation to pay the indebtedness, if the indebtedness is not in existence. At the beginning of the year when they pass the budget, they often anticipate selling bonds. And, because they anticipate selling these bonds, they'll put in monies to pay interest on the indebtedness...they may estimate \$2 million that has to be paid. Say they don't float bonds right away...they float it so late in the year that there's no interest payment during that fiscal year; so this would allow them to go back into that particular account and transfer it out, because they don't have that obligation.

Cockett: I see; okay.

Chair Takabuki: I think it's okay along with a proviso that it's not encumbered, of course not expended, and is not necessary to repay an outstanding debt. With this proviso, I don't think it's a problem.

Fabrao: Yeah, I'll go with that.

Cockett: I'll concur with Dolores.

Chair Takabuki: 15...Lapse of Appropriations. Two suggestions...to establish a longer CIP appropriation lapsing period, and secondly...define the abandonment procedure. I think Victor had some concern about abandonment; I wish he were here. We can always table this because I'm not even sure that the administration is supporting an extension of the lapsing period. This proposal did not come from them; I think it was just on a list that Sherri had prepared earlier. The rationale is clear though -- certain projects take longer than eighteen months to reach the contract stage, but it hasn't been a complaint of the administration, so I don't know if they really feel it's necessary.

Cockett: Why don't you take that one under advisement and defer that to the whole commission.

Fabrao: I think so too.

Chair Takabuki: Maybe the whole one because we can have Victor come in too and tell us what his concerns are. Okay.

Fabrao: I have some notes over here, but I don't understand it completely. It says here...the purpose of any appropriation -- add -- the purpose of any appropriation for capital improvement which is \$100,000 or more shall be deemed abandoned thirty months after the date such appropriation was made, to the extent that it has not been expended or encumbered by a written contract. That's pretty specific...

Chair Takabuki: That came from the resolutions that the council was considering. Okay, we'll defer that and either talk about it again or have the full committee address it.

Fabrao: It takes so long to even get the planning stages and the drawing of the stuff...two or three years...

Chair Takabuki: Sometimes it takes that long; when I was with the county government, the concern there was because the consultants were so busy...you couldn't get anyone to work on the plans. Now, I'm sure it's a little faster. We'll defer that for now.

16...Audit of Accounts. The recommendation was for an audit to be performed upon expiration of the finance director's term; I think that was something Travis brought up.

Fabrao: I think it's good; that way from one ending and one beginning you have a check.

Cockett: I recommend approval.

Fabrao: I do too.

Chair Takabuki: Of course, you might have a situation where the incumbent's the same, if a mayor has two terms, but still there's no harm...

Fabrao: It's still good to have it on the record that it was audited at this point in time, and that it showed this, and if there's any maleficences or anything like that, they'll know at least from what point to what point...

Nakasone: You're going to create two audits then...

Chair Takabuki: Two audits...you mean the annual audit and the audit of the finance

Chair Takabuki: (Continued) director's accounts...

Nakasone: So you're talking about an additional \$50,000...

Chair Takabuki: I'm not sure how extensive this kind of audit is...right now the audit goes into every department, right? Now, finance directors' accounts...I really not clear on how big a scope that is; whether it's the whole county accounts, or what... Did we ever do it...an audit upon any kind of a change...? No, I guess we wouldn't have.

Nakasone: It generally goes through the fiscal year audit...

Cockett: I think we had discussions at that meeting about Kauai's problem and I think he went along with that, but that last paragraph in 9-13... "in case of death, resignation or removal of director of finance" -- removal, would that include the end of his appointment if there's a new mayor coming in? There'd be a new financial director...

Nakasone: I think removal is a forced resignation.

Fabrao: Well, they've been asked very nicely to resign...

Nakasone: My concern is would that be an automatic full audit? The finance director is in charge of all accounts...

Fabrao: You wouldn't want to have two audits then. Why would the director of finance have different accounts...he'd have all the same accounts for the whole county.

Nakasone: The Kauai case is really the follow up on administration...they had an external audit which is required. The fact that they didn't follow up on it... or the auditors did not identify...

Chair Takabuki: They considered that non-material because the percentage was small...

Nakasone: Right. We argued that point with the auditors...what is material?

Fabrao: What is material and not?

Nakasone: They take a percentage and anything above that...

Fabrao: But just a small percentage is big money, right?

Nakasone: Almost \$1 million...

Chair Takabuki: \$1.8...right?

Fabrao: We require a yearly finance audit?

Chair Takabuki: Yes. The council appoints the independent auditor, under 9-13... the first paragraph.

Fabrao: So what we're saying with this one is we wanted one expressly after the demise or resignation of the finance director...

Chair Takabuki: The question really is how large a scope is this finance director's accounts?

Fabrao: If you have a yearly audit, you would already have that as a kind of control...

Nakasone: The term of the finance director is really during the interim...he takes over January 1st; there is already an audit for the past fiscal year...so you're going to have another audit done in January? And, most of the time they're not even done, are they?

Chair Takabuki: No, they're not done.

Fabrao: How extensive is the yearly audit?

Chair Takabuki: Pretty extensive...

Cockett: Why isn't the audit done on the calendar year, instead of the fiscal year?

Nakasone: The amount of time it takes to do the audit, I think the council gets a report...November, December...maybe even January. So, you're into the interim already...the term of the director is going to be January 1st, then you have another audit going...

Cockett: What's the recommendation?

Chair Takabuki: Travis brought it up to us and it seemed to make sense...but the scope of the audit would be the real issue. Maybe I should have him address that...maybe the full and independent audit would cover this.

Fabrao: It would be helpful if we could look at which accounts he was talking in reference to, whether it was the whole county or just the...is there any separation...any different accounts, or big accounts that needs to be monitored on a continual basis? I don't understand...

Nakasone: Every account is under the department of finance.

Fabrao: I'm trying to remember why he wanted this done, even though it is a good practice...what was it...he had come into office...somebody had left and there were questions about certain accounts...

Chair Takabuki: He said something like that...not discrepancies exactly, but he had some questions...

Fabrao: But that's why he recommended the audit of the finance directors' accounts...now, whether that's different from the whole county, I don't know.

Chair Takabuki: Under the Big Island in this section it says "upon the death, resignation, removal or expiration of the term of office of any county administrative officer, the director of finance shall cause an audit and investigation of the accounts maintained by the officer and the officer's agency or executive agency to be made and shall report the results to the mayor and the council. In the case of death, resignation or removal of the director of finance the council may cause an audit to be made of the

Chair Takabuki: (Continued) accounts of all agencies and executive agencies."

Dave DeLeon: Do you want me to see if I can get him down?

Chair Takabuki: Yeah, great. "If as a result of any audit, an officer be found indebted to the county, the mayor shall proceed forthwith to collect the indebtedness."

Nakasone: That's pretty specific...

Chair Takabuki: Very!

Fabrao: What kind of indebtedness would that person have to the county?

Nakasone: Misuse of county funds...

Fabrao: I see...that is the only thing that would be...

Chair Takabuki: So in this case, if the director of finance dies or resigns...all accounts...

Cockett: From the minutes of January 9th, this discussion with Travis was ... "Thompson recommended the addition of some verbage which would make an audit by an independent firm a must in the event of a changeover." I guess it was just some verbage...not to change the scope of audit. The wording was what he was referring to.

Chair Takabuki: He just wants to stick in the expiration of the term in that section, but Bob's point is if we're going to be doing an audit anyway...an independent audit... and it's the same scope, it would seem a duplication of expenditure.

Cockett: Let me go on further, if I may..."Thompson stated that the council declined to pay for an audit when he was appointed; consequently he has paid to have it done, and left enough of a trail that says 'as of this date, it's on me.'"

Fabrao: That was it...he had ordered an audit and the council refused to pay because they hadn't approved it.

Chair Takabuki: It doesn't say what the scope of his audit was and what he felt satisfied with.

Fabrao: I wonder what would prompt him to do an audit anyway, because we do an annual audit...

Chair Takabuki: He probably just wanted to make sure that when he came in...

Fabrao: That everything was settled...but if it's going to cost \$50,000...

Chair Takabuki: It can't be that Travis did that kind of audit...

Cockett: He wouldn't pay \$50,000 out of his pocket.

Fabrao: But what he did say, it seems to me, was it came out of his funds... from his office. Try read some more...

Cockett: "Thompson stated that the council declined to pay for an audit when

Cockett: (Continued) he was appointed. Consequently, he has paid to have it done and it left 'enough of a trail that says as of this date, it's on me.'"

Dave DeLeon: He says he'll come right up. [Referring to Travis Thompson.]

Chair Takabuki: Travis, we were addressing Section 9-13. Audit of Accounts. If you recall, when we met with you before, you mentioned that it should be required that an audit be performed when there's a changeover or expiration of term. Bob brought up the issue that an independent audit -- a full independent audit -- is done yearly anyway, and wouldn't this be an overlap...if this were also required.

Thompson: In my opinion, the answer is no it is not, because this is specifically focused on the director and those things, those accounts that he potentially has his hands on. See, I sign all the checks, but the independent audit that I asked for was kind of looking at bank balances and things that I directly am signing...checks and things like, where as the overall audit is a broad...it's leading up the the comprehensive annual financial report. The audit was done separately; the people who did the audit did not find it redundant. I can provide you a copy of both audits and I think if you look at them, you would see that the independent opinion was on those things...they looked at things that I had signed, any things that I had gotten or my predecessor had gotten that were a potential benefit to him. And so, it didn't seem to me...I mean that's why I went out and basically paid for it...it didn't seem to me to be something that was focused on in the annual audit. Again, I thought it was a very worthwhile thing. It cost about \$4,000 or \$5,000. When you say audit...one of problems...you know, it was kind of like their initial proposal was \$40,000...then \$25,000...I said no, I want about a \$5,000... It was just about enough to make sure, you know, I'm inheriting a lot of things as a new guy...and we're talking close to \$200 million, you know, and I don't personally go out there and I would feel...it sounded awful, I'd be run out of town...if we happened to find out six or eight months or two years in my term, that we had no validation that we actually had that two million...\$200 million; that sounds like a lot, and I just felt it was worthwhile that one guy, you know, he went and verified all these amounts... It's probably done, but it was an extra special thing, and conservatively, I thought it was money well spent. As you are probably aware, we paid for it out of the department funds rather than the council's. And, what I felt should have been...I felt it was just for my own protection, and I still feel that; I think it's a very reasonable thing to do.

Fabrao: I understand. We were just wondering...because if the annual review was extensive enough to include that which that you handled, then that would be kind of redundant. But if it's a different...

Thompson: It's a different focus.

Fabrao: Then I can see...

Chair Takabuki: It's on a much smaller scope.

Thompson: Yeah, a much smaller scope.

Chair Takabuki: Would you provide us with that?

Thompson: Sure, no problem.

Chair Takabuki: Do we have any other questions for Travis while he's here?

Fabrao: There was something that you wanted to check on...we were going to have Dave check on it...

Chair Takabuki: The budget summary...I was going to ask him about timing...that was a concern. Earlier we talked about a proposal that would have the budget summaries published on March 15th in the paper. It was suggested that those summaries come out as early as possible, and since the administration prepares the budget in advance of that date anyway for binding, that it shouldn't be too difficult to do that.

Dave DeLeon: It shouldn't come out before the deadline to release the budget...

Chair Takabuki: Well, March 15th...it would have to be on that same day.

Dave DeLeon: You know what a struggle that is...

Chair Takabuki: I know, but if that's a real concern then we'll take another look at it.

Sparks: Are you talking about something other than what you produce anyway? Wasn't there something about you have to do a summary as well as the huge document?

Chair Takabuki: Yes. This summary, I would imagine, would just be a recap of all the appropriations to each different account...it's using the same material you use to produce the budget.

Sparks: We are talking about getting it out to the public in some manner of an insert to the paper, right? We're not talking about publishing something that...

Chair Takabuki: Alice's suggestion was that something be published...

Sparks: By the executive, rather than waiting for the council to do it. I think that was Alice's point, wasn't it? So that there's more time for the public to digest it.

Dave DeLeon: It would be physically impossible to take all the nuances that the public's interested in and reduce it to a newspaper page. You can get ballparks in and a list of CIP projects in...that's probably what the public's really interested in. There's all kinds of other nuances...

Sparks: But it has been done, I think, over the years when you were in the office...

Chair Takabuki: Yes. It's a booklet; but for the paper, they're just talking about a summary of department appropriations...

Sparks: A pie chart?

Chair Takabuki: Yeah, it's not going to be three, four or five pages...

Sparks: But making the booklet available to the libraries, and so forth...

Chair Takabuki: That's what she wanted also, just a summary booklet.

Sparks: Not at the same time as it's delivered to the council...

Dave DeLeon: I wish you'd ask Georgina about the timing on that...she's on the receiving end of that function; she could tell you whether that function would work...

Chair Takabuki: We'll talk to her, that was just one question we thought we could ask of Travis...

Thompson: I actually do have, and provide on request, copies of the budget to anyone who...you know, they get the summary for free... I hate to tell you we don't get very many requests; I've had one person actually request the big one...

Cockett: She didn't give any dates on that, but I'm just referring to the minutes of the 25th -- Councilwoman Lee said "I can't blame Linda Lingle, according to the Charter the mayor has up until March 15th to submit the budget...the proposed budget, and so what we're asking is along with the budget to please provide summaries so that we can make these summaries available to the public right away." That's what she was referring to.

Dave DeLeon: Wasn't she referring to district summaries? Don't they have a district summary when they take it out to the community?

Cockett: She further says, "Because as I was beginning to say, we need to begin scheduling our public hearings, and so forth. And the sooner we can disseminate this information to the public, the better it will be so they'll be able to read it and then comment and testify at our hearings." And, that's why she wanted summaries.

Chair Takabuki: We can talk to Georgina more, but you might want to mention to her that it came up.

9-14...Surplus and Reserves. There was a suggestion that there should be more flexibility in the use of the capital improvement reserve fund, and to clarify how this fund is expended, administered... Apparently this 9-14 fund has never been utilized, and I guess part of the reason why is just a question about whether it lapses, whether you have to continue to reappropriate it and all the other things that are concerned with any kind of appropriation. But, I don't know exactly what we should do to change it other than to try to clarify, if we want it to be, that the funds should continue in force and be allowed to accumulate from year to year, if it's for a project which requires a large amount of money. I don't know if this is really a big issue...

Cockett: Have we had problems with that in the past?

Chair Takabuki: It hasn't been used, from what I understand.

Fabrao: Where does the money for the surplus and reserves come from? That's extra money that could also be considered for the other section regarding revenues?

Chair Takabuki: The carryover?

Fabrao: I guess that's not the same thing...

Chair Takabuki: It just allows the administration and the council to start setting money aside when they expect a large project requiring substantial funds to come about in a subsequent year. But again, I understand that it hasn't really been used.

Fabrao: I think we should go with what you recommended and just wait and discuss it further with the entire...

Chair Takabuki: The last proposal to Article 9 is to provide a new section to require the mayor to submit a five year operating plan with the budget. And the rationale there was to promote long term planning and allow review and consideration of additional expenditures in future years for operational programs. In other words, to show how it's projected to proceed or to grow five years hence...additional staff positions, whatever else might be needed.

Cockett: Has this question ever come up before? About five year planning?

Chair Takabuki: Not specifically, that I know of.

Cockett: Because I was thinking in our discussions we came up with a recommendation for a three year plan...that's some discussion we had in the past.

Chair Takabuki: I think the five might have been tied to the factors of a five year CIP plan required to go with the budget.

Fabrao: I think its also in line too with the five year of the state. State planning they have five year strategic plans, where they can project monies and special projects... I think this would fall in line too, with the kinds of monies they are expecting two or three years down the line...by the fifth year they'd be able to have this kind of project finished or started at least.

Cockett: Well, that's what's in place now with the CIPs, right? The CIP is at five years...

Fabrao: So that would be in line...

Cockett: We're talking about operating now... It's just that in some discussions we had in the past three years popped up.

Chair Takabuki: It's certainly only a guide, I mean it's nothing that's going to be...

Fabrao: It's not set in stone...

Chair Takabuki: No, not at all...

Cockett: Well let me ask, is that in place now? It's not...

Chair Takabuki: The departments might do one for the mayor right now, right? They must do some kind of a...

Dave DeLeon: No. You should have asked Travis about that...

Chair Takabuki: Not a five year plan? Why, Travis has something to do with five year plans?

Fabrao: I don't see why they don't have...

Cockett: Well, I don't think we need to compel the mayor to have that, in my opinion; I mean if she were smart, she would have one that she could work on, but not telling her to do it.

Fabrao: Oh, I see...it says to require the mayor...

Chair Takabuki: And to submit with the... But I guess the point is again, the council, when looking at an appropriation for say a program, they're going to see that five years hence this program requires six staff, eight staff... I think that's the idea, just to get the gist of the future of the department...associated with the program, associated with the purchase, or building, or whatever it is.

Cockett: A good example is what's happening now...I mean, if she had this in a three year plan where she wanted new administrative assistants...she's cut off from the first year -- why should she put it in the second and third year, because that's just like lining up those ducks for...

Chair Takabuki: Well, I think we should make it clear...it's just a guide, and it's just to give some... In the future...I don't think it's something that should be so restrictive or so burdensome that all departments have to pencil in to the dime... It's just like the five year CIP plan; it's in the budget but the council doesn't really pass on it, I mean they just look at it for a guide or reference; and they certainly don't hold the administration to it the next year, do they? I think it changes from year to year...

Cockett: Well, it's only my personal opinion, that I don't think... It would be just another line item or obstacle that's in black and white that she would be compelled to do, and it's unnecessary in my opinion. But, like I said, I believe that she would have something like that in her top left drawer, for her to work at every six months or year. I don't think we need to look over her shoulder for that period of time. That's my opinion.

Chair Takabuki: I think that came from the council...from Alice in her set of recommendations. Because she's budget chair, in her mind she kind of wants to see what's going to be the cost five years hence...if they approve this program, what it's going to cost every year hence. I don't think they were looking at something precise or something you're going to hold the administration to...

Cockett: If it's a five year plan as far as money is concerned, I can see that, because I think every year there's an automatic percentage increase just for inflation purposes...and replacements and reserves...

Chair Takabuki: It is a five year financial plan that we're talking about...a five year financial operating plan.

Cockett: Well, what is the pleasure of this committee?

Yonenaka: I don't think you can put in a recommendation that they should do something, so it would have to be 'you have to' -- it would be kind of strange to put something in the Charter that says you should do this...

Sparks: I have mixed feelings about long range planning...one the one hand...

[Thompson produced the audit copy for commissioners.]

Yonenaka: Before you leave [referring to Thompson]...

Sparks: ~~Takabuki~~ Trying to be helpful and he got trapped again...

Thompson: No, this is the way we work...

Chair Takabuki: We were discussing a proposal that would require the mayor to submit a five year operating financial plan along with the budget. Right now you do the five year CIP plan and send that along with the budget, and we were just discussing if this was something that was practical, or is it overly burdensome, or what kind of problems...

Cockett: I can repeat my comments...I didn't think it was practical at all that the mayor should be placed in that position to come out with a five year plan that you know is going to change every year...

Thompson: At Boeing, in response to that, we certainly did a long range business plan, and it was a very summary level thing. Such a plan...I am personally interested in providing a longer look at a lot of our CIP areas...I don't think this is a Charter area, but it's just something that makes sense to have a longer view because you're just not doing a waste water project and stopping. You're looking at a whole continuum of projects based on the population growth, and I don't personally think that's happened enough before. I think our population grew...we didn't catch on. So, to that extent, and when you say what drives that and you say here's our population projection, you'd better see some increase in infrastructure to support that. I personally feel that's good news...with the caveat that is a long range plan, and I'm concerned that if people aren't familiar with long range planning...that they would suddenly say that's down the block and it isn't...it's just you're best view at the time of that. Again, at a very summary level...I personally find that would be a welcome adjunct to the financial...

Chair Takabuki: You had a good point...say in year four you're going to have a new waste water plant...aren't you going to need bodies to staff that. I mean, you have costs associated with everything that you do, and I think that's what this is getting at...that there should be that kind of projection out. If you have a new police station, you're going to need twenty new policemen...that sort of thing.

Thompson: I don't know if the police station drives the policemen, but if you have a population growth, you know, there's some parameters that you look at in any long range plan...you kind of say here are my assumptions, and then the plan should reflect those assumptions. You can best case...optimistic or pessimistic, any way you want, but you at least have a plan. From a business point of view, it's exactly the right way to go. We should be doing something like that, and I'm sure will be requested to do that, in our various bond issues. I again feel that it's appropriate for the financial community and investment community to be aware of what our expectations are for spending over a longer period of time, and our growth expectations as well. I'm not excited about what we currently do and it's an area I intend to work on.

Fabrao: Do you feel it's an item that should be addressed directly as a requirement in the Charter? For the mayor?

Thompson: No. I don't agree with that.

Fabrao: That was my feeling because...to be a required...if you put it down in concrete, like she has to do it...like it's what has to happen, I don't know...

Chair Takabuki: I don't think it should be concrete...

Fabrao: But if you put it in the Charter...

Chair Takabuki: Concrete in that yes, it shall be done...not that it's locked in...certainly not that it's locked in...I don't think that's appropriate.

Cockett: It's a critical path...these five years down the road...

Thompson: And, it's something that's done every year... I used to do that in the state, so I know. At Boeing we went five years, and it changed a lot...you also said then what are typical of the projects that...you may not have them right on, but you have a good idea of the type of projects. Our projects, you know, were essentially contracts we hoped to win and so you'd be having projections on that...at that time we were very strong in aerospace; but it's much easier to do a plan like that, of course, where you have a long lead...orders, and so on. We are...we should be looking at our infrastructure things like land fill, like waste water...this is not just a one shot deal, I mean, these problems are continuous...or these requirements are continuous that are a function of growth, and you also probably have to throw in a mention of which region...Kihei versus... It's an interesting thing...which district will grow.

Sparks: This is integrated then with the general planning process that the planning department's involved with, I guess; you'd get a lot of your information at least that way...

Thompson: I guess...somewhere you should have it...where, I don't know. I thought it should be part of planning, that's kind of logical; but the planning guys get so...there's a lot of detail stuff to that longer view.

Cockett: We got into that in the general plan, too...

Yonenaka: Do you, in your department, have a plan...a long range plan in terms of your personnel growth?

Thompson: Do I now? No, I do not. Should I? Yes, I should have; and I should also, and I will -- I just don't yet...and I should say what drives that...some of the basic problems in my department that I inherited, in my opinion, were some inattention to the fact -- let's take motor vehicles...the number of automobiles here grew immensely and my resources to process motor vehicle registrations stayed static. A basic change in my work statement, again...Boeing term but, my work statement said that rental cars were turning now three times a year and that was 20%-plus of my volume; that expanded and I didn't add people. Result: two hour waits, a lot of immense stress on the people trying to do a service job, and who were literally not given enough people or resource to do that. I mean, that's a perfect example of lack of planning...it didn't happen. Part of running this place like a business is knowing what drives...why do you need more people, and you ought to know that; if you don't, there's something wrong, and I wouldn't give you any body. I mean, that's the sort of thing I mean...what drives my property tax guy, and I'll have that, because we are working on that. I know my productivity per person and I follow that very closely.

Cockett: Then maybe I'm on the wrong track regarding this operating plan that we talked about...operating budget; maybe you should go five years instead of three that we were thinking of. Would that be okay then on the operating plan? We're talking about maybe three years or five...if you recommend five, we'll go along with that.

Thompson: I think the tradition's been a five year plan, which is good for the long run. But, it's a rolling five year where...

[NOTE: TAPE ENDS HERE]

ACCEPTED:

Anne Takabuki, Chairman

date