

M I N U T E S

COMMITTEE OF THE WHOLE

February 22, 1990

CONVENE: 9:03 a.m.

PRESENT: Councilmember Goro Hokama, Chairman
Councilmember Linda Crockett Lingle, Member
Councilmember Patrick S. Kawano, Member
Councilmember Alice L. Lee, Member
Councilmember Rick Medina, Member
Councilmember Velma M. Santos, Member
Councilmember Joe S. Tanaka, Member

EXCUSED: Councilmember Howard S. Kihune, Vice-Chairman
Councilmember Wayne K. Nishiki, Member

STAFF: Dianne Shimizu, Legislative Analyst
Roy Hiraga, Legislative Analyst
Jo-Ann Sato, Committee Secretary

ADMIN.: Howard Fukushima, Deputy Corporation Counsel
Guy Haywood, Deputy Corporation Counsel
Anne Takabuki, Managing Director
Hannibal Tavares, Mayor

PRESS: Dave DeLeon, Maui News

CHAIRMAN HOKAMA: The Chair will convene the Committee of the Whole. The record will show that we have a quorum. The Chair would like to set a format this morning in considering the Charter amendments. One is that we will take any testimony from any witnesses wish to testify. After that, if the administration shows up or sends a representative, we will take up the Administration's proposal, just go through for explanation and questions and then we'll go over the amendments proposed by members of the Council, and then we'll start breaking down into what we want to actually take out as Charter amendments to the electorate. So, we'll follow that format.

COUNCILMEMBER CROCKETT LINGLE: Are we going to be going out to a public hearing on those?

CHAIRMAN HOKAMA: What the Chair would like to do is go through this format and decide, as a Committee, on what proposals we feel should be made as amendments and then we'll take that out for public hearing. Okay? Anyone in the ordinance wish to testify on the Charter amendments being proposed? Any one here from the administration to discuss the proposal sent down by the administration? Members of the Committee, we'll look at the communication dated February 15, 1990 from the Mayor, submitting five proposals, and the resolutions drafted for that was dated, February 16th from the Corporation Counsel's office. Howard Fukushima transmitted the resolutions. Nobody coming from the administration?

COUNCILMEMBER CROCKETT LINGLE: Mr. Chairman, I saw the CIP Coordinator, he's not going to discuss this issue about the lapsing of CIP appropriations?

CHAIRMAN HOKAMA: Oh, Mr. Mayor, we're ready?

MAYOR TAVARES: Thank you very much, Mr. Chairman. You have from the administration a number of suggested amendments to the Charter, and if you haven't received it, you will be receiving rationale or some justification for each one. So, I won't go down the whole list today because you'll have time to study that on your own. And I know that you have some of your own proposed amendments. The one that I thought I'd come down on because it's kind of an unusual approach is the one regarding the liquor law enforcement. And the suggestion that I'm making here is that the enforcement of the liquor law itself, instead of being done by the Liquor Department, would be done by the Police Department with a division being formed in the Police Department for liquor law enforcement. It would be something like they do with the Criminal Investigation Division (CID), Traffic Division, Vice Division, they handle all of these specialized areas, and the department will train people for whatever division they happen to be in.

The major advantage that I see is that any one who is assigned to this division would have an opportunity to work himself out of that division. The way we do it now with the present system, you get into the department as a liquor law investigator or enforcer, you're going to be there for 25 years. And there's almost no chance of going any where, except if the boss retires you may be able to move one rung up. But by and large, you're kind of stuck there. And also, this whole area of liquor enforcement is a very touchy area as you well know, the things that you've read in other occasions. The longer you stay in that division, the greater the chances for favoritism, for friendships to be established and all of that. Also, on the other hand, sometimes you develop a prejudice against some particular licensee just because the way the licensee acts some times, and this is the kind of human nature that gets involved. And that is one of the reasons that you see in the Vice Squad. The department does not keep a vice

officer there very long because of a lot of pressure on the vice officer, there's a lot of heat that he has to take, a lot of temptations also. So, in the Vice Squad, they keep on rotating these people out. But they come in as full-fledged police officers - trained and everything in arrest and seeking evidence, testifying in court. Well, that's what happens with the present system in Maui today with the liquor law inspectors. But because you have this system of rotation, an officer in that particular assignment will not get burned out, and would not establish too many contacts and friendships that maybe should not exist.

Our own unit over here, as far as I know, doesn't have those kinds of problems. I don't know if they do, I don't know if they don't. I know that on Oahu, they've had a lot of problems along this line with the individual relationship between the inspectors and licensee, waitresses/waiters, bartenders and all that kind of stuff. And every once in a while, there's a blow up of some abuse. I think we can avoid all of that by making law enforcement part of it, a part of the police department as a separate division. The rest of the department would remain exactly the same. You will still have a department head like Joe Souza, you would still have the Liquor Commission, the Liquor Adjudication Board, you would still have all of the processes of hearings for licenses and violations would still be heard by the Adjudication Board. The only thing is that the inspector, instead of being a member of the Liquor Department, he would be a member of the Police Department.

Now, if this were to pass, all I'm asking is that you put this on the ballot, let the people decide. If they want it, okay, or if they don't want it, it's okay too. But if it gets on the ballot, I'm sure there will be a lot of discussions, pros and cons. But if this should pass, then we will have to work out a transition with the union and with the present members of the department so that there will be some way of absorbing them or work out some kind of scheme with the union and the Personnel Department of the County to take care of those that are in office now. It can be handled in several ways, but I think that would come out in negotiations with the union and the officers involved.

So, that in a short sketch is what that plan is all about.

CHAIRMAN HOKAMA: Any questions?

COUNCILMEMBER MEDINA: I'd like the Corp. Counsel to look at the State law that creates the Liquor Commission and whether or not the Charter law would conflict with State law, and whether or not we can do under State law what the Mayor is asking us to do?

MAYOR TAVARES: Incidentally, I asked that question at the very offset.

MR. HAYWOOD: Councilmember Medina, I believe that it can be done under State law.

COUNCILMEMBER MEDINA: The role of the Liquor Commission would remain the same?

MR. HAYWOOD: Practically speaking, what you're doing is you're taking some of the functions that have been assigned to the County, delegated to the County and currently are handled by one of the County agencies and you're taking some of those functions and putting it into another County agency. You're not changing the function, you're not changing the law, you're not changing the enforcement, you're just changing the persons so to speak. People have looked at the question of State vs. County powers and they said that just for a general analysis the State tells you what to do and it's the County that tells you how, and I believe that this is how and not what because we're not changing any of the essential functions, it's just the person who is conducting the activities.

COUNCILMEMBER MEDINA: One of the things I think the intent of the creation of the law was to, the Mayor was calling out the attention that possibly the long-term positions that these people are in would put them in to a position of possibly corruption of . . .

MAYOR TAVARES: Not, necessarily. I wouldn't go that far, Rick. What I'm saying is that the situation would be that you stay in that job for a long time, either you become a very tough and strict guy or you become a very friendly person. And we see things like that going on. You have some cases where you build up a friendship with a certain licensee and then there's another guy that bugs you. Now, if something like that is happening, to correct it under the present system is very difficult. Where if it's in the police department, you transfer the person out to something else. I visualize these guys as being plain clothesmen, dressed nicely and so forth as they are now. But you would have this opportunity to rotate and to move on.

COUNCILMEMBER MEDINA: What I was going to say is that, to me, the intent of the State law was not to change the inspector but to change the members of the Commission. The members would enforce the regulations.

MAYOR TAVARES: Members do not enforce regulations.

COUNCILMEMBER MEDINA: Well, I think they should ride herd of the Liquor Control Department.

MAYOR TAVARES: Remember, they're part-time.

COUNCILMEMBER MEDINA: Yes. So, I don't know if that system, if whether or not the enforcement or the jurisdiction and supervision that they have or they're responsible with, should be increased. I, for one, feel that the Liquor Commission does not feel or does not know what their real powers are.

MAYOR TAVARES: They don't have the time. These guys are all working people, they've got their own jobs, they've got their own businesses, you can't expect them to do all of those things. Whereas, if you take the Police Department, you've got the whole hierarchy there to do all of this. The Liquor Commission, if they did not like the way the Police Department was handling the case, they would call that to my attention, to your attention, and to the attention of the Police Commission. So, there would be a lot of check and balance all along the way - by the Council, by the Mayor and by the two commissions involved.

COUNCILMEMBER MEDINA: In any event, Mayor, what would you do with the present Liquor inspectors?

MAYOR TAVARES: We would have to work out a system with the union because this would be a reorganization. Chances are, I think most of them would go into this new division in the transition until such time as a normal attrition takes place. Or whatever the union and management could work out in the best interest of the employee. They would be no loss at a job, there would be no loss of pay. This kind of thing, I'm sure, would qualify for red-circling if the pay is higher. But I think a Police Officer II, is the pay higher than a Liquor Inspector right now? So, there would be a chance of an increase in pay for them. Now, as you go in right away the qualifications may be a little different but you remember that in the MQ's of a Liquor Inspector, it requires some enforcement experience, as I recall. In order to be a Liquor Inspector today you must have had some kind of background in law enforcement, and I think most of them have been either one time or another connected with the police department or some other law enforcement agency. So, the MQ's are about the same. But being a Police Officer II would probably end up in a little bit more pay for them. Now, I think each one would have to be looked at individually to see what would be the best transfer for that person. Would it be into this division? Fine. He may want to go to some other department and we would be able to work that out with negotiations with the union and management. I would not want to see anyone lose a job that's not the intention. The intention is just to set up a different system of enforcement. . . . important factor of rotation.

CHAIRMAN HOKAMA: Any other questions?

COUNCILMEMBER MEDINA: Thank you.

CHAIRMAN HOKAMA: Ms. Santos.

COUNCILMEMBER SANTOS: Thank you, Mr. Chairman. Mayor, as I read the resolution, the responsibility of the investigation of violations is being proposed to be turned over to the Department of Police, and yet your rationale, your justification for this speaks for this, it speaks of the inspections too. I had assumed when I had first read this that once it was determined that a violation occurred then the investigation would be forthcoming by the Department of Police, but apparently, it's the whole kit and caboodle of inspecting to determine if a violation has occurred.

MAYOR TAVARES: When you use the term inspection and investigation, it kind of goes hand in hand because you would still have that division in the Police Department doing the same thing that these people are doing today. They would be going on a regular tour of duty, establishment to establishment. They would be seeing whether or not the law is being enforced. So it would be the same thing. So, it's investigation enforcement.

COUNCILMEMBER SANTOS: So, would you say that the resolution is not that clear?

MAYOR TAVARES: I don't know.

MR. HAYWOOD: When I drafted the resolution, basically, I switched, just pulled the language right out of the existing Charter. Rather than change the existing Charter language, I had people question whether or not that should be more expansive so there's no question as to what the new function is. I have no objections to expanding it so it's clarified. But basically, I took that provision out of the existing Charter that gives the department the power to investigate violations of liquor control, etc. So, I just basically switched the provision into the Police Department. So, if we wanted to do some fine tuning of what those duties were under the circumstances, I plan to do that.

COUNCILMEMBER SANTOS: Well, frankly, I think it needs clarifying because I assumed that liquor control, if we split the functions, that they would make the determination that there is the potential of a violation and then the police would become involved in the actual investigation.

MR. HAYWOOD: As I understood it, the current function of the investigators is to check on a regular basis but the daily routine was to be transferred to the police department. So, it wasn't simply the investigation. It was the role of the Liquor Inspector per se just be transferred to the police department. Now, if they're there and they go out on a regular basis. Now, there are departmental persons who would investigate

applications for licenses, I don't believe that, that was going to be transferred. So, when someone comes for an application a certain amount of that work is done by the administrative staff.

MAYOR TAVARES: Yes, that would stay with the liquor department. That phase of it.

COUNCILMEMBER SANTOS: That's why that needs some clarification.

MAYOR TAVARES: I think that's a good idea.

MR. HAYWOOD: Other people have made that comment as well.

MAYOR TAVARES: I think we want to clarify it because I don't want to have any misconception. What we're doing is taking what is existing now and putting it in the police department primarily so that you've got this rotation, possibly promotion and advancement and all of that. Now, you become a member of the liquor investigation group and you're kind of stuck there.

COUNCILMEMBER SANTOS: Councilmember Medina questioned you on State law as it related to the liquor control aspect. What about the police, the law that establishes the police section? We can expand the duties of the Department of Police?

MR. HAYWOOD: Well, I still don't think there's a problem because generally the police department is empowered to enforcement laws of the State, and these are, in fact, laws of the State. Now, we're also giving them an additional duty to enforce the rules and regulations of the Liquor Control Commission but those duties are pursuant to State law as well. I don't see a problem there.

COUNCILMEMBER SANTOS: You've checked into it?

MR. HAYWOOD: Yes. And if you'd like me to to more extensive research, I'd be glad to.

CHAIRMAN HOKAMA: Alright, any other question? Any other question on the Mayor's proposal while the Mayor is here?

COUNCILMEMBER MEDINA: May I ask about housing?

CHAIRMAN HOKAMA: Mr. Medina.

COUNCILMEMBER MEDINA: Mayor, we have the division of Housing with the Department of Human Concerns now.

MAYOR TAVARES: You want me to talk about that?

COUNCILMEMBER MEDINA: Yes.

MAYOR TAVARES: Well, I guess as we say here in the rationale and I think you all know that throughout the entire nation, there are a lot of emphasis being placed on housing, affordable housing and a great deal of discussion going back and forth. And the State and the Counties, the cities are involved in this whole area which is always one of the priority concerns of any group of people, and we felt that because of the seriousness and the importance of this whole area that the department would have more _____ really than a division, and the department would be concentrating entirely on housing and would not be under another bigger department which has many, many other interests. Human Concerns has a lot of responsibility tossed at its director and deputy and so on. Whereas, if you set up a separate department like this, the focus would be specifically on that key problem, and I think it would allow for better administration, you would be able to attract staff. We have a good staff now but, as you know, that staff is being taxed to the limit. You take a person like Edwin Okubo with the kind of work that he does, he has the reputation of being one of the best housing people in the State. But what is his pay? His pay is division pay. He certainly is entitled to a heck of a lot more than that, then he would be able to set up his department in a division that would concern itself specifically with housing. You've got the rental subsidy program, you've got the new housing projects, you've got so many things there, that in a department you could probably end up with probably three divisions to help share the load. By having a division under a department means that you could have some people running those divisions who would have half way decent pay. But the head man himself, would be at cabinet level. Quite often you don't like to talk about personality but the personality thus sets up the example. You've got a person of Ed's caliber and if he were a department head, he would be able to get a lot more pay than he is getting now. But the main thing of this, would be that a department gives more emphasis to the area where we're showing that the County believes that housing is so important that we give it department status.

CHAIRMAN HOKAMA: Any other question?

COUNCILMEMBER MEDINA: Finally, on the Board of Land Use and Code Enforcement, you want a board but are you going to back that up with more personnel in Land Use and Codes?

MAYOR TAVARES: I think in the budget you have a request with more personnel, especially if we're going to streamline the process, which I favor, if we can bring it down where you have 'x' number of days to do certain things, I'm in favor of that. But you need the manpower to do it. Right now, you can see that the present manpower that we have cannot handle the load that is there now, but it is very frustrating for people to come in looking for a building permit or a subdivision approval and have to wait so long for it. So, if you're going to adopt

ordinances that are going to speed up the time element, then we need personnel to do it, but this gives you some kind of an appellate group that the citizen can go to.

COUNCILMEMBER CROCKETT LINGLE: I had a question on the same issue of the Land Use and Code enforcement. This is an area right now that we're getting a lot of citizen complaints that these laws are not being enforced. I'm not clear on how this would work. It says that they're going to be authorized to impose civil fines and impose liens on property. Is that something that we can grant through the Charter? I'm not clear on that? Howard, could you answer that?

MR. FUKUSHIMA: I believe the State law provides for the County to have the authority to impose civil fines on these types of violations.

COUNCILMEMBER CROCKETT LINGLE: So, a citizens' appointed board could impose liens and impose civil fines?

MR. FUKUSHIMA: Yes.

MAYOR TAVARES: Pretty much the same way that the Liquor Adjudication Board can do that.

MR. FUKUSHIMA: That's right.

MAYOR TAVARES: They've got that authority. As long as it's spelled out in the Charter, then they've got that kind of authority. Kind of speed up these things.

COUNCILMEMBER CROCKETT LINGLE: I was thinking that maybe their authority came from State law and we just absorbed it in the Charter, but you're saying, no, that this is allowed under our Charter, Howard?

MR. FUKUSHIMA: No, this is allowed pursuant to State law in this particular area. We can't collect civil fines in all areas, but this is one area where the State legislature has allowed the Counties to impose civil penalties.

COUNCILMEMBER CROCKETT LINGLE: Okay. Well, I guess you'll be showing us where it says that anyway.

MR. FUKUSHIMA: Okay.

COUNCILMEMBER CROCKETT LINGLE: So, you would have this nine-member board and let's say, for instance, I get this complaint, someone calls up and says, Linda, I'm renting out on a daily basis, and this is a complaint right now and I know that we have this issue pending, but they're renting it out for vacation rentals in a residential neighborhood and I want to file a complaint, is the board that's going to hear a complaint like that?

MR. FUKUSHIMA: Yes. And this is providing for an administrative remedy to the problem dealing with your transient rentals.

COUNCILMEMBER CROCKETT LINGLE: So, right now I know that when I try to call up Land Use and Codes and make this kind of complaint to them, they say, well, it's impossible to get proof on something like this and then we have to go to the Prosecutor's office and it's just too hard to do. Who is going to make the case before these people? Do they have investigators on this board?

MAYOR TAVARES: Yes. That's what the inspectors supposed to do and by beefing up that particular area, they would be concentrating on these violations, and instead of taking it to court, to the prosecutor, they would take it to this board. It would make the whole process a lot faster.

COUNCILMEMBER CROCKETT LINGLE: Well, we need something because citizens are just ignoring the law because they know that nothing is going to happen to them.

MAYOR TAVARES: One of the problems that we're having with the rental example that you used is that, apparently, our law is not clear that in residential areas you cannot do the transient rentals. There's an ordinance coming down to you any time now that is going to prohibit that sort of transient use, so called bread and breakfast.

COUNCILMEMBER SANTOS: We have it.

MAYOR TAVARES: So, I think as you begin to examine that and discuss it and debate on it, if you pass it, then it gives more teeth. The way it is now, there's a lot of confusion as to whether or not you have a house in Kahului, can you rent it for the weekend? Or can you rent a room for the weekend? There's a lot of confusion there, and hopefully, this legislation that you will be handling will clarify that if you pass it. But then, getting back to your point, Linda, that sort of violation would come to this Board and you wouldn't get him broiled in this criminal process. A lot of this stuff doesn't have to go that route. If you have a flagrant violation, then you still have the option of taking the guy to court. But this would probably take care maybe 90% of the cases.

COUNCILMEMBER CROCKETT LINGLE: Thank you.

MR. FUKUSHIMA: And if I may point out that civil fines would accrue to the County, whereas fines in court, accrue to the State.

COUNCILMEMBER CROCKETT LINGLE: Thank you, Howard.

MAYOR TAVARES: That's one of the frustrations that we have. You go through all of this and you get up there and bang, you get a slap on the wrist.

CHAIRMAN HOKAMA: Any other question?

COUNCILMEMBER MEDINA: Just one final, Mr. Chairman. In 1991, I guess, we're required to have a Charter Review Commission.

MAYOR TAVARES: You form the Commission in 1991, I think they have a full year to work, so by the time you get something on the ballot, then it would be 1992. It would probably go into effect in 1993.

COUNCILMEMBER MEDINA: Despite that, do you want this to go on the ballot this year?

MAYOR TAVARES: The sooner the better because these are areas of problems that we see that could be easily remedied if the people would vote on the amendment, then we could start immediately after this election. In other words, if this gets on the ballot in November, it would take effect in January and you would be off and running. The other way, if you wait for the whole Charter reprocess, you're looking at probably 1993 before you get into the enforcement of the new provisions. So, you would save three years.

CHAIRMAN HOKAMA: Any other question?

MAYOR TAVARES: How come you don't ask me about the four-year term for Councilmembers?

COUNCILMEMBER CROCKETT LINGLE: We're against that.

MAYOR TAVARES: You are?

COUNCILMEMBER MEDINA: Speak for yourself.

MAYOR TAVARES: I'm for it. I hope the people would vote for it this time. I have a feeling that they might. I'm all for it. I know all of the differences of opinion but I don't know, I've served on the Board of Supervisors . . .

CHAIRMAN HOKAMA: I think the problem is every time the question comes up, there's too many Charter amendments and the people don't even bother. That's one thing that the Chair wanted to stress that the more amendments we put on the ballot, basically, there's less interest by the voters because they're not going to waste their time reading all the Charter amendments. I think we got slapped with that the last time.

MAYOR TAVARES: I would look at it this way too, Mr. Chairman, that if this gets on the ballot now, if it passes now, fine. But if it doesn't, it still goes over to the Charter Review Commission and they will handle that question again. So, I don't know how long it took the Big Island to go to four-year terms, but they finally did. Oahu is four-year terms, isn't it?

COUNCILMEMBER SANTOS: Yes.

MAYOR TAVARES: I think it's only Maui and Kauai that still has the two-year terms. And by using the staggered system where only half of the Council will be up for election, you will always have experienced people still in office. So you wouldn't have a situation where nine would go off and nine new people come in. There would be quite a transition there while they begin to learn the ropes. But under this system, it would be very much like the Senate of the State of Hawaii where only half go out and the other half are hold overs. The U.S. Senate is one-third goes off at a time, so you always have two-thirds so called oldtimers there, so you don't have chaos of a bunch of inexperienced people coming in at one crack.

COUNCILMEMBER KAWANO: But then you might have the other half looking for your seat too.

MAYOR TAVARES: That's fine.

COUNCILMEMBER KAWANO: Then you'll have nine people . . .

MAYOR TAVARES: That's the democratic process. The more the merrier. I can say that now because I won't be involved. But that is a democratic process. Remember when I ran for mayor, how many candidates were there - 18 of us. I almost gave up half way through.

CHAIRMAN HOKAMA: Any other question? If not -

MAYOR TAVARES: Okay, thank you very much for your time.

CHAIRMAN HOKAMA: Okay, members of the Committee, if you'll look at my memo to you dated February 16, 1990, the staff listed down all the amendments that have been proposed by the different members of the Council. Everybody got that communication dated February 16?

"PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983), RELATING TO THE DETERMINATION OF SALARIES OF APPOINTED OFFICIALS BY THE SALARY COMMISSIONS". (Santos)

COUNCILMEMBER SANTOS: Mr. Chairman, may I speak to this, please?

CHAIRMAN HOKAMA: Sure.

COUNCILMEMBER SANTOS: After I transmitted this proposed Charter amendment to the Council for consideration, I was in discussion with the Corporation Counsel and found out that we can do it either by Charter amendment or we can do it by law, because I believe it says, and other duties as . . . it gives the duties of the Salary Commission and then it says, performs such other

duties as may be provided by law. So, it's a possibility that if the Council were interested in pursuing it via the ordinance route, it can be done that way or put it to the electorate for it's consideration. But there's that possibility. I think originally when this proposal to establish a Salary Commission to consider the salaries, it included elected and appointed officials. We determined, at that time, that we would take out the appointed officials and have the Salary Commission simply address the elected officials. But I think in the years that the Salary Commission has been in operation, the Salary Commission has been very fair. They haven't been exorbitant in there awards, so to speak, and they have really researched various jurisdictions to determine how the salary scales are established. I think at this point and time, because every year that we get a request for salary increases for appointed officials, the Council bulks because it's a politically unfavorable type of decision. And as a result, we should seriously consider putting it before a body such as the Salary Commission, which I think has proven itself to be very responsible as it determines salaries for elected officials. So, whether we do it by law or put it on the ballot is the decision that this group can make.

CHAIRMAN HOKAMA: Any questions before we make decisions on this? What the Chair would like to do is go through every one before we start weeding out.

COUNCILMEMBER CROCKETT LINGLE: Could I ask a procedural question?

CHAIRMAN HOKAMA: Yes.

COUNCILMEMBER CROCKETT LINGLE: I mean, all we're saying right now is let's take this out to let the public comment on it at our public hearing right now. That's what we're voting on right now?

CHAIRMAN HOKAMA: What the Chair would like to do is, rather than vote on any one, we go through every one and have discussion and then if we want to weed out, then we would.

COUNCILMEMBER CROCKETT LINGLE: But all we're deciding is whether we should take these out to the public.

CHAIRMAN HOKAMA: Let's decide that after we go through every one.

COUNCILMEMBER CROCKETT LINGLE: But we're not deciding whether they should go on the ballot or not, but whether we should take it out to the public hearing. Is that correct?

CHAIRMAN HOKAMA: Yes.

COUNCILMEMBER LEE: Mr. Chair, could we move one up the one concerning the Liquor Commission? I think we have some people here that may want to comment on it, and I have a letter to read.

CHAIRMAN HOKAMA: That's why the Chair asked for any witnesses at the beginning of the Committee meeting.

COUNCILMEMBER LEE: Well, they've asked me to provide this information. If we could take it out of order.

COUNCILMEMBERS VOICED NO OBJECTIONS.

CHAIRMAN HOKAMA: No objections. Alright.

"PROPOSING AMENDMENTS TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983), AUTHORIZING THE CHIEF OF POLICE TO INVESTIGATE VIOLATIONS OF LIQUOR CONTROL LAWS AND LIQUOR COMMISSION RULES AND REGULATIONS". (Administration)

COUNCILMEMBER LEE: Just so that the members would know and letters have been distributed to the members. This letter, which I received this morning and was asked to read, is dated February 21, 1990, addressed to the Chairman and Members of the Maui County Council, and signed by the Liquor Control Officers. (SEE ATTACHMENT 1)

CHAIRMAN HOKAMA: Okay. Is anyone going to testify or you're just going to submit the letter?

COUNCILMEMBER LEE: Submit this.

COUNCILMEMBER CROCKETT LINGLE: Can we ask them questions? Would they like to ask them questions right now or not based on statements made in this letter?

COUNCILMEMBER LEE: They said yes.

COUNCILMEMBER CROCKETT LINGLE: Could they come up and answer some questions?

CHAIRMAN HOKAMA: Can any one come up to answer any questions?

MR. SILVA: Mr. Chairman, Members of the Council, I'm Frank Silva, Senior Investigator of the Department of Liquor Control, and I'll be glad to answer any questions.

COUNCILMEMBER CROCKETT LINGLE: Thank you, Mr. Silva. You don't have any feeling on the Mayor's about your inability to move up or to have any sort of career advancement in a general sense, and that you may stay for 20 years in your same position?

MR. SILVA: Well, that's true. As far as the aspect and prospects for advancement within the Liquor Department right now . . . it's nonexistence. As far as the enforcement section moving to the Liquor Control that we might be tempted or might be in a situation where we might befriend the licensees and offer what ever, I can't think of the word right now, but I'm sorry, I didn't come prepared to testify.

COUNCILMEMBER CROCKETT LINGLE: That's alright.

MR. SILVA: It doesn't affect me, personally cause I'm in the licensing section. Our investigators, I believe through attrition, our job is very demanding. It's all night work, late night hours till 5:00 in the morning. So, the Senior man in the field right now has about five years in the department, and right now we have three openings in the Liquor Department. It's hard to keep people simply because it's a demanding job. Our job includes not only enforcing the rules and regulations for the County of Maui but also the Hawaii Revised Statutes. The Enforcement Section also enforces laws that does not come under the jurisdiction of the Police Department. For instance, the Police Department, normally, they're concerned with civil laws, criminal laws. We're concerned with liquor laws. For instance, for the Enforcement Section to be detached from the Department of Liquor Control, they work hand in hand, the Licensing Section which is my section and Mr. Mukai who does permits, we, through hearings, the Commission provides conditions on licenses, they give permits, they give numbers of musicians that may entertain in an area due to community response as far as noise complaints and things like that which is what the Enforcement Section, part of what our responsibilities are, does not come under the jurisdiction of the Police Department. It may, in fact, do that if it changes. We didn't have any idea of what the proposal was as far as not, in fact, using the Police as the Enforcement Section and disbursing our present enforcement section throughout the County as provided by management and the union personnel. Most of, as the Mayor said, most of our investigators are prior policemen that have left the police department for one reason or the other. None of them are real anxious to go back into the police department for one reason or the other. Another thing is, I don't know if you're all familiar with what happened on Oahu. Basically, it stems from a specialized unit within the Department of Liquor Control that abuse their powers. Those people within that specialized unit were on loan to the Department of Liquor Control from the police department on light duty. I don't know, I would be glad to respond to any questions now, but I'd just like to say that we would like to remain intact as the entire Liquor Department so that one hand knows what the other is doing. If the Commission puts conditions on, the Enforcement Section enforces.

COUNCILMEMBER CROCKETT LINGLE: Mr. Silva, would you say that perhaps you could use a little more time to look at this proposal or give it more thought? Your point in this letter is that no one really knew about it. Maybe if people understood more about it, they might feel differently. As you say, obviously, you have a serious problem if your senior person has five years. I mean, you have a terrific turn over rate and you cannot fill your positions and that's a serious problem. So, maybe if you gave this a little more thought, maybe they protested because

they just want to stop it for now because they haven't had time to think about it or maybe the Mayor wants to talk with them. I don't know.

MR. SILVA: Well, that's true to what you're saying, we don't know all the ramifications of what the move would entail. It may benefit the personnel that comes in later. It may benefit the people as far as advancement goes. And you're right, it may, in fact, cause people to remain because it's going to be a unit within the police department. So, what we're going to do is, we're going to have a Department of Liquor Control without an enforcement section. The enforcement will be directly the responsibility under the jurisdiction of the Police Department.

COUNCILMEMBER CROCKETT LINGLE: I know I need to hear more about it. . . (CHANGE TAPE) . . . even if you disagree with my feeling that the liquor licensees are made to jump through too many hoops, maybe that's my opinion and maybe you disagree with me, but you do agree that there is a problem in filling positions, there's a problem in keeping personnel. There's a problem when people only have to work at night time. I mean, they're constantly working at nights, there's a problem.

MR. SILVA: Can I mention one thing about the licensees jumping through too many hoops?

COUNCILMEMBER CROCKETT LINGLE: Sure.

MR. SILVA: You're right, and I agree with you wholeheartedly. I've said that from the beginning. But all the hoops that the licensees have to jump through all come out of the Hawaii Revised Statutes and the rules and regulations of the Department of Liquor Control.

COUNCILMEMBER CROCKETT LINGLE: Mr. Silva, how much is interpretation and how much is actually specifically stated? Like can I give you an example, and I respect your opinion on these things and that's why I'm asking you . . .

CHAIRMAN HOKAMA: Wait now.

COUNCILMEMBER CROCKETT LINGLE: Okay, I'll ask you later. The Chair is right.

CHAIRMAN HOKAMA: If you've got complaints against the Liquor Department, I think that should be a separate issue.

COUNCILMEMBER CROCKETT LINGLE: You're correct. I'll ask him later. But getting back to this proposal, would you think you could go back and talk with them about maybe they want to have a little more information about this?

MR. SILVA: Oh, I'm sure that they would, right now, the consensus is, no, we don't want to be a part of this because like I said, no one knows what it entails. No one knows what the future, in fact, no one knows what this whole move is about except what we have read. So, sure, with more information I'm sure they would be more than willing.

COUNCILMEMBER CROCKETT LINGLE: Okay. Well, thank you for answering. I also would like to hear from the licensees and get their opinion too.

MR. SILVA: They're the ones who are directly involved.

COUNCILMEMBER CROCKETT LINGLE: Thank you, Mr. Silva.

CHAIRMAN HOKAMA: Any questions?

MAYOR TAVARES: Mr. Chairman, could I add one more word and I'll be on my way. I think that what is before you is a proposal for a Charter amendment to make this transfer. As been pointed out, this needs a lot of discussion in public forum. And as you consider things like this, it's going to be not your decision, but the decision of the people in the ballot box. Of course, you can stop it from getting there. But I think something like this you want to go out for public hearing and give the office a chance to talk it amongst themselves and come and see me if they desire. But I think our overall responsibility, what would be the best for the people of the community as to how liquor laws are enforced. If you look at the traffic division of the police department, they enforce all kinds of laws but they are trained to do that. They have specialized people to do that. You have a Lieutenant or a Captain in charge or an Assistant Chief in charge they handle all kinds of phases of their responsibility, which would be the same here. If you had a liquor enforcement division, the head of that division would have to be a competent person. He would have to be involved in the training of his subordinates and all of that. But I think when you go into the public hearing mode, you're going to find a lot of things coming from licensees that I hear and I don't want to put it in here as hearsay, but I'm sure that when they come in and talk to you, they probably will not be as kind as I have been. But I think that's only one phase of it. The other phase is, how do the people feel about this whole enforcement of liquor where liquor is a very sensitive area. And as you know, there's more and more emphasis coming down the line about drunk driving and spouse abuse and child abuse and all of these things, which seems to stem from liquor and drugs. So, it's a very sensitive community issue. And I think it has to be put out in the public for a good overall discussion of pros and cons either way. I don't think that we can just think of what's best for the liquor inspectors. We have to consider that, but overall is what is best for the people of this community in enforcing the law.

CHAIRMAN HOKAMA: Pat.

COUNCILMEMBER KAWANO: Mr. Chairman, I'll reserve my questioning until we really get into discussion on these things.

COUNCILMEMBER LEE: I have a question for the Mayor. Mayor, right now, I believe that the Liquor Department is self-sufficient, financially. So, if you move the investigators to the Police Department, income derive from the licensees, are those monies transferrable to the Police Department to pay for that division?

MAYOR TAVARES: Off the top of my head, I would say that, that would be part of the budgeting process. The money that you get from the Liquor Department is part of the general fund, right?

CHAIRMAN HOKAMA: No, no.

MAYOR TAVARES: And you budget it out, don't you? If not, it could be made that way. But somehow or other, that would have to be handled in the transition.

CHAIRMAN HOKAMA: That, I think, we have to check because when the Liquor Commission sets the fees, it has to justify the fees based on the budget.

MAYOR TAVARES: Right now, as you do that, you're looking at what does it cost to run the inspection division? Really, you're just moving from here to there and everything goes with it.

CHAIRMAN HOKAMA: Well, I think what the Corp. Counsel's office has to check is that if you move the investigation section under the Police Department, it's a separate department. The Liquor Commission only has control over the Liquor Department, the budget of the Liquor Department. So, whether the Liquor Commission can set fees that includes another department's cost, I think that the Corporation Counsel's office has to check real good.

MAYOR TAVARES: Another thing to remember too is that this Liquor Division would be enforcing the liquor rules and regulations that would be enacted in the APA procedure usually emanating from the Liquor Commission. They proposed different rules to be passed. Once those rules are passed, signed by the Mayor, they have the effect and enforce of law. Who would enforce that? That liquor division and the Police Department would enforce it the same way that the Traffic Division enforces all traffic laws. Whatever is passed by the Council or the State or the feds in relation to traffic, that Traffic Division has to enforce that law. As far as how do you transfer some of these costs away from the Liquor Department to the Police Department, that would probably take some action of law to do that and probably could be done by ordinance or whatever.

CHAIRMAN HOKAMA: Anyway, Corp. Counsel has to check. That's set by statutes how the fees are set.

MAYOR TAVARES: Howard, would you bring that to Guy's attention?

MR. FUKUSHIMA: Yes, sir.

MAYOR TAVARES: Okay, thank you.

COUNCILMEMBER SANTOS: Just one quick question of the Mayor, please?

CHAIRMAN HOKAMA: Velma.

COUNCILMEMBER SANTOS: Mayor, I think it's a little unfortunate and . maybe you just didn't have time to, being that a function like this which sort of revises one department, and I'm surprised that there had been no discussions.

MAYOR TAVARES: Well, I talked to the Chief and I guess he didn't talk to them. I talked to the Chiefs of both departments and told them what I had in mind quite sometime ago, and I think he should have been discussing it with the men.

COUNCILMEMBER SANTOS: That's the unfortunate part.

MAYOR TAVARES: I don't have the time to talk to everybody in the County. So, I talked to the head of the department and told them what's in mind and then it's up to him to discuss it with his men and the union. But you have several months before this has to go on the ballot. What is your deadline for getting it on the ballot?

CHAIRMAN HOKAMA: I think the time schedule was sent to everybody.

MRS. SHIMIZU: August 7th is the deadline

MAYOR TAVARES: . . . because it's not considered in the primary, it's considered in the general election. You've got till September, so there's a lot of time for dialogue.

CHAIRMAN HOKAMA: But we have to get it to the Clerk's office by a certain date.

COUNCILMEMBER CROCKETT LINGLE: By when?

MRS. SHIMIZU: August 17 . . .

CHAIRMAN HOKAMA: Because it's for the general election, it doesn't mean it's just at the general election. We have to get it into the Clerk's office by a certain day.

MAYOR TAVARES: But Velma, I did contact the Chief before I proposed this, both Chiefs. And they're aware of what's going on here.

COUNCILMEMBER SANTOS: Well, it's too bad that communication breaks down like this.

MAYOR TAVARES: But I'm willing to sit down and talk to them myself if they want to come in and have a follow up.

COUNCILMEMBER MEDINA: Just one final question. The Liquor Control Department head would be responsible for certain functions but he would not be responsible for investigations. This function would be within the Police Department.

MAYOR TAVARES: He would investigate the extent of whether or not a person should be granted a license. If you have an applicant coming in for a license, what would be left would be that he would have to be responsible for reporting to the Liquor Commission has to the facts surrounding that application for license, but he would not be directly involved in an investigation. But as things came up that he felt was not being properly investigated, then he would communicate directly with the Police Department, the Council or the Mayor. But I don't think you'll have that problem. Once you set up the responsibility of that division, if you just look at the division like a traffic division, they will do what they have to do and they will be charged to do that. And I'm sure the Chief of Police will issue out orders to put that all into motion, and the routine will be just like any other division. If you can imagine the work of the Vice Squad, the Vice Division, they've got a lot of things that they have to do. It's spelled out in the federal law, State law, I don't think the County gets involved too much in the Vice, but I guess we do because we do handle cockfighting and things like that. But I think all of that would be established, the responsibility of the division and making sure that there is the proper supervision of that division. Joe Souza will continue to be the head of the department, but he will be dealing directly with the Police Commission on licensing matters and other things like that. But always having the authority to be a check on whether or not the law is being properly enforced.

COUNCILMEMBER MEDINA: So, the department will still have to retain inspectors to go out and see if any violations . . .

MAYOR TAVARES: No, they would not be involved with violations. But they would go out to find out whether an applicant for license, they would do like a character check, a records check and that is a different operation. Right now when you're doing liquor law inspections you're out there all hours of the night and early morning. That's law enforcement that is involved there, rules and regulations of the department and state law, that's what these inspectors are doing. And that's what the division would do. So, you would not lose the whole organization. You would just lose the inspection/enforcement group, otherwise, they would become a plain clothes group as they are now doing

pretty much what they're doing now but they would be in a division that gives them the opportunity for advancement and also a very important rotation of officers. The same way that you rotate the vice squadsmen. I think when you throw this open, the licensees will come in with all kinds of stories to tell you, and the public may have some feelings of their own without being a part of the business themselves. A lot of the people in the public would like to talk about what's happening in the liquor area. Licensees will give you one prejudice end, I'm sure, but I think you want to get the full picture.

CHAIRMAN HOKAMA: Any other question? Okay. Now, let's get back to Item 2 on my memo to you dated February 16, 1990, which lists the different proposals.

"PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983), RELATING TO THE COUNTY COUNCIL" (Administration)

This is changing the term of Council from two to four years.

COUNCILMEMBER CROCKETT LINGLE: You want to discuss it now?

CHAIRMAN HOKAMA: Any questions? Anybody have any opinion on this?

COUNCILMEMBER CROCKETT LINGLE: I have an opinion about it.

COUNCILMEMBER MEDINA: Mr. Chairman, I have an opinion about the two year/four year term. It is based on the cost of campaigning today. Every two years you have to shell out a heck of a lot of money to run for an office like this. It's surprising how expensive it has become. But if you have to run only once every four years, the community does not have to contribute that often. When you're running every two years, every years you've got your hand out looking for contributions. So, that would be the only reason why I think a four-year term now, on top of all the other reasons that people have given for four-year terms, this is another, to me, reason why it should be a four-year term. But I think the question should be taken out for public hearing and air it once again and discussed, and at least for me, I would support that.

CHAIRMAN HOKAMA: Any other comment?

COUNCILMEMBER CROCKETT LINGLE: Mr. Chairman, I think the Chair's position is we're going to take things out to public hearing and I don't ever like to stymie discussion on any issue. And so I can appreciate what Councilman Medina is saying, well, let's go out and talk about it. It's just that you have to keep in mind that the last two times this was taken to the public, it was defeated by a 2-1 vote. It's almost like saying, well, here we come again. We know that you don't want it, we know that the public hasn't wanted it when we've taken

it out, but we want it and the reason being given now is that it's expensive to campaign. I think that if you check on the Big Island what their former Council Chairman, for instance, would spend in an election for a four-year term, it's more than double what we spend to get elected to a two-year term. So, I'm not sure that there's any evidence that you would, as a total, spend any less money. But there's a lot of evidence that I can point to that would show you that if a Councilmember had a four-year term, they are, in fact, less responsive to the community because what makes you responsive is the next election coming up. You know that it's coming up and I can tell you on these land use matters if you had three years to go, people would tend not to be as concerned about the public's opinion as they are if their election is coming up every two years. So, I think the fact that the United States House of Representatives' members run every two years and they certainly deal with more complex issues than we do, I don't see any justification for the Council to increase its term of office from two to four years. So, my position on this hasn't changed. This additional argument about cost, I think if you do some research you will find that those members, either on Honolulu or on the Big Island, spend at least twice as much if not more to get elected to a four year term. So, I don't think the cost argument is backed up by facts.

COUNCILMEMBER KAWANO: Mr. Chairman, I'm glad you're taking this out to public hearing. I don't feel that the cost is that important. I feel that the office is important. And I look at it, because it's a two-year term after one year you get through you work for one year and I sort of disagree with the beautiful lady on my left, because I feel that when you get into office, I don't think it's the office or the power but I think you want to work. And I think in the Council, being here for two terms, I feel that after one term the second term a lot of the people are looking at their campaign as far as trying to seek that office again. I feel that because it can become a four-year term, I feel that three years you can really work like hell and bust your ass, if you really want to put it that way. And I believe that the people who sit on the Council that's what they're doing. But one year you bust your ass and then the second year you're sort of looking at the campaign trying to get re-elected. I feel that we're really not doing justice in two years. I feel that in four years you can plan. And I'm not looking at the money position either, but I think that's a poor excuse.

CHAIRMAN HOKAMA: Any other comment?

COUNCILMEMBER MEDINA: Of course the responsibilities inherited in this job are very important. The consideration, I think, for people spending a great deal of money to get elected to a four-year term basically, to me, was based on their desire to run for higher office and wanted to look good in that prior election.

If you look at the spending patterns of all of these guys, this is the way it turns out. And I think that's why Steve Yamashiro spent quite a bit of money. He told me that he wanted to run for Mayor. He wanted to look good. But anyway, the four year term that Pat points out, not only on top of the cost of spending is that in a four-year term, you're liable to make decisions I think that are better and not connected to re-election. If you really wanted to make decisions based on what you thought was correct, rather than based on what you thought was politically expedient, I think you would make better decisions in a four-year term than you would in a two-year term. The U.S. House of Representatives is something I don't understand why they have never changed. The U.S. Senate is six years. I don't know why they have never changed to a four-year term. But I think in this day and age, a four-year term is something that has to be considered.

CHAIRMAN HOKAMA: Any other comment? Mr. Tanaka.

COUNCILMEMBER TANAKA: Mine is just let the people decide. I think today the people are more educated in the system and they're participating more. So, I think the understanding of the office and its responsibility is understood more and we should take it out to the people and let the people decide.

COUNCILMEMBER KAWANO: For a second time, Mr. Chairman. I think we can see that in the Council sitting here on the Council for two years. One year we can see how solid our decisions are. The second year because it's election, we can see the politics moving in there. And I feel that for at least three years, we would be just going solid with our decision making and all of that, and I sure hate the politicking going on in this office. So, as I said, I don't look at the money and I don't look at the other side. But I say, I think we can do a better job if we're elected for four years.

CHAIRMAN HOKAMA: Any other comment?

COUNCILMEMBER KAWANO: Oh, yes. The most important thing. I was hoping that when I read the resolution that it also would have from the Council side a limitation like the Mayor. Ten years, whichever. After that, get the hell out and then come back again. I like to see the thing come on board.

CHAIRMAN HOKAMA: Any other comment?

COUNCILMEMBER CROCKETT LINGLE: Could I ask a question of Councilman Kawano? You would figure that maybe a, let's say, since it's four years maybe a three-term, you could have three four-year terms?

COUNCILMEMBER KAWANO: Yes, something like that. And then put a ceiling to that. I believe that after that you can get out for one year and then you want to come back, come back. But I believe

that we should put a ceiling if we're going four years. When I heard about the Mayor injecting this, that's the first thing I looked at whether there would be a ceiling to that. But I see there's no ceiling, it's open.

COUNCILMEMBER CROCKETT LINGLE: Thank you.

CHAIRMAN HOKAMA: Any other comment? The Chair would just like to mention that the Chair's support for the four years have been that the time has come that if you're going to do any long range planning that we talk so much about, on a two-year term, like Pat mentioned, one year you work and then the other year you're campaigning. You cannot go on a long range planning when half of your term is spent on campaigns. The other factor that the Chair also feels that it's more of a political thing that either the Mayor's office be with the legislative body or the legislative body should be the same number of years as the administration. Because we do not have a bicameral system under the County. You can say the House in the State, the House in Congress, but they have the Senate that has long term to stay on top of the administration. We don't have that. So what the administration can do in the in between year is they can play politics over the legislative body because he's not running. He can spend his time fighting the legislative body because he's not running for office in the in between year. If we truly say that under our system of government they're supposed to be, the legislative body and the administrative body having equal say in the running of the government, then they should be on equal footing. The Chair has always been against the limited number of terms of office simply that if we talk so much about democracy, the right of the people to decide, then it should be the right of the people to kick a guy out of office. Not by law to say that you cannot vote for a certain person after he runs for so many terms. Let the people decide whether that's enough for him or not or that's enough for her, if we say it's democracy let the people decide. Let the people decide at the elections whether the person should stay home or not.

COUNCILMEMBER SANTOS: Are you done, Mr. Chairman?

CHAIRMAN HOKAMA: Sure.

COUNCILMEMBER SANTOS: I guess. I wasn't going to comment at all but I think I need to because I guess I'm one of those politicians who has not learned to campaign for one year. That I do make hard decisions right through. And I kind of take exceptions to the fact that we work for one year then we full around and campaign for one year. That's not true. I think all of us are involved in hard decisions all the way through. And I think to take us to that position where we say that because we've got a two-year term that for one year everybody works hard and the second year everybody coasts. That's just not true. And if the shoe fits, wear it but I won't wear those shoes.

COUNCILMEMBER CROCKETT LINGLE: That's right.

CHAIRMAN HOKAMA: Well, the Chair would like to clarify one thing. In the election year, we have to admit that you try find during the campaign time that there's less meetings because the candidates have to go out and take care of their other obligations.

COUNCILMEMBER CROCKETT LINGLE: Next subject.

CHAIRMAN HOKAMA: Okay.

"PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983), RELATING TO THE DEPARTMENT OF FINANCE" (Medina)

That requires Council approval if the Mayor decides to remove Finance Director. Actually, the next two are all regarding department heads, the removal of department heads.

"PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983), RELATING TO THE DEPARTMENT OF PLANNING" (Medina)

"PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983), RELATING TO THE DEPARTMENT OF PUBLIC WORKS" (Medina)

COUNCILMEMBER CROCKETT LINGLE: Is Councilman Medina going to address his proposal?

COUNCILMEMBER MEDINA: Is that the one where the Council would confirm? Was my proposal to confirm the appointments of Finance, Planning and Public Works?

CHAIRMAN HOKAMA: Is it for appointment or removal?

MRS. SHIMIZU: It's for appointment and removal.

COUNCILMEMBER MEDINA: It would be similar to Corp. Counsel.

MR. FUKUSHIMA: Excuse me. I think I may have misread the assignment.

CHAIRMAN HOKAMA: It's only removal, right?

MR. FUKUSHIMA: I think this is only speaking towards removal with Council approval, not the appointment.

CHAIRMAN HOKAMA: So, your intent was for appointment and removal.

COUNCILMEMBER MEDINA: My intent was to make it the same as the Corp. Counsel and the Prosecuting Attorney.

MR. FUKUSHIMA: I'm sorry. I didn't draft it in that fashion. It could be read in that fashion, but I believe a clear, it would be clear if it read that the Director of Finance shall be appointed and approved by the Council and may be removed by the Mayor with Council approval.

CHAIRMAN HOKAMA: So, if there's no objections by the Committee, if that was the intent of the introducer, then we would word it that way. It's for appointment and removal.

COUNCILMEMBER MEDINA: Same as the language of the Corporation Counsel.

MR. FUKUSHIMA: Okay. I apologize for misunderstanding. I'll submit revised versions.

CHAIRMAN HOKAMA: Did you want to say anything on the three?

COUNCILMEMBER MEDINA: I just thought that these positions are of vital importance to the Council as well as the administration. Similar to the Corporation Counsel and Prosecuting Attorney. Corp. Counsel is the legal advisor to the Council and I think the wisdom of having the Council to at least confirm that is because they work very closely with the Council. The Finance Department, Planning Department and Public Works Department I think the Big Island has confirmation powers too of these different department heads.

CHAIRMAN HOKAMA: Staff, will you make note. Check to see what the other Counties have on the same department heads.

COUNCILMEMBER MEDINA: The intent was based on the importance of the position and whether or not the Council should at least be involved in the selection of these people. In light of that also I supported a salary commission that would provide the salaries for appointed positions so that on the one side, another body would decide how much they were worth and the Council would decide if they were worthy of the position because of the importance of these positions. So, that would be all I have to say regarding the reason Council should confirm.

CHAIRMAN HOKAMA: Any questions or any comments?

COUNCILMEMBER CROCKETT LINGLE: I have a couple of comments. I think it was last year or last term when I had proposed this for the Planning Director and the Council had voted it down not to take it out for public hearing, and I don't recall the specific arguments at the time but perhaps we should look those up, they might be interesting now. But secondly, thinking I guess now viewing things somewhat from the administrative side for obvious reasons, I would wonder, Rick, what would happen because of our inauguration schedule as compared to other jurisdictions, you're elected in early November and take office on January 2nd, how do you get the people who you're trying to

attract to the government to stand by? How long would the Council have to confirm or to reject these people and because you've chosen the largest operating departments, two of the largest - Finance and Public Works, you could face a situation where you, certainly you can't upon them, whoever is elected in November can't transmit anything until after January 2nd, officially. Who would be operating these large departments in the interim since both the deputy and the director are not going to be there? So, you've got your Finance Department, Public Works Department sitting perhaps for months with no people, particularly if there's no tie in on a time. It's just some thoughts that I have on it that you might want to consider.

COUNCILMEMBER MEDINA: How long does it take the Council to approve the Corp. Counsel and the Prosecuting Attorney?

COUNCILMEMBER CROCKETT LINGLE: I think you have, again, a slightly different situation because of the large operating departments you're talking about compared to, you're basically in the Corp. Counsel and Prosecutors dealing with attorneys. I mean, they're not physically doing anything. I mean, if a Corp. Counsel doesn't issue his opinion on Tuesday and he issues it a week from Tuesday, I mean, outside of those pending court cases, it's not like these large, again, especially Public Works when you think the sewer division and the landfills and the highways and the Land Use and Codes, anyway, I just think you should give it a little more thought on the timing of it. I'm not saying that it is not a good idea or it is a good idea, but I think the timing.

CHAIRMAN HOKAMA: Well, you can say that you can appoint temporarily a department head. But whether you would attract people to take a temporary job is another question again. But if I recall, one of the positions the last time around regarding the appointment of certain department heads that shouldn't require confirmation is that if we believe in the strong mayor type of government, he's the administrator and the council is the legislative body, then to let that thing really, the strong mayor type that he should be able to appoint his staff because he's answerable for the people that he appoints. And whether the administration is weak or not, that's his responsibility. So, out of the strong mayor type of concept of County government, basically, the department heads are his choice. Like Linda said, the last time the majority voted but that was my reason for voting against . . .

COUNCILMEMBER CROCKETT LINGLE: That's right. Thank you for reminding me. That was only Planning.

COUNCILMEMBER MEDINA: You had recommended that they confirm the Planning Director?

COUNCILMEMBER CROCKETT LINGLE: Yes.

COUNCILMEMBER MEDINA: Well, I was going to go one step further because Public Works works hand in hand with Planning. That if we're going to set a policy regarding how we're going to develop our infrastructure and whether or not we're going to have priorities as to what improvements are going to be done in a numerical fashion, I think the policy, the feeling of the person being appointed to that position should be well known to the Council. To me, the possibility of having a strong mayor concept again for another ten years and the way we've progressed and the way we've done things, to me, it leaves a lot of things that I feel are falling far short of our expectations. So, that was one of the reasons why I felt that maybe if the Council had the power to confirm these very vital positions that we would receive better cooperation from each end of the spectrum. And, of course, it's open for debate as to whether or not the mayor should appoint his own team based on the fact that we do have this strong mayor concept in this Charter. If we wanted to deviate from that at this point and time might be the question. The question is, has the strong mayor concept worked to the advantage of the people of this County? To me, that's the big question. Have we been responsive, have we been able to get the job done as quickly as possible.

CHAIRMAN HOKAMA: The only way is that whether they get re-elected or not. That's the way the people are judging. But as far as the implementation of instructional construction or not, even if you have a confirmation of the department head, the key is that we have to find a machinery that whether by Charter, under the budgeting process, that CIP under the budget has to be carried out. It's the implementation of the budget that actually holds up whatever we have appropriated monies for. The Council merely appropriates. If the administration doesn't implement it, it's just going to stay there.

COUNCILMEMBER MEDINA: After I thought about this, I talked to the mayor about this concept and then I said, mayor, would you carry out our CIP if we prioritize the CIP? He said he would. If we listed our projects down in numerical order and say, you cannot proceed to number four unless you have done 1, 2 and 3, would you do that? And he said, he would. Now, I wanted to know if, prior to that conversation, I wanted to know that if you did confirm the Public Works Director, you did confirm the Planning Director, and you let them know that this is what you wanted to do, would you carry out that policy? Because to me it's an administration prerogative that we might be taking away if we say, you have to do this project - 1, 2, 3 in this order. But when the mayor said, hey, if that's what you folks want to do, I'll do it. I said, okay. If we can do that by law, Howard, if we can list our CIP in a priority list and they would have to do it in that order and maybe the confirmation of the Public Works Director and Planning Director may not be necessary. But up until now, I thought that he could pick and choose. As the

Chairman says, we appropriate and they spend and they can spend whichever way they want.

MR. FUKUSHIMA: That's correct. It would be my opinion that the Council, by law, set up a list of priorities and said that before you get to number two, you must do number one, and before you get to number three, you must do number two, I would see that as being an encroachment upon the administration's authority to decide where to spend the money. And I think it's an interrogation to the powers of the mayor under the Charter. You may have a cooperative mayor that says, yes, okay I'll do it but I don't think he's bound to do that by any law.

COUNCILMEMBER MEDINA: But anyway, that was why I thought we should at least let the appointees know how we might feel about certain things before we finally decided to confirm them. But if we don't have the confirmation power, then we're back to square one, maybe.

CHAIRMAN HOKAMA: Okay. Next is -

"PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983), RELATING TO ORDINANCES AND RESOLUTIONS" (Medina)

This is regarding the request for public hearing. Right now, under the Charter, under the Council, any time any three members ask for a public hearing, we have to hold a public hearing. So, what the amendment says is that at least the majority has to request for a public hearing.

COUNCILMEMBER CROCKETT LINGLE: Is Mr. Medina going to say why he wants to make this amendment?

COUNCILMEMBER MEDINA: Excuse me, Mr. Chairman, I wasn't listening.

CHAIRMAN HOKAMA: This is the amendment to the Charter changing from three to five.

COUNCILMEMBER MEDINA: I've discovered that, as I might have added in my rationale regarding this change is that three members stand up and want a public hearing and don't show up for the public hearing when the Council finally holds it. Are they really sincere and to find out if we really want a public hearing I think that maybe five members should stand up and say, we do want a public hearing, it is important, it is in the interest of the public, let's have it. But when three people stand up and say they want it and one decides to support it because that's the person's desire to support anybody who wants a public hearing but is really not interested in the public hearing we waste a lot of time and money. If we're going to hold a public hearing, let's be sincere about it. Let's have

the majority say that we want to hold a public hearing and we're going to attend this public hearing. But that was the reason why I think it should be five members.

COUNCILMEMBER CROCKETT LINGLE: Mr. Chairman, may I address this?

CHAIRMAN HOKAMA: Go ahead.

COUNCILMEMBER CROCKETT LINGLE: This section of the Charter was, I feel was a very conscious effort five members of the Charter Commission to recognize the rights of the minority. And having experienced being in the minority more than most, I want to talk about the importance of democracy that is guided by majority rule, why a provision like this is so important. The justification just stated about, well, they don't show up is really specious because I have been here for ten years and there are many public hearings where it's even required by law and none of us show up. In fact, we have reached the point where we have agreed that we can appoint our Chairman to serve as a hearings officer for that public hearing because it's required by law but we know that no one from the public is going to come anyway and so we've all agreed that we can designate the Chair to sit in on those cases. But being in the Council for this time I found that there are instances where, obviously, it's a lot easier to get two other people to go along with you than it is four other people especially being in the minority. Keep in mind with our at large system of voting here, that there are times when you are representing a specific segment of the community. For instance, let's say you are the Molokai representative on the Council, and there are some issues and you happen to be in the minority at that time. If you had to be able to get five votes . . . (CHANGE TAPE). . . which again because of our at large system of voting this can occur and does occur. And I feel that there are issues even though I might, and this has happened to me also, even though I agree with the majority, I've had members from the public come to me and say, you know, I want one more opportunity to address this issue, and I'll vote to have a public hearing even though my mind is pretty well set on the other side or I'll have Councilmembers come to me and say, you know Linda, we really have to have another public hearing on this and I'll say, yes, but my mind is already made up, but okay, I'll vote. I don't think you can have too many public opportunities for residents to express themselves. I think the number of things that we spend money on with not a care for what the purpose is or what we're accomplishing as compared to what you accomplish by having a public hearing, I really think it's specious to argue that. I just feel, again, in a society that is ruled by the majority, minority rights are very important and those rights have been recognized at a variety of levels in a variety of ways, and our Charter Commission, I mean, this is so specific, they wanted this in there to recognize that even though you don't have the votes to carry today, you do represent the

public, you three people. And you should be able to bring this to the public forum. So, I would argue very strongly against something like this.

COUNCILMEMBER MEDINA: May I respond, Mr. Chairman?

CHAIRMAN HOKAMA: Go ahead.

COUNCILMEMBER MEDINA: One of the things that we have done recently is to allow for a testimony at our regular Council meeting. We didn't used to do this. When this statement in the Charter was inserted, our meetings at the Council were _____ by any public testimony. If you wanted to speak on an issue, the Council gave you that privilege by opening it up for the public at our regular Council meetings to speak. I felt that at that time, if you had anything to tell us in the 11th hour that something occurred to you that you didn't like this bill, we gave you that opportunity to speak to us. And now that we have that opportunity for the public in addition to the regular public hearings that we have to hold by law that the person who might be aggrieved or might support an issue still has an opportunity to speak to us at the Council meeting. So, because of that opportunity, I think that would be the saving grace for that person who wants to give us his final opinion. So, that's why at this time if we didn't have that, I wouldn't propose this. But since we do have that avenue now, well, we're going to give that person an opportunity to talk to us.

COUNCILMEMBER CROCKETT LINGLE: Mr. Chairman.

CHAIRMAN HOKAMA: Anybody else?

COUNCILMEMBER KAWANO: Go ahead, Linda.

COUNCILMEMBER CROCKETT LINGLE: Thank you. On this particular point, so I don't lose this thought, I would remind Councilman Medina that most people are working at 10:00 a.m. on a Friday morning, and it is extremely difficult for them to come in and talk and this has been stated to us so many times that it really hardly bears repeating. But a public hearing we usually hold them at night and it does give people an opportunity, I feel that they wouldn't otherwise have because of their work schedules.

COUNCILMEMBER KAWANO: I wish I didn't let her talk. That was my point too that the people work during the day. However, I agree with that part of Councilwoman Linda Lingle's remark but I don't agree about the majority or minority because I do believe even the majority have problems as far as trying to pass some things on, as far as even getting a public hearing. So, I agree that we should stick with the three. As I said, I don't think it's a justified . . . it's a good point, it's a good selling point as far as the minority. But as I said earlier, the majority has the same problems too, Mr. Chairman.

COUNCILMEMBER TANAKA: Mine is more for the person that wants a public hearing. Maybe he has a final chance to present his case. So, mine is the process. So this guy would have his last chance. To get five votes is highly impossible. Three votes, I think he can get it. I think in due process, I think he's entitled to go and speak for the last time or to have a public hearing to present his case, if he feels it's that important. And I'm sure whoever wants a public hearing feels that it's important so we should give them the opportunity. By increasing the vote by five does not help the individual. So, I would say to keep it at three.

CHAIRMAN HOKAMA: Any other comment? Okay, we'll go to the next one.

"PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983), RELATING TO THE APPROVAL OF RULES OF THE DEPARTMENT OF WATER SUPPLY"

Is that yours, Linda?

COUNCILMEMBER CROCKETT LINGLE: I don't know but it certainly follows my philosophy so maybe I'll address it. This is eliminating the requirement for a two-thirds vote of the Council to override a rule by the Water Department. And my basic underlining feeling, and this will come out in the subsequent amendments, and that is, an elected body should not need a super majority to override an appointed body. The Council is elected by the people. If five members believe that the rule is not in the best interest of the public, then I think a simple majority should be able to override an appointed board. That's simply stated what this is. So, it's requiring instead of a two-thirds vote to override the Water Board, it would be a vote of five members of the Council.

CHAIRMAN HOKAMA: Any other comment?

COUNCILMEMBER MEDINA: You're going to change that seven votes to, Linda?

COUNCILMEMBER CROCKETT LINGLE: It's currently six.

COUNCILMEMBER MEDINA: No, the other one.

COUNCILMEMBER CROCKETT LINGLE: Those are coming up later.

COUNCILMEMBER MEDINA: Are you in favor of changing that too?

CHAIRMAN HOKAMA: Wait, wait, let's stay on the water one right now.

COUNCILMEMBER MEDINA: I just wanted to know because if I'm going to be uniform on my selection . . .

CHAIRMAN HOKAMA: When we get to that, she'll talk about that. But right now, we're on the Water Board issue.

COUNCILMEMBER MEDINA: I'm aware of that, Mr. Chairman.

COUNCILMEMBER CROCKETT LINGLE: That's all.

CHAIRMAN HOKAMA: Okay, no comment on that? Okay, the next one is -

"PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983), RELATING TO VOTING REQUIREMENTS FOR BOARDS AND COMMISSIONS"

I thought this one, this didn't pass the last time?

COUNCILMEMBER CROCKETT LINGLE: It did pass in 1988 but now we're talking about reversing what was done in 1988.

CHAIRMAN HOKAMA: No, I thought I made a proposal the last time. It didn't pass?

COUNCILMEMBER SANTOS: Which one are we on?

CHAIRMAN HOKAMA: The next one is the boards and commissions. Under the Charter, when they amended the Charter, they just made the majority of the quorum those present can pass anything. So, actually, it's not the majority of the full body. Let's say you have a nine-member board, five members are in attendance so that's a quorum and they can meet. Now, three of the five can pass anything.

COUNCILMEMBER CROCKETT LINGLE: No.

COUNCILMEMBER SANTOS: We changed that.

COUNCILMEMBER CROCKETT LINGLE: That's what was changed.

CHAIRMAN HOKAMA: That's what I thought. But I thought this was the same thing?

COUNCILMEMBER CROCKETT LINGLE: This is going back again to the old system.

CHAIRMAN HOKAMA: Oh, they're going back to the three members can pass?

COUNCILMEMBER CROCKETT LINGLE: That's right.

MRS. SHIMIZU: At least five members of the Board shall be necessary to take any action.

COUNCILMEMBER CROCKETT LINGLE: It currently reads five affirmative votes. That's where it comes in.

CHAIRMAN HOKAMA: Which amendment is this? Is this on the affirmative vote?

COUNCILMEMBER CROCKETT LINGLE: That's what I thought we were on.

COUNCILMEMBER MEDINA: Is that Section 8-11.8, Linda?

COUNCILMEMBER CROCKETT LINGLE: Yes.

COUNCILMEMBER MEDINA: That one, the Charter says two-thirds vote.

COUNCILMEMBER CROCKETT LINGLE: No.

COUNCILMEMBER TANAKA: At least five members.

COUNCILMEMBER SANTOS: Which one are we on?

COUNCILMEMBER CROCKETT LINGLE: 13-2.8.

CHAIRMAN HOKAMA: Relating to voting requirements, what resolution is that?

MRS. SHIMIZU: It's the February 15th memo to Goro Hokama from Glenn Kosaka relating to voting requirements for boards and commissions.

CHAIRMAN HOKAMA: This is to take out the affirmative or the, the way it is written now according to Glenn what he tells me is, a negative vote does not kill the issue. So, you have the motion so that you can vote in the affirmative to kill it. But if you follow just strictly parliamentary procedure, you can kill an issue by voting no. If the majority is no, then the issue is dead. But the way the Charter is worded now, because it has to be affirmative vote, you have to make sure you make the motion the proper way so that they can vote aye to kill it. What the Chair is saying is that we should get it out so that you just strictly follow the parliamentary procedure. If five people vote no against something, then the thing is dead, if not, you have to go back and get another motion made and then revoke.

COUNCILMEMBER MEDINA: That has to do with the appointment of boards and commission members?

CHAIRMAN HOKAMA: That's the one we tried to get corrected. . . .

COUNCILMEMBER CROCKETT LINGLE: But this is not going to apply to us. This is just the boards and commissions.

CHAIRMAN HOKAMA: To simplify it for them to operate so then there's no question as to whether the motion was properly acted up or not.

COUNCILMEMBER SANTOS: Shouldn't it be clarified for us too? We always run into that trouble too.

CHAIRMAN HOKAMA: I've asked the Corp. Counsel's office that we should get that corrected. We didn't have for the confirmation of boards and commissions by the Council? I thought I asked for

that. Right now, even the confirmation of board appointees to boards and commissions it says by affirmative votes of the Council. It's the same thing for the Council. And I asked that, that thing be corrected too.

MRS. SHIMIZU: Yes, you did. Your memo asked for both the Council rules as well as the Charter.

COUNCILMEMBER SANTOS: You mean our rule says affirmative vote?

CHAIRMAN HOKAMA: Yes, that's why we have to change our rules. Get the one to amend the Council rules too because I asked for the Council rules. Okay. Any other comment on that? Next.

"PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983), RELATING TO ESTABLISHING A DEPARTMENT OF HOUSING" (Administration)

This is the Mayor's proposal. Any questions on that?

COUNCILMEMBER MEDINA: Mr. Chairman, I guess this goes back to when we created a Department of Human Concerns. The question is, how much is it going to cost and it went from \$250,000 to a million dollars in running the department. I don't know if we're going to run into the same kind of cost factors creating a new department. To me, the idea is good. I don't know if it just means simply emphasizing the responsibilities of the housing department. But it seems to me what the Mayor is saying is that he wants to create a department of housing so he can give the administrator more money.

COUNCILMEMBER LEE: Are you saying that you're opposing this idea, Mr. Medina?

COUNCILMEMBER MEDINA: I don't know if more emphasis should be placed in the Housing Division. I don't know that by creating a new department that we're going to do a better job.

COUNCILMEMBER LEE: I think we could. I don't think we should necessarily think in terms of Ed Okubo becoming the director if we establish a department. I think we should look at the needs of the community, and right now there's a dire need for housing and there will always be a need for housing. I don't think having housing as a division when this is such a top priority in our community is justified. I think it should be a department and this is one department, if worked properly, it could be self-sufficient like all the other housing departments throughout the counties and state.

COUNCILMEMBER MEDINA: That's why the creation of the HFDC, I don't know if the State did that or they needed a Charter change or constitutional change to do that. But it seems like if housing is a chief concern, maybe we shouldn't do it by Charter

amendment. I don't know if we can create a more expansive division on housing such as the HFDC that was able to implement housing by statutory amendments that gave them the power to go in and take land and waiving all the building requirements to proceed to build housing. To me, that would be a better way to go than to have a department that has no teeth to it. Anyway, that was my initial thought when this was presented.

CHAIRMAN HOKAMA: Any other comment?

COUNCILMEMBER SANTOS: Mr. Chairman, I guess I need to know, having been involved with the division of housing for quite a number of years, I need to know how a department of housing is going to do, what more can a department of housing do than a division of housing? I mean, sure, it would give emphasis to housing and all of that, but what can't they do now that they could do as a department? I mean, is it staffing? Well, let's give them more staffing in order to fulfill the various functions. But just establishing a department doesn't mean that we'll get more housing on the market.

COUNCILMEMBER LEE: Mr. Chair, I believe as a division, you have an additional layer to go through as opposed to having a department status. A division has to go through the department first and then above that. If it were a department, it wouldn't have to deal with that layer. And I believe that the department of Human Concerns, the division of housing is just one division of about five divisions. So, they have to fight for priority too.

COUNCILMEMBER SANTOS: Well, I would beg to differ on all of that.

CHAIRMAN HOKAMA: Any other comment? As far as the Chair feels, I think, number one is that, to me, if we're just going to expand the department it's not necessarily going to solve the problem. I think what we have to take a look at is whether they need manpower more than just creating additional departments. The other concerns I have about expansion of departments is a lot of the department heads are actually appointed positions. We don't have qualifications that you're guaranteed that you're going to have qualified people in those positions. They're not like regular civil service jobs that they have to get certain qualification that they have to take tests before they can be appointed to the job.

COUNCILMEMBER TANAKA: I have one comment to make. Mine is like Rick's on the cost. Maybe this thing should be discussed in the Cost of Government Commission because when you add on a department, I'm sure the cost is over a million dollars. So, the Cost of Government Commission should go and study the thing on this before it comes up as an amendment.

CHAIRMAN HOKAMA: Any other comment before we go to the next one? Next -

"PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983), RELATING TO THE COUNTY COUNCIL" (Administration)

This is the staggered terms. Any comments on that?

"PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983), AUTHORIZING THE CHIEF OF POLICE TO INVESTIGATE VIOLATIONS OF LIQUOR CONTROL LAWS AND LIQUOR COMMISSION RULES AND REGULATIONS" (Administration)

We went through this one already, the branch of the enforcement of the liquor rules and regulations. We had enough discussions on that one. Next.

"PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983), RELATING TO CHARTER AMENDMENTS" (Administration)

This is the one, approval of the Charter amendments. To have the majority of those drawing the ballots rather than just the majority of those voting on the amendments. Like the last time, you people got the breakdown on the Charter amendments. Actually, if you took the total ballots, it wasn't necessarily the majority of the people who went to vote. It was the majority of those that voted on the issue that passed or killed that amendment.

COUNCILMEMBER CROCKETT LINGLE: May I ask a question of Howard?

CHAIRMAN HOKAMA: Sure.

COUNCILMEMBER CROCKETT LINGLE: Howard, in the Cost of Government Commission's analysis of this issue and this was one of the things that they're proposing. They say that by statutes, it says, blank ballots and spoiled ballots shall not be counted in determining the majority of votes. That's by statutes.

MR. FUKUSHIMA: That is correct. And I believe that there is a proposed bill that has been submitted to the legislature to take care of the statutory conflict that would have occurred if that statute was passed.

COUNCILMEMBER CROCKETT LINGLE: Well, I agree with the theory of this. Can we do this at this time?

MR. FUKUSHIMA: Well, I would say that before the decision is made whether to include this on the 1990 ballot, we would have an answer from the legislature or an indication from the legislature whether that bill is going to be adopted or not.

COUNCILMEMBER CROCKETT LINGLE: Thank you. And the basic theory is less than 50% of the voters should not be allowed to amend the Charter.

MR. FUKUSHIMA: Well, basically what we're doing is we're counting blank ballots.

COUNCILMEMBER CROCKETT LINGLE: Currently, we're doing that.

MR. FUKUSHIMA: Yes. So, we would not be counting blank ballots.

COUNCILMEMBER CROCKETT LINGLE: Thank you.

CHAIRMAN HOKAMA: Any other comment? Okay, then we have -

"PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983), RELATING TO THE BOARD OF LAND USE AND CODE ENFORCEMENT OF THE DEPARTMENT OF PUBLIC WORKS" (Administration)

Any comments?

COUNCILMEMBER CROCKETT LINGLE: Yes, I have a comment and a request of the Corp. Counsel's office and/or our staff. I think this is an area that really needs to be addressed, an area of the inability to enforce our zoning, our land use laws, and our codes. I'm just not clear on this yet, and I would like them to prepare a memo on exactly how this would operate. Where would they be located? Under what division would they be located? I just want to know more about it. I'm not clear from a three sentence proposal. This is something very important, I feel, and serious and they're going to have some terrific powers and I want to know more about it.

CHAIRMAN HOKAMA: I assumed that what he's talking about is going to be something like the Liquor Adjudication Board where people can go and appeal.

COUNCILMEMBER CROCKETT LINGLE: Well, could we see resolutions in final draft form? Could we have some memo on it, Howard? Could we know more about how it will work?

MR. FUKUSHIMA: If you would submit the request.

COUNCILMEMBER CROCKETT LINGLE: Could we submit that request?

CHAIRMAN HOKAMA: Yes. Staff, make note of that.

COUNCILMEMBER CROCKETT LINGLE: Thank you.

CHAIRMAN HOKAMA: Any other comment on that? Okay, then the last one we have is -

"PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983), RELATING TO LAPSING OF CAPITAL IMPROVEMENT APPROPRIATIONS" (Administration)

This amendment was proposed by the Council and it passed, and then the administration wants it changed back again. Remember the Council went to 18 months because a lot of the CIP appropriations were running for years and years, and the administration never did anything with those monies. So, right now, under the Charter, every 18 months if he doesn't move on it, those projects lapsed and those funds come back to the Council.

COUNCILMEMBER CROCKETT LINGLE: Mr. Chairman, may I speak against the proposed change in favor of retaining the Charter as it relates to this lapsing provision? As you point out, I think the Council felt pretty strongly about this and that's why they made the change in the first place. But my reason was, it's not that you have to complete a project in 18 months, you don't even have to have one piece of lumber in 18 months, you just have to have encumbered the funds within 18 months, and encumbering could mean that you sign a contract to do the work. I feel that if you can't get to that point in 18 months, was it really a priority? Is it something that you really want to tie your money up in? And that's what had happened before. I'm just not clear on why they can't, that's why I thought that someone from the administration would be here to explain why they cannot get money encumbered in a year and a half for a project that they came in and said they needed.

CHAIRMAN HOKAMA: I thought the staff was going to stay back but they left before the Mayor.

COUNCILMEMBER CROCKETT LINGLE: I'm very much opposed to this.

CHAIRMAN HOKAMA: I think in all fairness to the Council, beyond what Linda had said, actually, it's an accounting of the administration to the Council at least every 18 months why certain projects was beyond the encumbering point. Even if they didn't encumber it, if they wish to continue that the Council leave the money there, then they should come and justify it to the Council why, even if it wasn't started in 18 months that they would like the Council to continue the funding because they propose to do it in the next 18 months. But what was happening was when we proposed this, when we made this study, we had projects that were in the books for seven years.

COUNCILMEMBER MEDINA: You mean they encumbered part of the funds?

CHAIRMAN HOKAMA: That's why the Council felt very strongly about this that if they're not going to use those funds for those particular projects, then the Council should have the opportunity to reappropriate this to change the projects to something that's more urgent that's come up within the time

that it was first appropriated. Like now, for instance, if we had some projects that was stuck for five, six years, for some other purpose other than housing, maybe we should move those monies to housing. Why should we wait three years or something before we can act on something. We should have the accountability at every 18 months at least. That was why it was changed. Any other comments?

COUNCILMEMBER MEDINA: Well, I was going to support it because I felt that the administration does not have enough time to do the amount of projects that have come up recently. I don't know if you have noticed the budget, but the CIP amounts have grown considerably over the years and for them to finally get the money, make the plans and designs, put it out to bid, and get the thing going, a year and a half might go by. And I understand just writing the specifications for the job the people who do that are bogged down with so many of these that they have to do. However, since we are going to have a changing of the guard in a short time, I don't know if the new mayor can live within this 18 month lapsing period, because I feel this way. Rather than change this at this time that we consider a reduction of taxes if the administration cannot spend the CIP within this 18 month period. If the Council is going to stick to this 18 month period and the administration cannot spend that money, then I suggest that we reduce the real property taxes. There's no sense to tax people if we can't pay it. So, let's leave it here and let's see what happens to this administration and the next one coming up. But if this year the administration comes down and says that they cannot spend this money within this time period, then either we forget about it or give the people back the money.

COUNCILMEMBER CROCKETT LINGLE: Mr. Chairman, just an additional thought about this. I guess I can see a project, particularly a large project, and if it required a full environmental impact statement, I can see in a case like that where it might take you longer because an environmental impact statement has this lengthy public input procedure and so on and it could go on for a couple of years. But it's my understanding and Howard could correct me if I'm wrong, that again, if that's a part of the project cost and these kinds of fees are charged off on the CIP, Howard, encumbering any of the money encumbers the funds for that project, is that correct? Let's say you have a large project and it was along the shoreline and you needed to do an environmental impact statement, would the contracting of that statement encumber the total project funds?

MR. FUKUSHIMA: I'm sorry, Linda, I can't answer that in a definitive manner.

COUNCILMEMBER CROCKETT LINGLE: Well, I could see that where it could just stretch on. So, that would be an important question maybe to answer.

CHAIRMAN HOKAMA: Any other comment? If not, the next question that the Committee has to decide right now is that whether or not we're going to take all of these to public hearings?

COUNCILMEMBER SANTOS: We have another one here. Aren't we going to talk about this other one?

COUNCILMEMBER KAWANO: Excuse me. Mr. Chairman, I think if you look in your binder, I have a late, I know the deadline is passed, but
. . .

CHAIRMAN HOKAMA: When did this come in, after the deadline?

COUNCILMEMBER KAWANO: Yes.

COUNCILMEMBER CROCKETT LINGLE: Mine was before the deadline, Patrick, so maybe I can go first.

COUNCILMEMBER KAWANO: Okay.

COUNCILMEMBER SANTOS: Where is yours? I didn't see yours.

COUNCILMEMBER CROCKETT LINGLE: Mine is dated January 11th, and again, this is the question that Ricardo was asking earlier about the voting requirements and I went through all the ones that the staff proposed, including the need for, the two-thirds vote on the Water Board one and there was the one about conditional permit, and reclassifying lands that have been identified by the State is important, and granting or denying relief from interim zoning provisions. I think all of those should require five votes instead of the super majority that's required.

COUNCILMEMBER LEE: Where is Linda's?

CHAIRMAN HOKAMA: Linda, I understand from Dianne that these are not Charter amendments so -

COUNCILMEMBER CROCKETT LINGLE: Oh, we could do the rest by Code, except the water. Thank you, Dianne, for reminding me.

CHAIRMAN HOKAMA: Okay.

COUNCILMEMBER CROCKETT LINGLE: So, have we followed up then to draft these amendments, Dianne?

MRS. SHIMIZU: We've done the last one. The others we haven't done yet.

COUNCILMEMBER CROCKETT LINGLE: Could we finish those and send them to Committee then?

MRS. SHIMIZU: Yes.

COUNCILMEMBER CROCKETT LINGLE: Okay. Thank you, Mr. Chairman.

COUNCILMEMBER KAWANO: Mr. Chairman, I have a late request and the information is in the binders, and that is to create the Department of Wastewater Management. I don't know if the Chairman is going to allow me to submit this, being that it's late but as you can see, I did a lot of work as far as even getting a resolution. So, if the Chairman would allow me, I would like to submit this as one of the Charter amendments.

COUNCILMEMBERS VOICED NO OBJECTIONS.

COUNCILMEMBER SANTOS: The total waste system, not not only wastewater?

COUNCILMEMBER KAWANO: Yes.

COUNCILMEMBER CROCKETT LINGLE: Could you explain?

COUNCILMEMBER KAWANO: Mr. Chairman, I think yesterday morning when I met with the Director of Public Works and his deputy, we went over the infrastructure as far as Maui County and I'm sure the members know the problem that we have as far as infrastructure. It's not that we're not catching up, but what really worries me is the damn thing is deteriorating while we're trying to catch up. And I feel that, that department is so heavily bogged down that I feel that the wastewater management should be created as a separate department. I can foresee that the water that we've been using, this department would be something like the water department, I hope not semi-autonomous but what I mean is the cane, the pineapple and other things that are using water would probably come to the point where these people would use this type of water. So, we felt that because this is a heavy burden on Public Works, I feel that we should take it out and relieve Public Works of some of the responsibility that, that department is so heavily bogged down. So, we came up with this, through the help of Corp. Counsel. It's open for discussion now. The really sad part about it, Mr. Chairman, is that I didn't contact the Public Works Committee members because I felt that I could really need their help as far as trying to sell the Council. But as I said, it was done in such a short time.

CHAIRMAN HOKAMA: Any questions for comments?

COUNCILMEMBER CROCKETT LINGLE: Mr. Chairman, I just have one comment. It relates back to the question about why separate departments, why not beefing up . . . I recall talking with them about the terrible problem that they have because they're a division of a department. Their personnel has taken, can be taken out of one division where they've expressed to me the problem is between the highway laborers positions and the people at the landfills. That's when we were being heavily fined by the Department of Health at Olowalu because we were not covering rubbish with fill material. And the reason was, they couldn't get the workers because they would be taken out for other duties. So I guess that's one advantage that if you're your

own department, you control your personnel and they can't be moved back and forth. As I said, at the time, I know that we were being heavily fined.

COUNCILMEMBER SANTOS: Mr. Chairman, what is it? Are we going to decide whether to accept this for public hearing purposes or what is our discussion?

CHAIRMAN HOKAMA: We're just discussing it with the rest of the things and then we'll decide on the total package.

COUNCILMEMBER SANTOS: Okay. I mean, even though he's late that's okay?

CHAIRMAN HOKAMA: Yes.

COUNCILMEMBER SANTOS: No, because we talked about this before and I think it's a very good idea because I know that the Department of Public Works is swamped with very major functions and the main thing is that both solid and liquid waste management be taken out and put into one department. I would go along with taking it out to public hearing.

COUNCILMEMBER CROCKETT LINGLE: Could I add another point here? Talking about it this morning and people are talking about it constantly and it's something that we really have to raise the awareness of the community and that's the area of recycling. If we're going to be serious about it, I don't think it can occur with the set up that we have now in the County. I think that's just an additional factor to consider.

COUNCILMEMBER KAWANO: Mr. Chairman, right now the Water Department is picking up charges from the sewers side but that sewers side goes to general fund and Water just keeps the charges that they get. I also looked at the part where maybe the Water Department can handle this but I just didn't want to burden anything on the Water Department.

CHAIRMAN HOKAMA: Basically, the charges of the Water Department is because we're using the meter.

COUNCILMEMBER CROCKETT LINGLE: And sewer is a special fund.

COUNCILMEMBER KAWANO: I talked to Nolan before coming to this meeting and he said that it goes to the general fund.

CHAIRMAN HOKAMA: No, no, the special fund. Especially those that were involved with federal funding because of federal requirements. But over here again, what the Chair would like to have also that the staff write to the department whether it's a staffing situation and what kind of cost are they talking about. Because to a certain degree, in my discussions with the department is that, number one is the staffing thing and the other is administratively they're not recognizing the division's responsibility. And basically, as far as I'm

concerned, the top administration of that department has to take the bull by the horn and start doing things. And the point that you brought up about whether they're setting priorities on some other areas taking men from there, I think they should have enough manpower in the budget request if they're doing that. But anyway, if we can get those staffing requirements and costs.

Okay, the other one that we have is from Mr. Nishiki dated February 21st. He just submitted a note about having the Maui and Molokai Planning Commissioners elected rather than appointed.

COUNCILMEMBER CROCKETT LINGLE: Mr. Chairman o-

CHAIRMAN HOKAMA: This again is whether the Committee wants it because basically . . .

COUNCILMEMBER CROCKETT LINGLE: I don't want to have elected Commissions. But there was a side issue related to this, Dianne, that I don't remember which Committee it came up in but I want us to address this and that is, we created the Molokai Planning Commission but they don't have an urban design review board that's for Molokai projects, so what's happening is, like on Maui when you get a project that's along the shoreline within the SMA zone, it goes to the Urban Design Review Board because it was determined that this is a particularly sensitive area and we really want to do a good job in designing this area. But on Molokai, we created the Molokai Planning Commission but they don't have an Urban Design Review Board, and I think they should. I can't remember which Committee came up in before but I'd like us to consider that, Mr. Chairman.

COUNCILMEMBER SANTOS: I think there already was a proposal submitted to us.

COUNCILMEMBER CROCKETT LINGLE: It's a separate item but we should bring it into this discussion now.

COUNCILMEMBER SANTOS: It's already in bill form.

COUNCILMEMBER CROCKETT LINGLE: Oh, as opposed to a Charter amendment.

COUNCILMEMBER SANTOS: Yes.

COUNCILMEMBER CROCKETT LINGLE: Thank you.

CHAIRMAN HOKAMA: Okay, getting back to Wayne's proposal.

COUNCILMEMBER SANTOS: What does he mean - elected? Elected by whom? The electorate of Maui County?

CHAIRMAN HOKAMA: I guess it's just like the Molokai Planning Commission.

COUNCILMEMBER SANTOS: Well, I hate to be discriminatory and say that I support accepting Pat's and not his.

COUNCILMEMBER MEDINA: It might be a couple of days different.

COUNCILMEMBER SANTOS: No, same day. . . (CHANGE TAPE)

CHAIRMAN HOKAMA: . . . As far as the Chair's concern, I don't think this should go out for public hearing.

COUNCILMEMBER CROCKETT LINGLE: Well, Mr. Chairman.

COUNCILMEMBER MEDINA: We're going to have a bunch of items on this public hearing agenda, right?

CHAIRMAN HOKAMA: What the Chair was going to recommend was up to Pat's request that the Committee has to decide whether we want to take it as a package to public hearing or do we want to weed out any of those proposals?

COUNCILMEMBER CROCKETT LINGLE: Do you want me to give you my opinion?

CHAIRMAN HOKAMA: Velma had her hand up first.

COUNCILMEMBER SANTOS: Mr. Chairman, I would recommend that we take them all out to public hearing and let the comment on everything that's been proposed, but I would ask that the one I proposed be put into bill form and let the Council make that consideration instead of adding another issue to the ballot for consideration. The one on the Salary Commission handling the appointed officials.

COUNCILMEMBER MEDINA: I was going to say the same thing.

MR. FUKUSHIMA: Oh, we would be expecting the report.

CHAIRMAN HOKAMA: I want to tell you now so that you can start thinking about it. Alright, everybody understands Velma's request?

COUNCILMEMBER MEDINA: I wonder if the Corp. Counsel can put together a little digest as to what each amendment would do. As the public, you can just take a look and see what's being proposed.

CHAIRMAN HOKAMA: We'll work with the staff and get that so the next time you get the list, you'll have a general outline of what the amendment is about.

COUNCILMEMBER CROCKETT LINGLE: May I ask a question before I comment?

CHAIRMAN HOKAMA: Sure.

COUNCILMEMBER CROCKETT LINGLE: Dianne, how many items are we talking about now taking out to public hearing?

MRS. SHIMIZU: 14.

COUNCILMEMBER CROCKETT LINGLE: Mr. Chairman, I wanted to echo Councilmember Santos' point about taking them all out to public hearing. I would favor that. I think there are a lot of good ideas and different ideas. I don't think 14 is an outrageous number and we could pare it down after that but I'd like to hear what people had to say about all these proposals. So, I would favor that. You want a motion?

CHAIRMAN HOKAMA: Well, let's have everybody get a chance to say their piece first.

COUNCILMEMBER KAWANO: I feel the same way as the two ladies that we should take it out to public hearing. Let's hear what the public has to say.

CHAIRMAN HOKAMA: Any other comment?

COUNCILMEMBER MEDINA: What about Nishiki's proposal?

COUNCILMEMBER CROCKETT LINGLE: I have no objections to taking all out.

CHAIRMAN HOKAMA: Okay, 14 amendments.

COUNCILMEMBER SANTOS: 15 now if we take Wayne's proposal out.

CHAIRMAN HOKAMA: Well, the Chair felt that no sense taking Wayne's one out.

COUNCILMEMBER MEDINA: What?

CHAIRMAN HOKAMA: Otherwise, we might as well as have all the Boards and Commissions elected.

COUNCILMEMBER CROCKETT LINGLE: I have no objections to taking it all, making it an even 15.

COUNCILMEMBER MEDINA: Maybe the question should be, should members of Boards and Commissions be elected?

CHAIRMAN HOKAMA: That's why the Chair says, if we're going to take the question out, it should be all boards and commissions? Why only the Planning Commission?

COUNCILMEMBER MEDINA: We might get some heavy discussion on that.

COUNCILMEMBER TANAKA: We had some heavy discussions before on the Water Board whether to be elected or appointed. Now, they're semi-autonomous.

CHAIRMAN HOKAMA: So, what, you're amending Nishiki's one to be all boards and commissions?

COUNCILMEMBER TANAKA: Yes.

CHAIRMAN HOKAMA: Okay, so we're taking all 15 amendments out to public hearing? Alright.

COUNCILMEMBER CROCKETT LINGLE: Mr. Chairman, procedurally, when are you looking at going out to public hearing? I'm looking at your list.

CHAIRMAN HOKAMA: Well, the actual day I have to get together with the staff.

COUNCILMEMBER CROCKETT LINGLE: It says here April or May. Is that pretty much what we're expecting?

CHAIRMAN HOKAMA: Yes. Because if we're going to try and get the work done after the public hearing and then make decisions and get it to the Clerk's office for filing and then getting it on the ballot, that's the schedule we're going to follow.

COUNCILMEMBER CROCKETT LINGLE: Thank you.

CHAIRMAN HOKAMA: Alright. If there's no objections, we'll take 15 items to the public hearing.

COUNCILMEMBERS VOICED NO OBJECTIONS.

CHAIRMAN HOKAMA: Okay, so ordered. Meeting is adjourned.

ADJOURNMENT: 11:23 a.m.

Respectfully submitted,


JO-ANN C. SATO, Secretary

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