

M I N U T E S

COMMITTEE OF THE WHOLE

May 17, 1990

CONVENE: 1:42 p.m.

PRESENT: Councilmember Goro Hokama, Chairman
Councilmember Howard S. Kihune, Vice-Chairman
Councilmember Linda Crockett Lingle, Member (ar. 1:53 p.m.)
Councilmember Patrick S. Kawano, Member (left 3:05 p.m.)
Councilmember Alice L. Lee, Member
Councilmember Rick Medina, Member
Councilmember Wayne K. Nishiki, Member (left 3:00 a.m.)
Councilmember Velma M. Santos, Member

EXCUSED: Councilmember Joe S. Tanaka, Member (out-of-state)

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

ADMIN.: Jeff Kuwada, Deputy Corporation Counsel
Fred Araki, Engineering Division Chief, Department of Public
Works
Bob Agres, Director of Human Concerns
Ed Okubo, Housing Administrator

OTHERS: David R. Jones, Kihei Community Association
Kurt A. Reinecke
Buck Joiner
Gene Thompson, President, Kihei Community Association
Jack F. Mueller, President, Ma'alaea Community Association
Smokey Burgess
DeGray Vanderbilt, representing Molokai Alliance

CHAIRMAN HOKAMA: The Chair will convene the Committee of the Whole. We have a number of people who have signed up to testify on an item before the Committee. The first one to testify would be - David R. Jones.

MR. DAVID R. JONES, 3343 Kuaua Place, Kihei, HI 96753 - Thank you, Mr. Chairman, Members of the County Council. I am a resident of Kihei and also a member of the Board of the Directors of the Kihei Community Association. My comments are on the Charter Amendments.

Of the 16 proposed amendments to the County Charter, the only one which appears to have unanimous support and no opposition is number 16, which would require one of the Council members to

reside in South Maui. Some of the proposed amendments are controversial, has substantial public opposition, and would result in fundamental changes in the way the County government functions. Detailed studies of these amendments, for example, for your Council seats, elected commissions and so forth, by a Charter Review Commission next year would seem appropriate. The above concerns do not apply to amendment number 16. It simply calls for a well justified change in Council residency requirements due to explosive population growth in South Maui.

At the earliest a South Maui Council seat would not be on the ballot until 1992. Lanai has Council representation with 2,500 people; Molokai with 6,000 to 7,000 people. Those of us who live in South Maui have no representation and our population is approaching 30,000. The South Maui Council seat Charter Amendment number 16 should be singled out and placed on the November ballot all by itself, if necessary. It will be grossly unfair to the citizens of this area and against key democratic principles to make us wait till 1994. Thank you very much.

CHAIRMAN HOKAMA: Any questions? Mr. Medina.

COUNCILMEMBER MEDINA: Right now, you have three representatives representing Kihei. There's three in Central Maui which includes Kihei.

MR. JONES: We're proposing that South Maui be separated from Central Maui because it is so uniquely different.

COUNCILMEMBER MEDINA: You're not kidding. Proper representation the way it is.

MR. JONES: I think that's the way the Charter amendment result would be that in effect.

COUNCILMEMBER MEDINA: So you would propose that the at-large seat be deducted by one?

MR. JONES: At this point, yes.

CHAIRMAN HOKAMA: Any other question? If not, thank you very much. The next person to testify is Kurt Reinecke to be followed by Buck Joiner.

MR. KURT A. REINECKE, 2191 S. Kihei Road, #1403, Kihei, HI 96753 -
Thank you. Councilmembers, my name is Kurt Reinecke. I'm also a member of the Kihei Community Association and I live in Kihei. What we're asking here today is that with South Maui, Kihei growing as fast as it is, we would like someone on the Council who is driving the same roads that we are. We believe that you folks are doing a great job, but we would like to have someone that we know is facing the same situations that we are,

and is seeing the changes that we have. We do have residency requirements for different seats for different areas. When the Council Charter was originated, Kihei was extremely small, as you all know, and the growth has been phenomenal. We would like to have someone there that we know is doing the same thing that we are and faces the problems that we have. And I hope that you would support this and we would like to see the at-large seat moved over. Kihei is going to keep growing and at this time, it's not as large as the Central Valley in Kahului/Wailuku but if things keep going, it will be larger and I'd like to see the people of Kihei getting the representation and having someone directly responsible for the Kihei area. Central Valley is extremely large and to leave the positions at-large for all the Central Valley, I think is a mistake at this time. Thank you very much.

CHAIRMAN HOKAMA: Any questions? If not, thank you very much. Buck Joiner to be followed by Gene Thompson.

MR. BUCK JOINER, 3443 Malina, Kihei, HI 96753 - Buck Joiner, Kihei resident. Same theme, same subject, same side. If Kihei were put on an equal footing with Lanai right now, we would have 15 representatives from South Maui. If we were put on an equal footing with Molokai, we would have at least six. If we were to look at the Council as being nine members and a population of approximately 100,000 then Kihei would rightly have three seats. But it's not split up quite that way. All we're asking for is one and we would like to have it on the ballot this year, the amendment. I would like for you to understand that what we're looking at is a population in Kihei, in 1995, of approximately 50,000 people. We need the representation. And this is an election year and we will be watching the vote on this one. We really would like to have this one on the ballot. Thank you.

COUNCILMEMBER MEDINA: Mr. Chairman, I just would like to comment. You see how many people living in Kihei by when?

MR. JOINER: As of January, we believe the population is 27,500. That's a very firm number. What we have looked at is the planned development that is announced right now through the year that is planned to be completed by 1995. And we anticipate a resident population of 50,000 in Kihei. Our growth down there is absolutely explosive. We are stripping the infrastructure way out of control. The reason we need a Council representative is someone who is really on top of these. Our Lokelani Intermediate School, the building permit is 18 months delayed. There are right now six temporary buildings down there for the students. This September they will add nine additional. We have 15 temporary buildings just at Lokelani Intermediate School. We have some major, major problems and we need a Council representative from our area who can bring these to the fore front.

COUNCILMEMBER MEDINA: You know the school doesn't come under the County's jurisdiction.

MR. JOINER: The entire infrastructure is sort of way behind. Everything - the roads are grossly inadequate. The road situation we have had traffic doubling in the past two and a half years. We have traffic rates that have exceeded the expected loading for 1998 already. And this was as a result of a study in 1987. So, only two and a half years and we have already exceeded the capacity expected in 1998. These are problems in South Maui that we really need someone who lives down there that can bring these to the fore front.

CHAIRMAN HOKAMA: Any other question? If not, thank you very much. Gene Thompson followed by Jack Mueller.

MR. GENE THOMPSON, 2531 S. Kihei Road, C-502, Kihei, HI 96753 - My name is Gene Thompson and I'm President of the Kihei Community Association. I believe you have my letter written to the Committee of the Whole and Members, letter of May 14th. You've heard me before on the subject. The main thing here that we're concerned about is that we would not want to see this particular amendment for the South Maui seat be delayed for review. It isn't because we have any objections to the Charter review process. I think it's fine. It's just that this particular amendment is a time thing because of the rapid growth down there. We feel that we do need a Councilmember on the spot in two years, we really need them now. Four years is simply too long a time to wait. We want to be on the footing. I don't intend to compare it so much with Lanai and Molokai. I realize that those are special conditions. But I do think that we're comparable to West Maui. All we want to do is be on the footing with West Maui. It is not controversial and we realize that this particular amendment should have some special considerations.

I would also like to refer to the Charter amendment for an elected Planning Commission that has come up. You might be interested, I'm sure you're aware of it and would be interested to what we're doing down there about this, but the fact is that this particular amendment in its completed form, as we have it today, we simply haven't had time to go over it to discuss, but when it originally came up the form was not complete. I did get the completed form this past week, however, we're not going to be able to discuss it before our Board until June 5th when we have a board meeting. I would personally like to comment on it that I would like to see it go on the ballot this year simply because I think that the discussion of it by the public would be the most relevant when that takes place. If it became a ballot issue, I think it would be proper there. There's a good deal to be said, pro and con on this, but at least if it were on the ballot, we could talk about it. But in so far as our organization being really informed on it, we're not.

As you know, well, some of you may know from previous discussions, I still favor the four year Council term. I don't think that would be improved particularly by going forward through the Charter review process. I'm supportive of it, I would do my best to get it passed. Now, these are personal points of view. Only the first one refers to what our organizational commitment is. Are there any questions?

CHAIRMAN HOKAMA: Any questions?

COUNCILMEMBER NISHIKI: Gene, this Lipoa project situation, I think that this is a prime example of what the Planning Commission through basically has really no feeling of what is occurring to any community. Perhaps, my concern has always been that, the fact that even in the editorial the following day talks about a persuasive argument of the elected Planning Commission because of what they did in Kihei. And how are you folks addressing this when you see these things like this happening in your Committee?

MR. THOMPSON: Well, we really haven't had anything to wrap around yet until you came out with your . . . (INAUDIBLE) We have to have an opportunity to meet and talk about it. My own feeling about the Planning Commission situation preceded this. I have long been not satisfied, not with the Commission itself but with the process, how the process sometimes seems to work. Now, this is a personal idea and I was concerned this time because I feel that the process is not going the way it's supposed to. But again, that's simply a personal point of view. I think the question is whether an elected commission would remedy this is another matter and this is what has to be discussed. It's done in some places and it seems to work. Other people would protest against it, by the way, I would certainly be very strong in support of the Molokai's people request for there's. My feeling is that one community group should support another community group. If this is what they want, then it should go on the ballot regardless of my own feeling about it. They know more about their community than I do. Any further comment?

COUNCILMEMBER NISHIKI: And I guess my question to you is, wouldn't you rather participate in voting for a Planning Commission rather than have no say at all?

MR. THOMPSON: Well, to begin with, I probably would have to give it a little bit more thought. Once you put that in a district voting form, personally, I would go for it. When it first came out, it was at-large. And if it was at-large, I wouldn't go for it at all. But in its district form, I think it could be a very good thing. The Planning Commission is not just an ordinary commission. It is determining the future of our County, and I know that with our general district area, I think we can get the sort of person on the Council or on the Commission who would reply to one of these. And it was apparent the other day, for example, that the people there for

the most part except for Mr. Love, had very little comprehension of what's going on down there. It just makes it very hard. But this is a personal point of view and I can talk with a number of other people in the area, and I've talked about it and they say, they don't think it would make much difference who would run for the commission all that. Well, there's much to be said. My own personal view would be to be forward. Do not speak for our association.

COUNCILMEMBER NISHIKI: Thank you.

MR. JOINER: Thank you.

CHAIRMAN HOKAMA: Any other question? If not, thank you very much. Jack Mueller to be followed by Smokey Burgess.

MR. JACK F. MUELLER, R.R. 1, Box 388, #301, Wailuku, HI 96793 - Mr. Chairman, Members of the Committee, ladies and gentlemen, I'm Jack Mueller the secretary of the Ma'alaea Community Association and I have a letter for the Council in regards to the County Council's representative Charter amendment. Our association hereby reiterates its support of the request by the Kihei Community Association for a County Council representative for South Maui. The population projections for the Kihei area show that there will be even more extremely rapid growth there than has occurred to date. We feel that the Council needs a representative from this area as soon as possible. We urge you to take every available action to accomplish this in the shortest amount of time. The rapid growth in South Maui will multiply the burden on the Council to provide solutions for the social and physical disruptions which will accompany it. The needs for improvements of services and infrastructure will be enormous. You will desperately need a close contact with the people of the area. We urge you to quickly address this request and to make every action possible to expedite it. Thank you for your consideration.

CHAIRMAN HOKAMA: Any question? If not, thank you very much. Smokey Burgess to be followed by DeGray Vanderbilt.

MR. SMOKEY BURGESS, P. O. Box 1451, Kihei, HI 96753 - Mr. Chairman and Members of the Council, my name is Smokey Burgess here with Kihei Community Association, and again, we're talking about the South Maui seat. I find it interesting to be able to come here to be able to testify. I guess my biggest concern is wondering whether the Council is objective in the kind of testimonies that they hear from different people cause my feeling is that the Council does not respond to the communities. That's the feeling that I get especially when we're giving testimony. I find for myself the number of times that I have come here. Before I was coming, I was wondering, how do you appeal to the Council or how do you get the Council's attention to be able to

respond to the kinds of things that the community is asking for? That's my biggest concern. In so many words, what I really would like to ask the Council, if in anyway possible, to set aside political views and whatever and really consider the community's needs. We have done our best as a community for those that are involved in a community to attempt to address the Council and say, hey, look, we would like to do a number of things for the community in terms of a seat or someone that we can find that would be accountable to the community with the kind of growth that we're experiencing, and so we would really appeal to you to consider making South Maui, having the opportunity of a seat there in this Charter amendment. Thank you.

CHAIRMAN HOKAMA: Any question? If not, thank you. DeGray Vanderbilt.

MR. DEGRAY VANDERBILT, Box 1348, Kaunakakai, Molokai, HI 96748 - Thank you, Mr. Chairman, Members of the Committee of the Whole. I want to thank the members of the Kihei Community Association for their support of the Molokai Planning Commission to be elected. It is a little different maybe than on Maui, but that's something that the community really wants. The Council has received a very strong petition, 37 pages of 100 plus names and it's something that we feel that we need very much because we're going through a phase of development right now or gearing up for it that Maui went through 10 or 12 years ago.

There was a lot of support from the various Council members to take out all of these amendments to the community and I'm reading from the transcript from the 2/22/90 meeting. Councilmember Santos - I would recommend that we take them all out for public hearing and let the public comment on everything that's been proposed. Councilmember Medina - I was going to say the same thing. Councilmember Crockett Lingle - 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 fourteen is an outrageous number and we could pare it down after that, but I would like to hear what the people have to say about these proposals. Councilmember Kawano - I feel the same way as the two ladies. We should take them all out to public hearing. Let's hear what the public has to say. And so on.

Well, the public heard a lot and the ones that got the favorable response were the two public initiated ones - the one for the Kihei Council seat and for the elected Planning Commission on Molokai. All the testimony was in favor of elected Planning Commissions. The only other one that got support on Molokai was the Kihei Council seat. At the Maui public hearing on the 19th, of those testifying on the election of the Planning Commission amendment, those in favor outnumbered those against two to one. Also at that meeting, the Kihei proposal was overwhelmingly supported.

So, here we are, there's talk about this Charter Commission right now and I wrote a fairly lengthy commentary in the Maui News and one of the points was that the Council knew all along about this upcoming Charter amendments so why waste the public's time and effort and then come back and just say that we're going to send them all to the Charter Commission without really doing the research it takes that should be done to take what the public said, massage it and come up with a responsible situation as far as responding to the public's input. Today, I received a copy of a letter that was put together one day, just one day after the last public hearing of April 19th which was in Wailuku, and on the next day here's a letter dated April 20th to Chairman Goro Hokama from Councilmember Medina, Councilmember Lee, Councilmember Santos, Councilmember Tanaka, and Council Vice-Chair Howard Kihune saying that this is to inform you that we would be strongly in favor of referring the proposed Charter amendments and public testimony to the Charter Commission which will convene next year and it goes on. It's just hard for me to understand how they could come to that conclusion after one day following the last public hearing without any research. I don't know where the research stands on the Planning Commission for Maui on the district elections, Molokai, of course, is at large elections which would work on Molokai but probably would be difficult on Maui. It is timely now. I think with the expansion of the airport and everything, Maui is going to go through a big change here - Phase II of its overwhelming development. And as I said, Molokai is on Phase I. I would like to see this thing go through, especially in light of this Lipoa situation in Kihei. I read in the paper the other day that there's several groups planning to intervene now. I thought it was really Molokai that really intervened. We seem to be intervening all the time, but it was good to see the Kihei Community Association, Maui Tomorrow, Kihei School PTA. Of course, people are serious about this. I went to check on this whole Lipoa thing and I called David Nakamura and I got the office and they answered Crockett and Nakamura. I said, Crockett, and they said, yes, William Crockett. Well, he was one of them that testified against. He, the ILWU and the Chamber were the ones that testified against the Molokai Planning Commission at the 19th hearing. And in my letter or my commentary, I wrote and I'll quote that I've talked to most Maui residents that I have talked with support the election alternative. The Council realizes that there is strong support public support for the proposed amendment. Despite that certain Council members appear doing some fast political maneuvering, their apparent goal is to try and kill any effort to place the amendment on the ballot in November for the voters to decide on and at the same time not be forced to publicly take an individual position for or against this key issue. This is similar to the successful tactic used by the State House members to kill the initiative bill at the legislature. The Charter amendment like the initiative bill is popular with the people and unpopular with the major landowners. Why are the major landowners so strongly against the people electing

members to the Planning Commission because under the current system, virtually everything the landowners wanted to have has been rubber-stamped by the mayor's appointed Planning Commissioners. So, I would hope that this would get on the ballot. I think it would stimulate a tremendous amount of discussion and I think that it's something that could be worked out if the Council and the Corp. Counsel wants it to be worked out. But from what I hear now, our Corp. Counsel still has not responded within anything in writing to Mr. Nishiki's efforts. But I would recommend that both the Maui Planning Commission and Molokai Planning Commission be elected and I would urge you to consider may be even making them two separate Charter amendments, if needed. Thank you.

CHAIRMAN HOKAMA: Any questions? If not, thank you very much. Anyone else wish to testify on any agenda item before the Committee goes into discussions? If not, members of the Committee, Item #4, as it relates to Charter amendments.

COUNCILMEMBER KIHUNE: Mr. Chairman, are you looking for any recommendation or a motion? I'd like to make a motion to drop the Liquor Commission proposal - the Liquor Department for enforcement.

COUNCILMEMBER SANTOS: Second.

CHAIRMAN HOKAMA: Okay, if we can take it one at a time. Alright, the motion is made by Howard and seconded by Velma. Discussion? If not, all those in favor signify by saying aye, oppose -

VOTE:	AYES:	Councilmembers Crockett Lingle, Kawano, Kihune, Medina, Nishiki, Santos, and Chairman Hokama
	NOES:	NONE
	EXC.:	Councilmembers Lee and Tanaka

MOTION CARRIED. The resolution will be dropped.

COUNCILMEMBER CROCKETT LINGLE: Howard, is your intention that, that issue be referred to the Charter Commission that's going to be appointed or you're just going to let them go on their own and start over?

COUNCILMEMBER KIHUNE: Just leave it the way it is.

CHAIRMAN HOKAMA: Alright. Everybody understand what the action of the motion was? The matter will be dropped, not being referred to the Charter Review Commission next year. It's just being dropped by this Committee.

COUNCILMEMBER KIHUNE: I'd like to move that we recommend adoption of a resolution for the Kihei seat to be on this year's ballot.

COUNCILMEMBER NISHIKI: Second.

CHAIRMAN HOKAMA: Alright, the motion is on the resolution on the representation from the South Maui on the Council to be put on the ballot. Discussion?

COUNCILMEMBER KIHUNE: Just one, Mr. Chairman. That letter that DeGray was referring to that came from a number of Councilmembers, I had reservations about one subject matter and the rest would be, well, actually two, one was the Liquor Department's proposal for enforcement to be with the Police Department, and the other was this proposed new Council seat for South Maui, but outside of that, I would recommend that the rest, I signed it with that kind of intent to be referred to the Charter Review Commission will be formed next year.

CHAIRMAN HOKAMA: Right now, the motion before you is strictly the South side representation on the Council. Alright, discussion on that motion? Mrs. Santos.

COUNCILMEMBER SANTOS: Mr. Chairman, maybe the maker of the motion wants to speak for the motion.

COUNCILMEMBER KIHUNE: Yeah, I think it's about time we consider that. I think Kihei has the justification. Of course, Mr. Thompson had indicated, like Lahaina, Kihei has grown so fast that I think we can speak about several of the other areas. It could be Haiku or Pukalani, that might be an area that may be up for consideration in the future because it's growing quite fast too. But at this point, I feel that this is an important situation. I think that it's going to come no matter what. So, instead of sending it to the Charter Commission, I would say that it's something that the voters would look at very seriously and consider at this time, instead of waiting for the Charter Commission.

COUNCILMEMBER SANTOS: Mr. Chairman, I speak against the motion to place this particular amendment on the ballot. There are two reasons. Aside from the fact that the Charter Commission will be empanelled in the next year, the Census results will be out and there probably will need to be a redistricting of the whole Maui County. It's more than South Maui that is growing in population. We have Upcountry, we have Haiku and all of these areas and I think there is going to need to be a total redistricting of Maui County and rather than us establishing the seat now, I think it would be prudent of us to wait till the total redistricting is done in order that the seats can be properly assigned. So, I would speak against putting it on the ballot.

CHAIRMAN HOKAMA: Any further discussion?

COUNCILMEMBER MEDINA: Mr. Chairman, this was a hard question which is why I felt it would be maybe fair to all those who supported the various Charter amendments that they be looked at one time by the Charter Commission. This is good advice provided by Bill Crockett who chaired and was part of many of the Charter Commissions. I felt, I don't know how he felt, but I felt that there were many amendments that were being proposed to the Charter that it seemed like the entire County of Maui realizes our County is changing, and that the basic laws that govern the County's action should be looked at because of the changing economic environment that is out there currently. To me, it's quite possible that Kihei, Upcountry, where you've had growth that is reaching the projected levels that we thought would occur in the year 2000, when we worked on the community plans, our population projections were that, for example, Upcountry would possibly have about 23,000 people. Recently, I was told that it's very close to that number already. So, may be we should also at the same time we are regrouping on the Charter, that we should also be re-examining our general plan, that the whole process of planning and the whole process of how we run our County government, I think should be looked at very comprehensively and by people who can concentrate their efforts on these amendments because one amendment may re-create the need to amend another portion of the Charter. For example, the Molokai Planning Commission one, it was adopted by the voters. I don't it was clear as to how the Molokai Planning Commission should have been seated. I think those kinds of questions could have been posed to the people that if that question passed on the ballot that Molokai should have its own Planning Commission, that the people that would be seated on that Molokai Planning Commission would be seated in accordance with Charter law. As a result of that, the appointments made by the Mayor at the time, he appointed anybody he wanted from any geographic area of that island and I think left a lot of people dissatisfied. But I think those kinds of things that must be identified for decision makers, such as the Mayor and the Council, there should be better guidelines provided so that we can do a fair and more equitable job of selecting people for the Molokai Planning Commission and also for the Maui Planning Commission. Right now, the Mayor only has to, on the Planning Commission, consider that the body should not be comprised of more than five Republicans or Democrats. The participation should be equal. There also should be some consideration for geographical location of that person who is going to serve. Well, it's quite possible that the Charter Commission could look at this and decide how people are put into the Planning Commission should be changed. That there should be more strict consideration for the different regions that require and need representation in the Planning Commission. So, to try to select one amendment out of the many amendments that were proposed and let's put this on the ballot and let's refer the rest to the Charter Commission, I thought would be an awkward thing for us to do. So, if you're going to make one exception for the Kihei seat on the Council, why not include the question

of a Planning Commission being elected? Why not include the four-year term? Why not include other things? So, how are you going to be selective? It's difficult, I think. And I think that there is still time for us to plan on how we're going to run this County much better by reconvening the Charter Commission so that all of the people can have an opportunity to say to those people how they think their government should be run. If there is an agreement on this Council that only one amendment from all the amendments that we have looked at will be the only one that will be placed on the ballot, then maybe, fine. If we can make that decision, fine. I would suggest that if you go with the Kihei amendment, that, that be the only one that you're going to put on the ballot and we don't consider anyone else. But if you open the door with one, yeah, I don't know how I'm going to justify keeping the Planning Commission off this ballot at this time. So, that's why I feel that all of the amendments should have been referred to the Charter Commission.

COUNCILMEMBER SANTOS: Mr. Chairman, short recess.

CHAIRMAN HOKAMA: Okay, short recess.

RECESS: 2:20 p.m.

RECONVENE: 2:26 p.m.

Meeting reconvene.

COUNCILMEMBER NISHIKI: Mr. Chairman.

CHAIRMAN HOKAMA: Mr. Nishiki.

COUNCILMEMBER NISHIKI: I'm going to watch with great interest what this recess has proposed, has come up with. But I think that the proposed amendment in regards to a South Maui seat, the reasons given by Medina and other members, have stated that there is no representation of East Maui. However, we do have representation of East Maui. As has been said, South Maui has gone through an increased population and therefore, it is time that we allow this seat. The other concern that I have is the fact that it was a public request from the Kihei area in regards to looking at a representative from that area. And for this reason, I would request that we place this Charter amendment on the next election.

CHAIRMAN HOKAMA: Ms. Lingle.

COUNCILMEMBER CROCKETT LINGLE: Thank you, Mr. Chairman. I'd like to speak to the motion too and speak in favor of the motion this afternoon to add a South Maui seat and take one seat away from one of the two at-large seats. Some of us were sort of

surprised by the motion being made today because there have been discussions and as one testifier mentioned there was actually a memorandum circulated and shared with the other members that was signed by at least five members of the Council saying that they felt that it was a good idea to refer all these matters to the Charter Commission for review next year. And I think that idea had a lot of merit, and in fact, that's how I had expected things were going to go this afternoon. And as I told some people in the Kihei Community Association, I was planning to support that position to send all of these amendments to the Charter Commission. I think there are some very good amendments. Some of them that I like very much, some of them that I felt that I wanted to push for, but as I mentioned, the discussion was going the way of, well, let's not pick and choose who has got their favorite amendment, let's just send them all to the Charter Commission. As the person who prepared this measure for the Kihei Community Association, which got to committee to even begin discussion, obviously, I felt most strongly about this particular amendment and even though I felt that strongly, as I said, I was willing, had the motion been made to refer all of these to Committee to go along with that majority position and send them all to Committee. Now that the issues have been pulled out one by one, it seems that I'll be voting one by one on the issues as we did first with Liquor and now with this, and I don't know what might come next. But I will speak in favor of the motion and I would be willing at this time to support it even though I agree with Councilman Medina's statements and Councilmember Santos' that it makes good sense to wait until the Census is done and, in fact, the Maui Council may have to be redistricted at that time. But since one of the seats is simply coming from one of the two at-large seats and not from another district, I would be willing to support at this time. Thank you, Mr. Chairman.

CHAIRMAN HOKAMA: Any further discussion? Mr. Kawano.

COUNCILMEMBER KAWANO: Mr. Chairman, I, too, would be supporting that Kihei seat for one reason. Ever since I sat in this seat here as a Councilman, a new Councilman, I've always known that the Kihei Community Association is really being strong and coming forth as far as believing what they want to believe. I feel that they were the community that came up and injected this one seat that they feel is needed, although they have Council person living in Kihei and they also have people representing their district. But they felt that with the growing of that community, they felt that they need somebody seating in here representing them. So, I would be voting for this seat.

CHAIRMAN HOKAMA: Mr. Medina.

COUNCILMEMBER MEDINA: I don't know if anybody is going to second this but I want to make an amendment to the motion and that is that, this amendment be placed on the ballot and all other amendments be referred to the Charter Commission.

CHAIRMAN HOKAMA: The amendment is to put this -

COUNCILMEMBER MEDINA: Place this amendment on the ballot but refer all the other amendments to the Charter Commission.

CHAIRMAN HOKAMA: Okay. Any second to that?

COUNCILMEMBER SANTOS: Mr. Chairman, are you going to rule whether that's a proper motion?

COUNCILMEMBER MEDINA: Why?

CHAIRMAN HOKAMA: Well, the Chair will accept this amendment because it doesn't change the original motion. It still leaves the original motion in tack.

COUNCILMEMBER MEDINA: Well, if there's no second to the motion, the amendment, then I really cannot vote for this if it's going to open the door for other amendments. I thought that we had some kind of understanding about how to handle these amendments. If that understanding is no longer there, then, I don't know.

CHAIRMAN HOKAMA: Wait now. There's no second, the amendment dies. Okay, we're back on the original motion. Mr. Nishiki, you have to say?

COUNCILMEMBER NISHIKI: Call for the question.

CHAIRMAN HOKAMA: Question being called for.

COUNCILMEMBER NISHIKI: Roll call.

CHAIRMAN HOKAMA: Roll call, alright. I'll start from my right.

Councilmember Crockett Lingle - aye
Councilmember Nishiki - aye
Councilmember Kihune - aye
Councilmember Kawano - aye
Councilmember Medina - no
Councilmember Santos - no
Chairman Hokama - no

Councilmember Lee - excused
Councilmember Tanaka - excused

4 ayes; 3 noes. The motion does not pass since the Committee of the Whole consists of nine members, you need five votes to report it out.

COUNCILMEMBER SANTOS: Mr. Chairman, I move that all amendments remaining be referred to the Charter Review Commission.

CHAIRMAN HOKAMA: Any second?

COUNCILMEMBER MEDINA: Second.

CHAIRMAN HOKAMA: Second by Mr. Medina, motion made by Ms. Santos to refer the package on the Charter amendments to the Charter Review Commission. Discussion?

COUNCILMEMBER NISHIKI: We voted on one amendment already and I thought we were going and take each individual amendment.

CHAIRMAN HOKAMA: The Chair said that we can take them individually or as a package. Ms. Santos chose to make the motion to take the rest of the proposals as a package. Okay.

COUNCILMEMBER NISHIKI: Mr. Chairman, I guess I want to speak against -

CHAIRMAN HOKAMA: One moment. Ms. Santos, you want to speak to your motion?

COUNCILMEMBER SANTOS: I hope it's understood by everyone that it includes the South Maui seat. . . (CHANGE TAPE)

COUNCILMEMBER NISHIKI: Well, I think there are people here that have come to _____ specific Charter amendments. How this Committee, if it does pass, can do this, I feel is treating this with real arrogance in regards to the community that have come and spoken out as far as the amendments. Two specific ones that I have to address are ones that have been made by the general public, which is elected planning commissions and a South Maui seat. Now, for this Council itself to go out and spend the money to the different communities to listen, come back here and then say to themselves, oh, the Charter Commission is coming up, why not just send it to them for discussion? I think it is a very bold step in insincerity. Why go to the different communities and especially those in Molokai in which they were asking for an elected planning commission and also another, I guess, amendment which was the elected planning commission. Why go out there and waste taxpayers money, waste taxpayers time in coming to these meetings? Again, for the second time this week having people come over and speak in favor of it. I mean, if this was, basically, what the Committee was going to do as far as an excuse or not dealing with each amendment, then I feel that the general public again has been shafted by I don't know how many people. And this is where I have concerns about this Council as an elected body, even myself. The fact that we have the audacity to act as sincere public servants. And I question each and everyone of you that are going to be voting in this manner in what you are doing to the general public in coming and begging for their votes each year, whether you go out and say I want your vote and feed them hot dogs or you make certain promises to be their servants. This is the oath that we've taken - name your servants. And then so arrogantly after public testimony saying that in one whomever that we're going to send it away. I think this is ducking the question, number

one, and shows the general public do they want these types of public servants that are afraid to, well, not afraid but come acting as sincere servants coming back into this eighth floor and then acting as arrogant dictators? I think this is, for many of you out here, is an embarrassment I think, and you should look at all of us today if they do this type of action, as someone not deserving of a concern of wanting to be in a seat of being a public servant. I apologize myself, perhaps, in this instance because I had thought that each and every amendment would be given a fair hearing, some of which I even feel and we have the time to even massage it in regards to the Planning Commission which I think is a very good amendment that what I got today in regards from the Corporation Counsel because I had to speak towards this amendment. The Corporation Counsel ruled the fact that this Maui elected planning commission presents a constitutionally impermissible scheme. And in it, it talks about the quality of the one-man, one vote requirements. I had asked the Corporation Counsel to give perhaps another way in which this could be done and yet they had not given even a talk to present an alternative way of perhaps presenting this elected Planning Commission. And so, I would hope that those that have not spoken yet would really consider again not dumping the entire amendment and again, having to wait four or five years before we, as a public, can come and vote on perhaps some important Charter amendments. And for this reason, I'm speaking against this motion.

COUNCILMEMBER SANTOS: Mr. Chairman, just a quickie. We're used to Wayne bitch, bitch, bitch with no positive solution. Why don't you use the parliamentary tools that are at your disposal? If you really want to single those to be considered, make an amendment to the motion that's on the floor instead of just bitching about it continuously. I'll offer you the language if you come and ask me.

CHAIRMAN HOKAMA: Mr. Kawano.

COUNCILMEMBER KAWANO: After that, Mr. Chairman, I would just like to say one thing, when I sat here this afternoon I thought for sure that the whole thing was going as a package to the Charter Commission. But when one of the Councilmember opened the door, I thought, well, at least we're going to have a fighting chance. Mr. Chairman, I would like to make an amendment, as Mrs. Santos said, I would like to see the separation of the Molokai Planning Commission from the Maui Planning Commission and it be worked on today, and I also would like to see the Department of Water Management be separated because as I said, I am the Public Works Chairman and I did submit this amendment and I feel that it's important that we act on this because I feel that Public Works is really overburdened as far as that goes. And the two departments have to be separated as far as the Wastewater and Public Works. So, I would like to make that as an amendment.

COUNCILMEMBER NISHIKI: Second.

CHAIRMAN HOKAMA: Alright, the amendment to the motion is that the Maui and Molokai Planning Commissions and the water works amendment -

COUNCILMEMBER CROCKETT LINGLE: Waste management, I think.

CHAIRMAN HOKAMA: The Waste Management Division.

COUNCILMEMBER CROCKETT LINGLE: Mr. Chairman, could I ask you a question?

CHAIRMAN HOKAMA: Maybe be dropped from this referral for discussion.

COUNCILMEMBER KAWANO: That's right.

CHAIRMAN HOKAMA: Alright.

COUNCILMEMBER CROCKETT LINGLE: Could I ask you a question?

CHAIRMAN HOKAMA: Go ahead.

COUNCILMEMBER CROCKETT LINGLE: Is Councilmember Medina returning to the meeting?

CHAIRMAN HOKAMA: Staff, will you check. Oh, he's back.

COUNCILMEMBER CROCKETT LINGLE: Mr. Chairman, I wanted to address the motion now.

CHAIRMAN HOKAMA: The amendment.

COUNCILMEMBER CROCKETT LINGLE: I want to address the amendment.

CHAIRMAN HOKAMA: Alright.

COUNCILMEMBER CROCKETT LINGLE: The amendment which is to pull out two more amendments, two more proposed amendments to the Charter. I'll be voting against the motion that was just made. I feel quite strongly, especially the one, Councilman Kawano, referring to the planning commission. It does need a lot of study. Not only the apportionment scheme, but certainly the apportionment scheme but the concept in general. So, I can't support at this time. I feel a lot stronger about the waste management department being a good idea, but again, my feeling is at this time that these are systemic changes and they should go to the Charter Review Commission. So, I cannot support the amendment to the motion.

COUNCILMEMBER NISHIKI: Mr. Chairman.

CHAIRMAN HOKAMA: Go ahead, Mr. Nishiki.

COUNCILMEMBER NISHIKI: Can I speak for the motion? I think that the defense that it needs a lot more studying. I think that this

Committee itself should not be rushing these Charter changes. I think that we have much more time to review the elected Planning Commission. I think that we can finance it in which we can readily bring this out to the general public and have them vote on it. To say that we need more studies and not do it, I think is totally responsible. I know that we have another perhaps month or so in which we can massage these amendments to make them legally acceptable. And for this reason, I am supporting Councilmember Kawano's amendment.

CHAIRMAN HOKAMA: Any further discussion on the amendment? Everybody understands the amendment that the motion was to refer the rest of the proposals to the Charter Review Commission which will be set up next year, and the amendment is to take out from that the Molokai and Maui Planning Commissions and the Waste Management Department.

COUNCILMEMBER NISHIKI: Roll call.

CHAIRMAN HOKAMA: Alright, roll call. Okay.

Councilmember Crockett Lingle - no
Councilmember Nishiki - aye
Councilmember Kihune - no
Councilmember Kawano - aye
Councilmember Medina - no
Councilmember Santos - no
Chairman Hokama - no

Councilmember Lee - excused
Councilmember Tanaka - excused

2 ayes; 5 noes. The amendment dies. The motion before the body is to submit the proposals to the Charter Review Commission. Alright. You want a roll call on that too, Mr. Nishiki?

COUNCILMEMBER NISHIKI: Mr. Chairman, I want to retort to Madam Santos' accusation with regards to bitch, bitch, bitch.

COUNCILMEMBER SANTOS: You're too late.

COUNCILMEMBER MEDINA: Mr. Chair, he's out of order.

CHAIRMAN HOKAMA: Wait, wait.

COUNCILMEMBER SANTOS: Point of order, Mr. Chairman.

COUNCILMEMBER NISHIKI: I think this is the reason, this arrogance of what has happened. Initially, it had started when we were looking at voting amendment by amendment. But when a body has such arrogance as to come in and one full sweep . . .

CHAIRMAN HOKAMA: Mr. Nishiki, wait a minute now. The Chair stated from the very beginning whether the Committee wanted to take it by item by item or by a package, it was up to the Committee. No one was restricted from making the motion one by one or by a package.

COUNCILMEMBER NISHIKI: I agree. You didn't let me finish my statement.

CHAIRMAN HOKAMA: If you want to argue the point, fine, but I don't think you should come up that any time any Councilmember doesn't agree with you that the guy is arrogant, insincere, that they don't care. Just because a person doesn't agree with you doesn't mean that they're insincere.

COUNCILMEMBER NISHIKI: I didn't say that, but I just see it in this way.

CHAIRMAN HOKAMA: You didn't say that?

COUNCILMEMBER NISHIKI: As far as political respect, when you hear Howard making a motion on one amendment, it's automatic to me that we're going to take it one by one. And all of a sudden the rules are changed. Bang. And all of a sudden we take it in one full sweep.

CHAIRMAN HOKAMA: Mr. Nishiki, the rules were never changed.

COUNCILMEMBER NISHIKI: What happens in a recess really, really surprises me because I never expected those things to happen.

CHAIRMAN HOKAMA: Mr. Nishiki, at no time did the Chair say that everything was going to be taken item by item. The Chair said that it was up to the Committee whether you want to take it item by item or as a package. So, the Chair didn't change the rules that from item by item I went to a package. If you had assumed that when the Chair allowed Mr. Kihune to make that motion, then you should have had it clarified.

COUNCILMEMBER NISHIKI: That's what I did. And I'm sorry. I'm learning very quickly again in this ten years how the mob works.

CHAIRMAN HOKAMA: There you go again. Alright. Mr. Kihune.

COUNCILMEMBER KIHUNE: Mr. Chairman, I agree with you that you had stated whether we wanted to take it individual or as a package. You recognized myself when I asked you that I wanted to make a motion so I appreciate that. The only thing that I wanted to point out was Wayne's insinuation that we're wasting the public's time and money. And he had indicated that this Committee was originally thinking this to the Charter Commission when all of this proposal came up. I don't think Wayne or several other members, including myself, would have let that happen. We would insist that it goes to the public first and I know Wayne would be the first one to say, no, no,

we're not sending it to the Charter Commission yet. Send it to the public and let them hear it first. So, to say that we're wasting the public's time, if we wasted it, he would have wasted it too if he had made motion. It's just that it was made by several members on this Committee to go out to the public. I don't think it was a wasted time.

CHAIRMAN HOKAMA: Alright. Ms. Lingle.

COUNCILMEMBER CROCKETT LINGLE: Is the main motion on the floor now?

CHAIRMAN HOKAMA: The main motion.

COUNCILMEMBER CROCKETT LINGLE: I'm speaking in favor of sending the rest of the amendments to the Charter Commission, Mr. Chairman, and I agree that the time and the money that was spent was not wasted. When we first decided that we were going to go out with all these amendments, I always think it's a good idea to go out to a public hearing and part of what I heard in the public hearing about the fact that the Charter Commission was coming up I really hadn't, quite honestly, contemplated that especially as it related to some of the major amendments. And I was looking down the list of amendments and I think there are a lot of good ones and I think among the good ones that should be discussed is an elected planning commission. I think it's time to discuss it. I think the waste management division is one that I like very much. I think changing the number of Council votes needed to overrule the Department of Water Supply rules is an important amendment. I think also the Mayor's recommendation about setting up this Board to hear these Land Use and Codes violations is something that I'm really interested in and would like to pursue with the Charter Commission. So, I think there are some very good and some very important amendments. I just don't think that they've been given the time that they need and I look forward to the Charter Commission doing a good job on all of these. And I, too, feel that I'm at least as sincere as anyone else on the Council and I was sincere when we decided to go out to the public just as I am now. And just as a final remark to the people who came to talk about the South Maui seat that you can still, at our Council meeting, when this comes up try to secure those two more votes that you need right on the floor at the Council meeting. I have checked with the Chair about that and you can attempt, between now and the Council meeting, to lobby the remaining people to get those additional two votes and you, obviously, have done a pretty good job up to this point. So, you might want to continue on in that. So, I'll be voting for the motion, Mr. Chairman.

CHAIRMAN HOKAMA: Any further discussion?

COUNCILMEMBER MEDINA: Mr. Chairman, may I just say, since you're letting us speak again, as you know, my position initially when we began to look at the Charter amendments was that all the

amendments be held in abeyance and be referred to the Charter Commission that would convene next year. But since everyone was sort of hot to trot about sending in amendments, I decided, well, I'm going to send some in too then. So, I didn't want to be left out. And of course, Wayne had the opportunity to send in amendments, but missed the deadline as he normally does, and finally got his in at the last moment and it had to do with the Planning Commission, and if he so sincerely felt about that, then he should have submitted that early on. Why did he wait till the last moment? All of a sudden he develops a tremendous spirit for that particular amendment. It was a last minute amendment that even us guys decided, should we accept it or shouldn't we? It came in so late. So, all of this talk about insincerity and the fact that we're not listening, we're arrogant, I think he has been so arrogant these past few months, submitting things late and then after he does things, he says, I'm sorry I'm late but I'm going to do it anyway. Then he blames us for not taking action on some of the things he submits. I think it's been ridiculous. But anyway, I would suggest that, if possible, if this is such a key thing that the seat for Kihei, I don't know when the deadline is to submit a resolution is, and I don't know if that's what you're alluding to that the Clerk's Office has a deadline to submit amendments to the ballot, I don't know if somebody can do this later on and maybe upon reconsideration, there might be just that one amendment that could go through. I don't know. But I think that there's still an open door there for people who are supporting that particular thing. But at the present time, I feel that the best thing that we can do is to send all of these things to the Charter Commission.

CHAIRMAN HOKAMA: Okay. Mr. Kihune.

COUNCILMEMBER KIHUNE: Just one last comment. I was hoping that we could get that South Kihei seat out, at least pass that. But the way I look at it, if we have to deal with the Census track I think in the next year and a half, it could be put together by a Committee depending on what department wants to handle it to set up the reapportionment. We have the time, it's just the matter of we setting the direction, have the voters set the direction from here and let them decide and then the implementation program be put together. So, I think we did have the time to work with the Census figures as it comes in next year, or maybe the end of this year to put something together for the 1992 election. But I will support the motion and we'll see what happens at the first Council meeting.

CHAIRMAN HOKAMA: Any further discussion?

COUNCILMEMBER CROCKETT LINGLE: Mr. Chairman, could you just explain that one issue that I raised here that we're discussing now, that when this hits the Council floor someone can just make a motion or . . .

CHAIRMAN HOKAMA: What the Chair was asked by Ms. Lingle was that whether amendments can be made on the floor. When the Committee Report comes up, an amendment can be made on the floor. And if the amendment passes, the Committee Report is amended.

COUNCILMEMBER CROCKETT LINGLE: The resolution is already attached to the whole package so we can just pull it out at that time. Okay.

CHAIRMAN HOKAMA: Alright. Any further questions, discussion? If not, roll call was asked for. I'll start from my right. The motion is to refer the matters to the Charter Commission.

Councilmember Crockett Lingle - aye
Councilmember Nishiki - no
Councilmember Kihune - aye
Councilmember Kawano - no
Councilmember Medina - aye
Councilmember Santos - aye
Chairman Hokama - aye

Councilmember Lee - excused
Councilmember Tanaka - excused

The motion is to refer the proposals to the Charter Commission passes.

ITEM #23 - RE: Eminent Domain for the Honolua Watershed

Fred, you want to brief the Committee?

MR. ARAKI: The County of Maui with the Soil Conservation Service, as its co-sponsor, is planning to construct a flood control channel in Mahinahina. This channel begins from Honoapiilani Highway in Lahaina and it goes makai, it passes the lower road to the ocean. Plans have already been completed and we expect to go out to bid in about July or August. There about five parcels affected by this project and we would need land certification in June in order that we can have our project agreement executed in July. We are currently negotiating with the five lot owners and we believe that we could come to some agreement with at least two or three. There are two that we don't think we can come to some agreement, and that's because two involve condominiums and some lessees which requires coming to an agreement with multiple owners. So, therefore, at this time, we're asking from this Council authorization to approve to eminent domain proceedings for all five parcels just to assure that we do have possession of the land.

CHAIRMAN HOKAMA: Any questions? Mr. Kihune.