

## 2009-2010 HAWAI‘I COUNTY CHARTER COMMISSION

4<sup>th</sup> Session

Friday, June 5, 2009

County Council Chambers - Ben Franklin Bldg. 2<sup>nd</sup> Floor  
333 Kīlauea Avenue, Hilo, Hawai‘i 96720

### CALL TO ORDER:

CHR. HAITSUKA: Good afternoon, Commissioners, Commission Staff, Members of the Administration and the Public. Today is June 5, 2009, and time is approximately 1:36 p.m. I'd like to call this meeting of the Hawai‘i County Charter Commission to order. We are at the County Council Room at the Ben Franklin Building in Hilo. I will now call the roll.

### ATTENDANCE:

Present:

Mr. Ed Haitsuka, Chair  
Mr. David Fuertes, Vice Chair (2:00 p.m.)  
Ms. Daphne Honma, Commissioner  
Ms. Casey Jarman, Commissioner  
Ms. Jamae Kawauchi, Commissioner  
Mr. Alapaki Nahale-a, Commissioner  
Ms. Susie Osborne, Commissioner  
Mr. Todd Shumway, Commissioner  
Mr. Scott Unger, Commissioner

Absent:

Mr. Joseph Kealoha, Commissioner

Also Present:

Mr. William Takaba, Managing Director  
Ms. Charmaine Shigemura, Executive Assistant to Mayor  
Mr. Michael Ben, Director, Human Resources  
Mr. Ronald Takahashi, Deputy Director, Human Resources  
Ms. Jan Pakele, Director, Liquor Control  
Mr. Bob Fitzgerald, Director, Parks and Recreation (*videoconference, Kona*)  
Mr. Clayton Honma, Deputy Director, Parks and Recreation  
Mr. Milton Pavao, Manager, Department of Water Supply  
Mr. Paul Ferreira, Deputy Chief of Police  
Ms. Jose Pelayo, Secretary, Police Commission  
Mr. Ivan Torigoe, Deputy Director, Environmental Management  
Mr. Randy Kurohara, Director, Research and Development  
Mr. Warren Lee, Director, Department of Public Works  
Ms. Renee Schoen, Corporation Counsel  
Mr. Gerald Takase, Corporation Counsel  
Mr. Craig Masuda, Corporation Counsel (*for Levi Hookano*)  
Ms. Maile David, Legislative Assistant (*videoconference, Kona*)  
Ms. Karen Eoff, Secretary

## **STATEMENTS FROM THE PUBLIC ON AGENDA ITEMS**

CHR. HAITSUKA: First on our agenda is Statements from the Public, and I have Mr. Milton Pavao from the Department of Water Supply signed up to testify first. Mr. Pavao.

MILTON PAVAO

(At this time, Milton Pavao, Manager, Department of Water Supply, came forward to address the members of the Commission)

CHR. HAITSUKA: Good afternoon, sir.

MR. PAVAO: Chairman Haitsuka and members of the Hawai'i County Charter Commission, I'm speaking today in regards to Article VIII, Department of Water Supply. I'm Milton Pavao, Manager of the Department of Water Supply. I appreciate this opportunity to address the 2009-2010 Hawai'i County Charter Commission.

The Charter provisions of Article VIII, Department of Water Supply, have faithfully served our island's residents, more specifically our public water system consumers. I believe our department, under its current structure, functions efficiently, provides outstanding customer service, and provides foresight for the future of our island. At times, we face challenges like any other agency. However, we have been able to overcome these challenges and make progress with a strong understanding of our mission and goals. Our Water Board, comprised of citizens appointed by the Mayor and confirmed by the Council, serves our department extremely well. The Board's focus and decisions have always been made in the best interests of our entire island. An independent Water Board is the ideal way to govern such a precious and life-giving resource such as our water.

Our staff is the most important component of our Department. It is so fulfilling to see staff who truly care about their duties and strive to do the best possible job they can do. It is an honor to work alongside dedicated public workers who take pride in their employment. As mentioned, the provisions of Article VIII of the Hawai'i County Charter, are functioning well and efficiently at the Department of Water Supply.

Thank you for this opportunity to address the Hawai'i County Charter Commission. I will be around when it comes up to answer any questions. One thing further I would like to mention, and this might be for consideration, the title of the department head of the Department of Water Supply is Manager. I don't know if you want to consider changing that title to Manager, Chief Engineer, to be consistent with the rest of the water departments throughout the State; it's just a suggestion. Thank you.

CHR. HAITSUKA: Thank you, Mr. Pavao. Are there any questions for Mr. Pavao before he leaves? Thank you. Maile, do we have anyone in Kona to testify?

MS. DAVID: Aloha, Chairman Haitsuka. We don't have any public testifiers today, but we do have Bob Fitzgerald, the Director of Parks and Recreation, in case the Commissioners have questions for him.

CHR. HAITSUKA: Thank you. We do have one written submission, it is from Margaret Wille. We also have a communication in response to that from our attorney, Levi Hookano. The Commission has a copy of Ms. Wille's testimony and Mr. Hookano's memorandum. Any discussion?

## **APPROVAL OF MINUTES**

CHR. HAITSUKA: Next on our agenda is the Approval of the Minutes for the May 8, 2009 meeting. Is there a motion to approve the minutes of the May 8, 2009 meeting?

Ms. Jarman moved to approve the minutes of the May 8, 2009 Hawai'i County Charter Commission meeting. Seconded by Ms. Honma.

CHR. HAITSUKA: Any discussion?

The motion to approve the minutes of the May 8, 2009 Hawai'i County Charter Commission meeting was carried by the following vote:

Ayes: Commissioners Honma, Jarman, Kawauchi, Nahale-a, Osborne, Shumway, Unger and Chair Haitsuka.

Noes: None.

Absent: Commissioners Kealoha and Fuentes.

CHR. HAITSUKA: We also have a copy of the Minutes from the Executive Session from the May 8, 2009 meeting.

MS. JARMAN: Mr. Chair, I just got them and haven't had a chance to read them. Could we postpone that until later, after we have had a break, and have a chance to read them?

CHR. HAITSUKA: We need a motion to defer.

Ms. Jarman moved to defer approval of the minutes of the May 8, 2009 Executive Session until later in the meeting. Seconded by Mr. Nahale-a. The motion to defer approval of the minutes until later in the meeting was carried by the following vote:

Ayes: Commissioners Honma, Jarman, Kawauchi,

Nahale-a, Osborne, Shumway, Unger and  
Chair Haitsuka.

Noes: None.

Absent: Commissioners Kealoha and Fuertes.

## COMMUNICATIONS

CHR. HAITSUKA: Next on our agenda are the Communications.

Communication 8:

CHR. HAITSUKA: Our first communication is Communication 8. That is a Memo from our Attorney Levi Hookano, dated April 16, 2009, regarding ARTICLE I, Section 1-2: the Geographical Limits of the County of Hawai‘i. I believe this Communication also concerns Communication 16, which is a communication from Commissioner Kawauchi, dated April 23, 2009. I think we can discuss both at the same time. The memo was written by Mr. Hookano, at the request of the Commission, to define what the geographical limits of the County are. According to his memo, he concludes that the County of Hawai‘i includes the three nautical miles from the shoreline of Hawai‘i Island together with its archipelagic islands and smaller islands adjacent thereto. Any discussion on Mr. Hookano’s memo?

Communication 16:

CHR. HAITSUKA: With regard to Communication 16, Ms. Kawauchi is asking to form an ad-hoc Committee to investigate the possibility of amending Article I, Section 1-2 of the County Charter. Ms. Kawauchi, do you want to explain your memo?

MS. KAWAUCHI: Sure. Thank-you, Chairman Haitsuka. I wrote the memorandum and made the request based on public testimony submitted at our last public hearing and based on the discussion of Commissioners at a previous Charter Commission hearing. I thought that it would be a good idea to form an ad-hoc committee just to take a look at this Section to see if there might be any possibility of amendments, or to leave it in place, so I wrote the communication and made the request.

CHR. HAITSUKA: Do I have a motion to form an Ad-Hoc Committee to investigate the possibility of amending Article I, Section 1-2 of the Hawai‘i County Charter?

Ms. Kawauchi moved to create an ad-hoc committee to investigate the possibility of amending Article I, Section 1-2 of the County Charter. Seconded by Mr. Nahale-a and carried by the following vote:

Ayes: Commissioners Honma, Jarman, Kawauchi,  
Nahale-a, Osborne, Shumway, Unger and  
Chair Haitsuka.

Noes: None.

Absent: Commissioners Kealoha and Fuertes.

CHR. HAITSUKA: As far as the volunteers for the ad-hoc committee, are there any volunteers?

MS. KAWAUCHI: Chairman Haitsuka, I'll volunteer to head the committee.

MR. NAHALE-A: That means you are the Chair, right?

MS. KAWAUCHI: Yes.

MR. NAHALE-A: I'll volunteer to sit on it.

CHR. HAITSUKA: I'll volunteer as well. Do I have a motion to---Ms. Jarman I think we needed to include the members in the motion, right?

MS. JARMAN: Yes, but we can make a separate motion, as long as it gets in there. I think that meets the Sunshine Law.

CHR. HAITSUKA: Alright, do I have a motion to form an Ad-Hoc Committee to investigate amending Section 1-2 of Article I of the Hawai'i County Charter consisting of Chairperson Jamae Kawauchi, and members Alapaki Nahale-a, and Edmund Haitsuka?

Ms. Kawauchi moved that the ad-hoc committee to investigate the possibility of amending Article I, Section 1-2 of the County Charter consist of Chairperson Jamae Kawauchi, and members Alapaki Nahale-a, and Edmund Haitsuka.  
Seconded by Ms. Jarman and carried by the following vote:

Ayes: Commissioners Honma, Jarman, Kawauchi, Nahale-a, Osborne, Shumway, Unger and Chair Haitsuka.

Noes: None.

Absent: Commissioners Kealoha and Fuertes.

MR. MASUDA: Mr. Chair, are you going to close file on Communications 8 and 16?

Ms. Jarman moved to close file on Communications 8 and 16. Seconded by Ms. Honma and carried by the following vote:

Ayes: Commissioners Honma, Jarman, Kawauchi, Nahale-a, Osborne, Shumway, Unger and Chair Haitsuka.

Noes: None.

Absent: Commissioner Kealoha and Fuertes.

Communication 9:

CHR. HAITSUKA: Next on our agenda is Communication 9. Communication 9 is a Memorandum from Commission Attorney, Levi Hookano, dated April 16, 2009 regarding Article 3, Section 3-2 of the Charter. This Communication discusses the term limits of other Counties--excuse me, the County Councils of other Counties. Is there any discussion on Mr. Hookano's memorandum?

Ms. Jarman moved to file Communication 9. Seconded by Mr. Nahale-a and carried by the following vote:

Ayes: Commissioners Honma, Jarman, Kawauchi, Nahale-a, Osborne, Shumway, Unger and Chair Haitsuka.

Noes: None.

Absent: Commissioners Kealoha and Fuentes.

Communication 10:

CHR. HAITSUKA: Next, we have Communication 10. This is another Memorandum from Mr. Hookano, dated April 23, 2009. It deals with Article III, Section 3-3 of the Charter. This Communication discusses the definition of the term "qualified elector." Mr. Hookano concludes in the memo that the term "qualified elector" means a registered voter. Is there any discussion on Mr. Hookano's memorandum?

Ms. Jarman moved to file Communication 10. Seconded by Ms. Honma and carried by the following vote:

Ayes: Commissioners Honma, Jarman, Kawauchi, Nahale-a, Osborne, Shumway, Unger and Chair Haitsuka.

Noes: None.

Absent: Commissioners Kealoha and Fuentes.

Communication 11:

CHR. HAITSUKA: Next we have Communication 11, a memorandum from Mr. Hookano, dated April 30, 2009, regarding Article III, Section 3-7 of the Charter. This memo deals with council action. In this communication Mr. Hookano discusses the number of County Council members that are needed to take action. He concludes that a majority of the entire membership of the County Council is necessary for council action, and that action cannot be taken by a majority of those present, if that majority does not equal at least a quorum of the Council.

MR. MASUDA: Mr. Chairman, I believe that means Charter Commission members.

MS. JARMAN: No.

CHR. HAITSUKA: Pardon me?

MR. MASUDA: Are you referring to Charter Commission members?

CHR. HAITSUKA: The Communication---are we talking about Communication 11?

MR. MASUDA: Yes. He's referring to County Council Members as it applies to the Charter Commission.

CHR. HAITSUKA: That's correct. Any discussion on Mr. Hookano's memorandum? Any motion to file?

Ms. Jarman moved to file Communication 11. Seconded by Mr. Shumway and carried by the following vote:

Ayes: Commissioners Honma, Jarman, Kawauchi, Nahale-a, Osborne, Shumway, Unger and Chair Huitsuka.

Noes: None.

Absent: Commissioners Kealoha and Fuentes.

Communication 15:

CHR. HAITSUKA: Next we have Communication 15, which is from Mr. Michael Ben, the Director of Human Resources, dated April 23, 2009, recommending the removal of several references to civil service laws as contained in various sections of the Charter. I understand we have Mr. Ben here today. Mr. Ben, first I want to thank you for taking the effort to forward this communication to us. It is detailed, and I appreciate the effort. Is there any discussion on Mr. Ben's memorandum?

MR. SHUMWAY: I just want to say, I also thank you for doing it. It's really helpful to have department heads do something in this kind of detail. It helps us a lot, so thank-you.

CHR. HAITSUKA: We will be discussing portions of the communication during our discussion on various sections today. What I would like to recommend is to have our attorney put Mr. Ben's proposed amendments on to one of our amendment forms, so we can bring it up for a first reading. Any motion?

MS. JARMAN: Do we need a motion to do that?

CHR. HAITSUKA: I don't know, do we?

MR. MASUDA: No.

CHR. HAITSUKA: Okay, so I will have Mr. Hookano put Mr. Ben's proposed revisions on to our amendment form, and we will bring it up at the next meeting for first reading.

MS. JARMAN: Should we ask him questions about it then, as opposed to now? Would you like us to reserve our questions until then?

CHR. HAITSUKA: We'll be covering some of his memorandum today. He covers several sections of the Charter in there. We can either ask him questions now, or in the context of the discussion of those particular sections.

MS. JARMAN: One of them is, and we have already talked about it, the County Clerk. I just had a question as to what it means. Is now the best time to ask that question?

CHR. HAITSUKA: I think so; we're not going to be covering that later today. Mr. Ben.

MS. JARMAN: You crossed out, "which position shall be exempt from civil service laws and classifications," for the County Clerk.

MR. BEN: Yes.

MS. JARMAN: Does that mean that the County Clerk is a civil service position by taking that out?

MR. BEN: No, civil service law provides that the position is exempt, because a section of the State law says any appointee by the Council is exempt from civil service.

MS. JARMAN: Okay, so basically you are saying that's redundant.

MR. BEN: Yes.

MS. JARMAN: Do you think it's helpful to keep it in there because people, other than you, who are really familiar with the laws, might not know that, and then over time might think that the person is subject to civil service laws? Or, do you think that's not really going to be a problem?

MR. BEN: I don't think it's really going to be a problem, because I think generally, most people looking at it wouldn't know what it is saying anyway. So, it would always come back to me.

MS. JARMAN: Oh, okay. I think we also have to remove the Legislative Auditor from that. If we could ask for that to be done, because there is now a separate provision for the Legislative Auditor, so that should be removed. Do you have any objections to removing that as well?

MR. BEN: I have no concern, that's really not my area.

MS. JARMAN: Okay. As long as they're going to be working on it, they might as well take that out now. That was my only question. Thank you, Mr. Chair. Thank you, Mr. Ben.

CHR. HAITSUKA: Thank you, Mr. Ben. Ms. Jarman, do we need a motion to file that communication?

Ms. Jarman moved to file Communication 15. Seconded by Ms. Honma and carried by the following vote:

Ayes: Commissioners Honma, Jarman, Kawauchi, Nahale-a, Osborne, Shumway, Unger and Chair Haitsuka.

Noes: None.

Absent: Commissioners Kealoha and Fuentes.

## **UNFINISHED BUSINESS**

### DISCUSSION OF ARTICLES V-VI, HAWAI'I COUNTY CHARTER

CHR. HAITSUKA: Next on our agenda is the Unfinished Business. Today we have the review of Articles V and VI of the Charter, the sections which we did not finish. In regards to Article V, it seems that we started Section 5-1.1, but we never completed it; so we'll start from Chapter 1, Article V, Section 5-1.1 of the Charter. Any discussion on Section 5-1.1? Chapter 1 deals with the Mayor's office. Do we have anybody who wants to give testimony regarding Chapter 1 of Article V? There being no discussion on Section 5-1.1, let's move on to Section 5-1.2, Qualifications. Any discussion?

MR. NAHALE-A: I have a quick question. The way it's written, it just means that somebody could come into office midway through a term, finish that term, and then serve two additional terms. Am I reading that correctly? That last sentence in Section 5-1.2.

CHR. HAITSUKA: I took it to mean that a Mayor can serve two terms, then they would need to take a break for at least one term, then they can come back again, and serve another two. Mr. Masuda do you have---

MR. MASUDA: It says two full terms, so in that sense, yes, you could come in midway, finish out that term, and still serve two full terms after that.

CHR. HAITSUKA: Okay.

MR. NAHALE-A: But, your interpretation is also correct. You can serve two terms, get out, and then come back in. If it just said serve two terms, then once you served, then technically you should not be eligible.

MR. MASUDA: That's correct.

CHR. HAITSUKA: Any other discussion? There being no further discussion, let's move on to Section 5-1.3, Powers Duties and Functions. Is there any discussion? There being no discussion, let's move on to Section 5-1.4, Vacancy in Office. Is there any discussion? There being no discussion, let's move on to Section 5-1.5, Temporary Actions or Disability. Is there any discussion? There being no discussion, let's move on to Section 5-1.6, The Removal of the Mayor. Is there any discussion? There being no discussion, let's move on to Section 5-2.2, Appointment and Removal.

MR. NAHALE-A: Mr. Chair, can I go back real quickly to Section 5-1.5? Has there ever been a situation where we could not reach the Managing Director or the Director of Finance?

CHR. HAITSUKA: I wonder if anyone here can attest to that.

MR. NAHALE-A: Out of curiosity, if that were the case, what would be the---Is there some other guiding sequence of the chain of command?

CHR. HAITSUKA: Is there anyone from the Mayor's office qualified to testify, to attest to that? Mr. Takaba, you've been around for awhile.

MR. TAKABA: The Mayor---We had discussed this when he first took office, just to go over the line of succession, and to make sure that he understands who takes over. I think he didn't want me to take over when he's gone, so, maybe that's why he brought it up. Is there another chance for us to come back again? There are several things that we discussed in the past, on different parts of the Charter, and we are still in that discussion phase right now. He did say that he wants to come back to the Commission and bring up these concerns in a summary version, if that's possible.

CHR. HAITSUKA: I think the Commission is open to revisiting issues as they come up.

MR. TAKABA: I think he wanted to hear what the public had to say, as well as what the Commissioners had to say about certain parts of it, and then after all of that is done, we'll come back and make comments and suggestions. If we have questions, we'll bring them up at that time.

CHR. HAITSUKA: As far as Mr. Nahale-a's question, what happens in a situation where the Mayor wasn't available, then the Managing Director and the Director of Finance was not available?

MR. TAKABA: There were times when the Mayor and the Managing Director were not available; the Finance Director would step in. After that point, although there is a formal line of succession, he has just designated certain people. If it came to an official action that needed to be taken, it will follow the course of succession. I can't recall where it ever went below the Finance Director.

MR. SHUMWAY: If there is a more detailed course of succession, is it written somewhere?

MR. TAKABA: It could be in the Code. It's in the Code. I think the Director of Public Works might be next, I'm not sure. The Department of Human Resources Director is also part of that.

CHR. HAITSUKA: We'll note the arrival of Mr. Fuertes.

MR. MASUDA: Mr. Chairman, if you want to take a break at this point, we're looking at the Code now.

MR. NAHALE-A: I'm not that interested in knowing the sequence, I just wanted to know if it was written in the Code, and if it is, that's fine with me.

CHR. HAITSUKA: Thank you, Mr. Takaba.

MR. TAKABA: Thank you.

CHR. HAITSUKA: Is there any further discussion on Section 5-1.5? Let's move on to Chapter 2, The Data Systems Department, Section 5-2.1. Is there any discussion? I'm using the revised version of the Charter that we have. There being no discussion on Section 5-2.1, let's move on to Section 5-2.2. No discussion, let's move on to Section 5-2.3, Qualifications. Is there any discussion? The only general comment that I have regarding this section is that I believe that this was one of the sections that was inadvertently moved in the earlier revision of the Charter to Article VI, which covers the departments. I don't know if we would want to follow through with that revision by moving this under Article VI? I don't know if it's appropriate under Article V. Is there any discussion?

MS. JARMAN: It seems to me that it would be more appropriate moved over; just to be logically consistent within the document.

CHR. HAITSUKA: Alright, I'll ask the Commission's attorney to draft the proposed amendment. Is there any discussion on Section 5-2.4? There being no discussion, let's move on to Chapter 3, Cost of Government Commission, Section 5-3.1, Declaration of Policy. Do we have any discussion on this section? There being no discussion, let's move on to Section 5-3.2, Cost of Government Commission.

MS. JARMAN: Mr. Chair, can I just ask a general question of anybody who knows? Does the Cost of Government Commission actually help? Has it done anything to make it worth having? You never hear about it, and I was Clerk for two years. I don't remember seeing any of their reports, but maybe they are valuable. It seems like they don't have much time to do what the Charter says for them to do.

MR. TAKABA: They've done reports, and the reports have been reviewed, but I don't recall where there were any major changes as a result of the reports or the work that they've done.

MS. JARMAN: They only have 11 months to get together, and if you have a group of people who don't know a lot about the County and then you only give them 11 months to write a report, and you assume it takes them a couple of months to get the report written, do you think--you were also the head of Finance--it is a worthwhile group to keep in the Charter? And if it is, should we amend it to make it more effective?

MR. TAKABA: If they had more time to do their work, and they actually got down to the departmental level, then---I know there's a Legislative Auditor function that does program reviews, and there's auditing that they do. If the Commission had people that could gather information for them and report back to them. Aside from that, what I've seen them do is, they would meet with departments on a more formal basis, like questions and answers back and forth across the table, and not so much going to their departments and actually go into their records or look at their functions and compare that with their budget, and so forth. If they had more time and more staff to do that, it would be more effective. I'm not sure, because a lot of it depends on the members and how aggressive they are in trying to do their work. They're not precluded from going into the departments and getting more information, but what I've seen was more in meetings and across the table talk and not so much the research.

MS. JARMAN: I doubt they have time, given the schedule.

MR. TAKABA: It is difficult for them.

MS. JARMAN: Do you think it would be more helpful, assuming there was one and we gave them enough time, to have them appointed at the end of one Mayor's term and then serve through into the next Mayor's term, so they are there for a transition?

MR. TAKABA: Yes, the continuity might be hard if you are going through two different administrations. Is that what you are referring to?

MS. JARMAN: Yes, they would serve, for instance, a year with one Mayor and then another year with the other Mayor, so there would be some overlap.

MR. TAKABA: That might work. The department heads change, so they would be working with different people, and it might be brand new department heads that know very little about the operations, and they're the people who would go out and talk to them

MS. JARMAN: The Cost of Government Commission would know something, so they could actually be a resource for the incoming department heads as well as potentially a resource for the council members. I have no idea; I'm just throwing these things out because when I read it, it seemed to be designed for failure.

MR. TAKABA: The idea is good, but if they don't have the resources, and the time to do their work, then it's very frustrating for them.

MS. KAWAUCHI: Would it be possible to consolidate these functions with another department by making these duties fall under maybe the Finance Department or the Legislative Auditor?

MR. TAKABA: Maybe not so much the Finance Department. When they do the annual operating budget, they go through a series of meetings with the departments, and what they are doing is pretty similar to---they try to cut costs as much as they can in order to keep the budget within reason, so, they'll do that part of it. But I think the commission is more like an oversight commission to look at County Government, and whether there's waste or whether there are ways that we can save money. The way it was created was because someone felt that an independent body needed to oversee the spending, or the operations, and whether it's cost effective or efficient. If you put it in a department, it probably won't be as effective as a commission that has oversight over the whole County and can make independent decisions. If it was going to be placed in any segment of government, it would probably be attached to maybe Legislative Auditor's office. Then it's different from the Executive Branch that does the budget, so there would be a check and balance.

MR. SHUMWAY: Mr. Chair, I have a question too.

CHR. HAITSIKA: Mr. Shumway.

MR. SHUMWAY: If it was extended for, say, two years, would there be additional costs?

MR. TAKABA: I assume that this is a continuous group. The term is 11 months, but the cost that they go through is not very much, except there are a lot meetings going on. The actual dollars that they spend is really not that much. I haven't had a problem with funding the work of the commission.

CHR. HAITSIKA: One thing I noticed is this particular section is not clear as to the term. It says they have to submit a report in 11 months, but it doesn't say anything about what their term limit is. When I read it I didn't know how long they served for. It does say they get appointed one year after the Mayor starts his term, but it doesn't say how long they serve for. There's some ambiguity in it.

MS. JARMAN: Mr. Chair, it says, "and lasting eleven months." So I am assuming it is an eleven month commission. That's why I thought that wasn't enough time for them to do their work.

MR. TAKABA: You could go longer with not much extra cost. There must have been a reason for them to place this kind of time frame on it; I'm just not sure what that is.

CHR. HAITSIKA: Question, Mr. Nahale-a.

MR. NAHALE-A: So where it says members will be appointed, but it doesn't have the caveat of Council approval, that means the Mayor just appoints and there's no---

MR. TAKABA: Yes, there is no confirmation or anything.

MR. NAHALE-A: I'm glad you brought this up, Casey, because I think I'm going to be a trouble maker again. It just seems kind of a redundant effort. Like I've said before, I'm not a real fan of creating these bureaucratic oversights. If we are going to create this commission, it should ring with effectiveness. I wouldn't make it a priority for me, but I wouldn't be sad if it was just removed. If we are going to have this independent body, it would seem like you wouldn't want the Executive Branch just appointing members to be your oversight. This is exactly the kind of commission I think you would want the council members to ratify. Like we said, as a commission member, the learning curve is so steep, I hate to drag folks down here. When you guys are sitting here and answering our questions, it means you are not out there doing the public's work. I hate to create more reasons for you guys to be called to meetings to answer questions. So, unless we are going to make this a group that had expertise in cost management, it seems unnecessary to me.

CHR. HAITSUKA: Are there any other questions of Mr. Takaba?

MS. KAWAUCHI: I don't have a question, just more discussion. One option might be to include a function within the Legislative Auditor's office. Create a position to be appointed by the Mayor and confirmed by the Council; somebody with qualifications who would be able to make an assessment of government function and cost. That could be an option, but if you are going to do a separate commission, then I think the concerns that were raised were valid. I'm trying to figure out how to get to a middle balance, where you have satisfaction of government oversight, and also efficiency in the economy, and the qualifications to be able to do the job. Or, is it one of those things where you just need a general group of people from the community to be looking at things, which is what I think a commission appointed from each council district, a resident from each council district would be. Or, do you need somebody with qualifications? Are we looking at our neighbors looking at it, or are we looking at somebody with heightened expertise? Maybe you could have a commission appointed that is of the community, but make a requirement that they also have appointed to them someone with expertise that can help them; an economic advisor or a financial analyst, or something to that effect. Just discussion.

MS. JARMAN: Mr. Chair.

CHR. HAITSUKA: Ms. Jarman.

MS. JARMAN: Along those lines, when this was first passed, we didn't have an independent Legislative Auditor's office. So, maybe this is something we should get rid of, and then somehow put this function under the Legislative Auditor's office. I think the Legislative Auditor may be in her office. We could ask her to comment, or to at least think about it. It seems to me that may be the place for it now that we have changed the Charter, and have an actual bonified independent Legislative Auditor's office.

CHR. HAITSUKA: Is there any further discussion? Mr. Shumway.

MR. SHUMWAY: I was just going to say that I agree with Ms. Jarman. I would be interested if somebody would stand up and say this commission is important. Mr. Takaba didn't seem to think it was that important, so to me if nobody is thinking it is that important, maybe it's a good idea.

CHR. HAITSUKA: Is there any further discussion? Before we move on to Article VI, let's go back to Article V, Section 5-1.5. I believe Mr. Masuda has that Ordinance section.

MR. MASUDA: Yes, Mr. Chairman, this is Section 2-8, Hawai'i County Code. Essentially it says the order of succession will be upon disabilities or vacancies of the various offices of the Mayor, the Managing Director, Director of Finance; after the Director of Finance, Planning Director, Director of Research and Development, Director of Personnel Services, then the Director of the Department of Liquor Control.

CHR. HAITSUKA: Thank you, Mr. Masuda. Let's move on to Article VI, Executive Branch, Chapter 1, Office of Management. Starting with Section 6-1.1, do we have anyone here who wants to give testimony regarding Chapter 1? Any discussion on Section 6-1.1? There being no discussion, let's move on to Section 6-1.2, any discussion? There being no discussion, let's move on to Section 6-1.3. Is there any discussion on Section 6-1.3? Let's move on to Chapter 2, Department of Public Works. Do we have someone here? I understand someone is on their way. Let's skip over Chapter 2 and go on to Chapter 3 while we are waiting for someone from the administration. Chapter 3 is the Department of Parks and Recreation, and I understand that we have Mr. Fitzgerald in Kona.

(Note: At this time, Clayton Honma, Deputy Director Parks and Recreation and Renee Schoen, Corporation Counsel, came forward to address the members of the Commission.)

CHR. HAITSUKA: Can you please identify yourselves?

MR. HONMA: Clayton Honma, Deputy Director, Parks and Recreation.

MS. SCHOEN: Good afternoon, Commission members, Renee Schoen, Corporation Counsel.

CHR. HAITSUKA: Good afternoon. Do you have any testimony regarding this particular section of Chapter 3?

MS. SCHOEN: If I may, Mr. Chair, the Department of Parks and Recreation is asking the Commission to amend Section 6-3.4, with respect to County Bands. They are seeking an amendment consistent with Mike Ben's Communication 15 that the Commission reviewed earlier.

CHR. HAITSUKA: Any other changes other than those suggested by Mr. Ben to that particular section?

MS. SCHOEN: No.

CHR. HAITSUKA: Do we have any other questions for these witnesses? Ms. Jarman.

MS. JARMAN: I noticed that throughout the Charter, most of the department heads have to have something other than a minimum of five years experience in an administrative capacity. They have to have to have some experience related to whatever that department is. But, we don't have that for Parks and Recreation. Do you have any comments on that? You might even appoint a lawyer, and what does a lawyer know about Parks and Recreation? I don't know why that isn't there. There's that nice language under the Managing Director that has five years experience, and then it says, "...and shall possess demonstrable education and or professional experience as required of the office." This seems to indicate they need to have done something in relationship to Parks and Recreation, if we added something like that. Do you think that makes sense, or do you think we should add something like that? I know Alapaki probably thinks, just leave it the way it is; it's fine; we don't care; or take it all out. We have the Director and the Deputy Director of Parks and Recreation here. What do you think?

CHR. HAITSUKA: Mr. Fitzgerald, any comments?

MR. FITZGERALD: As far as Parks and Recreation, remember it's an appointed position by the Mayor, and as far as the experience level--I know this isn't referring to myself--but, I don't think the Mayor is going to appoint somebody to the Department of Parks and Recreation Director that he doesn't feel would be qualified to be able to do the job in the first place. Particular case, myself, I wasn't exactly in this field, but at the same time, I've been doing it for many, many years. I think the way I read the Charter, and what it said before, it's really under the discretion of the Mayor on who he is appointing. So, as far as a comment one way or the other, I think experience would dictate what the Mayor would feel comfortable appointing, as far as the job. Obviously, it's a big department, so managerial skills would fit in. Remember, Parks and Recreation is very, very broad; it's cemeteries, it's pools; it's culture; it's really about having experience in management skills as far as regulating many employees, and many things to do with labor besides just programs. It's a very, very broad department; probably the broadest in the system. I don't know if Clayton has more to say about that.

MR. HONMA: I think Bob is absolutely right. When you get into the Department of Parks and Recreation, people don't understand the broadness of the job. But I believe what Bob said, the Mayor knows who he wants to appoint into these positions. As far as the language in the Charter, I feel it is alright what it states in there.

MS. JARMAN: Thank you.

CHR. HAITSUKA: Are there any further questions for these witnesses? Thank you very much. Mr. Nahale-a.

MR. NAHALE-A: Could you repeat? Was the proposal to eliminate Section 6-3.4?

CHR. HAITSUKA: It's actually in Mr. Ben's communication.

MR. NAHALE-A: Is this consistent with what the recommendation was in Mr. Ben's communication?

CHR. HAITSUKA: That's correct. I think Mr. Ben's recommendation makes it clear that the bandmasters are appointed by the Mayor, the band members are appointed by the bandmasters, and it looks like he's recommending taking out the approval of the Managing Director and the reference to exemption to civil service laws. Any further discussion on Chapter 3? Char, do we have someone from Public Works? We can move on to Chapter 4, Hawai'i Fire Department, Section 6-4.1. Do we have someone from the Fire Department? Any discussion on Section 6-4.1? Ms. Jarman.

MS. JARMAN: I was thinking for internal consistency, the Hawai'i Fire Department ought to be in Article VII. Article VII appears to be all of the departments that are not appointed by the Mayor. They are appointed by a Commission, and most of the departments that are not appointed by the Mayor are in this section. Just for consistency, it might be worth it to move the Fire Department over into Article VII. It's not a big deal, just for consistency.

CHR. HAITSUKA: Is that something we want the Commission attorney to prepare a proposed amendment?

MS. JARMAN: Nobody is objecting to that, it makes sense.

CHR. HAITSUKA: Alright, I will request him to do so. Any discussion on Section 6-4.2? There being no discussion, let's move on to Section 6-4.3, Fire Chief. Any discussion?

MS. JARMAN: I just had a question, but there are no firemen here. I just wondered, five years experience as a fire person to become chief seems like so little experience to become a chief, but I don't know anything about firefighting so, I just wanted to ask a generic question. Does the fire chief feel like that is a reasonable length of time?

CHR. HAITSUKA: Perhaps we can invite someone from the Fire Department back again, and we can revisit this section.

MS. JARMAN: Or, he could just write us a letter. He wouldn't have to come back. But, if they feel there's a problem, that could be something that the Mayor could address and if nobody thinks it's a problem, then just don't worry about it. Is that okay, Mr. Chair?

CHR. HAITSUKA: Yes, Ms. Jarman. Any further discussion on Section 6-4.3? If there is no further discussion, let's move on to Section 6-4.4, Powers, Duties and Functions. Any discussion on this section? Let's move on to Section 6-4.5. No discussion, let's move on to Section 6-4.6. Any discussion?

CHR. HAITSUKA: Are you here for Chapter 8?

(Note: At this time, Randy Kurohara, Director, Department of Research and Development came forward to address the members of the Commission.)

MR. KUROHARA: Is this Chapter 8 or Chapter 6?

CHR. HAITSUKA: We are looking at a revised version of the Charter, you might not have it, but Mr. Kurohara, we will be moving on to your section. At the last meeting we covered Chapter 5, with Lincoln Ashida, Chapter 6, with Nancy Crawford, Chapter 7, with Bobby Jean Leithead Todd and Chapter 10, with Ivan Torigoe. So, I was skipping over those chapters, unless someone had an issue or discussion regarding those chapters. Let's move on to Chapter 8. Mr. Kurohara, can you identify yourself for us, please?

MR. KUROHARA: I am Randy Kurohara; I'm the Director of the Department of Research and Development.

CHR. HAITSUKA: Thank you. Mr. Kurohara, does your department have any questions or comments regarding Chapter 8?

MR. KUROHARA: Just that the Mayor is considering---I just wanted to let you folks know, he is contemplating a department name change.

MS. JARMAN: Can you say anything more that that?

MR. KUROHARA: I'm not quiet sure, but it is along the lines of Department of Economic Development versus Department of Research and Development.

CHR. HAITSUKA: At some point in time, is the Mayor going to send the request to amend this particular section?

MR. KUROHARA: I believe Mr. Ashida was going to be handling that.

MR. SHUMWAY: Can I ask why?

MR. KUROHARA: I think primarily because he wants the emphasis of the department to be more of an economic focus.

MS. JARMAN: Can I ask a question? Do you still have the Energy Coordinator under your department?

MR. KUROHARA: We are in the process of hiring an Energy Coordinator, but yes, there is a position.

MS. JARMAN: So, does that make sense to you to have it in your department, particularly if you end up becoming Economic Development. Or, do you think maybe it should go to Environmental Management? Right now, when I read the Powers, Duties and Functions, there's nothing to lead me to believe that energy even falls under Research and Development.

I'm just wondering what you think about that, and how that might fit in to your new restructured department.

MR. KUROHARA: Right now, it seems to fit. We have a sort of a broad scope of areas that we do oversee, which is agriculture, energy, tourism; we have the HCRC, which is the Hawai'i County Resource Center; we have film industry; we have small business development as well.

MS. JARMAN: Thank you.

MR. SHUMWAY: Hi, Randy. Does Mayor Billy plan on coming up with a whole set of Powers, Duties and Functions to go along with that name change? Do you anticipate the Powers, Duties and Functions staying the same, and just a name change?

MR. KUROHARA: That's what I believe it is, just a name change.

MS. JARMAN: Following Mr. Unger, it seems like if they're going to change the name, the Powers, Duties and Functions might need some tweaking as well. So, I would suggest the Mayor take a look at tweaking that, too. If I were to read that, it doesn't sound like a Department of Economic Development to me either. To the extent that when he makes that recommendation he can make it as clear as possible with other parts of other recommendations, I would appreciate that.

MS. KAWAUCHI: The Powers, Duties and Functions section also talks about staff leadership for social and cultural proposals. Do you know what that might mean in your department, social and cultural proposals?

MR. KUROHARA: In certain areas we do administer funds. In the tourism department, we provide funding for cultural festivals and events, things along that line. Also, some of our other funding might somewhat touch upon social and cultural areas as well.

CHR. HAITSUKA: What kind of background is required for the Director of the Department of Research and Development?

MR. KUROHARA: I believe, at the discretion of the Mayor--with our Mayor right now, and with the economy we have--one of his main priorities was to focus on the economy. I think he wanted somebody that came from the small business sector, which I do come from. That would be at the discretion of the Mayor, and the direction he wants to take. So, I do see that leaving it like that is good, because it does provide some kind of flexibility, but that is just my opinion.

MR. FUERTES: When you think of Research and Development, it's kind of a broad spectrum. I like the idea of the Mayor changing it into Economic Development, because Research and Development can be a subset of the department, when you look at it. When he's thinking about economic development, can you also share with him about community economic development as part of making some of the changes, because a lot of the small

businesses can occur from community based economic development. The State has an Advisory Council on Community Based Economic Development which promotes small businesses to happen, and also non-profits for economic development to stir up small businesses to happen. Can you relay that to the Mayor?

MR. KUROHARA: Okay, I will.

MR. FUERTES: Thank you.

CHR. HAITSUKA: Are there any further comments? Ms. Kawauchi.

MS. KAWAUCHI: I'm thinking that if this department's function is thinking about money making ventures for the County, either grant aide or stimulation for small businesses. What do you think? We're starting to now talk about changing from Research and Development to Economic Development, it seems like there is some discussion---

MR. KUROHARA: It's more of an emphasis; that is really his key. In every area that we have--tourism, agriculture--there is economic development within each one of those. But, it is the focus of the programs that we promote within it; the focus of how the money is spent, or how the grant money is given out. We can kind of tailor it to make sure that it is more in line with his vision of economic development. Not that we will cut out research, but do less research and more economic development.

CHR. HAITSUKA: Are there any further questions? Ms. Jarman.

MS. JARMAN: Has the Mayor thought about having a separate department, and still have Research and Development? I'm still not sure that Research and Development, in and of itself, is a department worth having, because the way you are now describing it--the way it now functions, at least for the research--will become so secondary. It might not even be doing that much research anymore. Do you think there should just be a new department called Economic Development, and still have Research and Development?

MR. KUROHARA: Most counties call this department Economic Development; maybe Office of Economic Development, or Department of Economic Development. I think in the State of Hawai'i we're the only one that has a Research and Development.

MS. JARMAN: I'd just hate to lose the research part of it, so maybe it could be Research and Economic Development.

MR. KUROHARA: It's still being done; we fund that, but---

MS. JARMAN: It doesn't sound like much, though. If you keep the name in, it might boost the research part of the department.

CHR. HAITSUKA: Any further discussion or questions for Mr. Kurohara? Thank you.

MR. KUROHARA: Thank you.

CHR. HAITSUKA: We have Mr. Lee here, I believe.

MR. MASUDA: Mr. Chairman, before you go to Public Works, is the Commission going to recall Environmental Management? We have Mr. Torigoe here.

(Note: At this time, Ivan Torigoe, Deputy Director, Department of Environmental Management, came forward to address the members of the Commission.)

CHR. HAITSUKA: Mr. Torigoe, you wanted to address the Commission?

MR. TORIGOE: Thank you Mr. Chairman. Not necessarily, but I just wanted to report to you that last time I was here I said we were going to have a meeting of the Environmental Management Commission on May 27, 2009. Unfortunately, we had a quorum until the night before, and then that fell apart. We have not been able to consult with that Commission. We are hoping to do so at the next meeting, which is going to be July 29, 2009. Unless you have any questions, that's all I had to report.

MS. JARMAN: I think I had asked you to go back and talk to the Director, and maybe the Commission, about adding Energy to you instead of having it in Research and Development. Did you have a chance to have that discussion? Or is that still planned, and you can report later?

MR. TORIGOE: I can tell you, just generally, what the Director's leans are at this point. As this Commission has noted, Research and Development is a pretty broad spectrum, as opposed to Environmental Management, really being focused on controlling certain basic impacts on the environment and people on the island, namely solid waste and wastewater. The Environmental Management Department's expertise is focused in that way, and we are really not equipped or staffed to take on the primary role in helping in terms of energy and food sustainability. In that sense, we would tend to rather see it stay with Research and Development, which I think is better geared toward attacking these sustainability types of questions. That's the general direction that I've gotten from the Director at this point. Again, these are all matters that we want to take to the Environmental Management Commission to get further input.

MS. KAWAUCHI: As a follow up to Casey's comment, energy also consists of waste to energy as well. There is sustainability as well as waste to energy, so do you have any comment on that?

MR. TORIGOE: Again, that would be kind of a by-product of the general mission of the department, to control the solid waste flow. That's just one small part of the entire sustainability and energy equation. We think that broader questions or approaches about energy sustainability would probably be handled better by Research and Development.

MS. JARMAN: Actually, now that they're going to go more to economic development, I would even feel less comfortable having Energy with Research and Development. Not because all economic development is necessarily antithetical to sustainability and to energy sustainability. But, it seems to me that Environmental Management, even though to date has been fairly narrowly having to do with waste, would be in a better position to look at the broader issues. You wouldn't end up with some of the same conflicts you do as when you end up with economic development, that are realistic conflicts. I think there are always trade-offs made when you are doing economic development, and how you are going to be doing economic development. Having the eye of the environmental management side looking at it, to me, might move our programs forward further than with the Department of Economic Development. I'm just not sure how we would give it the same--elevate it in the Department of Economic Development, as we would in the Department of Environmental Management. Let's assume, for a moment, that the Council gave you enough resources to hire people to do energy and sustainability, would that change the department's mind?

MR. TORIGOE: Well, that's a rather large assumption, given the current economic climate. I think all of the departments are just scrambling to maintain sufficient resources to carry out their core mission. The Department of Environmental Management, in particular, is really playing catch-up over decades of not being equipped or funded to the level necessary to tackle the challenges that they are facing. This is not to say that the department wouldn't be involved. I think one of the things the Director has expressed is that it would be good for the department to be involved as kind of a department with a seat at the table, if someone like Research and Development were to take the lead. The questions of energy sustainability and food sustainability are very broad, and involve very specific technologies. For instance, when you are talking about photovoltaic power, these are very specific issues that require very specialized expertise to address. In that sense, these being cutting edge technologies, it is really something that is well suited to Research and Development, even Economic Development. When you are talking about Economic Development, you are talking about how industries will interact with your energy supply. Things like photovoltaic, these are emerging technologies that somebody really has to focus and specialize on. Whichever department actually takes on these issues will really have to be in a position to have some specialized expertise to deal with the emerging technologies, and how it is integrated into the business climate.

MS. KAWAUCHI: Is it possible that may even be a separate department, because of the breath, and the scope, and the expertise needed?

MR. TORIGOE: It is possible.

MS. OSBORNE: I'd just like to say that on Oahu, DBEDT, Department of Business Economic Development and Tourism, is very much entrenched with doing this work with energy and the Department of Energy on the national level. So, it is very comfortably couched in that department on Oahu.

CHR. HAITSIKA: Are there any further questions for Mr. Torigoe? Thank you.

MR. TORIGOE: Thank you, Mr. Chairman.

CHR. HAITSUKA: We are going to go back to Chapter 2, Department of Public Works. We have Mr. Lee, Warren Lee.

(Note: At this time, Warren Lee, Director, Department of Public Works, came forward to address the members of the Commission.)

CHR. HAITSUKA: Good afternoon, Mr. Lee, does the Department of Public Works have any comments regarding Chapter 2 of the Charter?

MR. LEE: Good afternoon. No, what I just reviewed in Chapter 2---I'm not sure what the Commission has on Chapter 2, but I'm here to answer any questions.

CHR. HAITSUKA: Do any of the Commission members have questions for Mr. Lee regarding Chapter 2 of the Charter?

MS. JARMAN: I just have a question. Why does the director have to be a registered Professional Engineer, do you think? This should be an Alapaki question, because he could say, "You don't have to be a registered Professional Engineer, can't you just be a director." So, Alapaki, ask the question for me. I'm sorry, go ahead.

MR. LEE: The Department of Public Works currently has about six divisions. One of the divisions is what we call the Engineering Division. The Engineering Division primarily does design work, and they review the plans of other professional engineers that submit the plans for approval to either the Building Division or the Engineering Division. So, when you are reviewing plans for a consultant, the consultant needs to submit registered engineered stamped drawings. Whether they are electrical, mechanical, civil, structural, nuclear, or whatever it is, there is a registered engineer system. It's the same thing with architects, they are registered.

When you have engineers under you in the department, what they need to do to get the registration is, first of all, you need to get a Bachelor's Degree or equivalent experience. Then, you need to take what we call the first of the two exams, which is an Engineer in Training exam, often referred to as the EIT. That is generally taken by a college graduate right after getting a Bachelor's Degree. Then, you need three years experience in a particular field, such as Civil Engineering or Structural Engineering, to take the State license. Some states have reciprocating agreements, where, if you are licensed in one state, you can be licensed in another state. For example, we have engineers that may be practicing, and have clients in Hawai'i, that are actually registered in the state of California, and vice versa, and in Hawai'i, engineers that are registered in Hawai'i who have licenses in other states. The point I am trying to make is that we have engineers in the department, and to be eligible to be a registered engineer, you need to take the test and pass the test. Part of passing the test is to have qualified by passing the EIT, which is the first test, and having worked under a registered engineer to be eligible to take the exam. That's why the head of the department, because you have engineers under them, should be a registered Professional Engineer.

MS. JARMAN: In a sense, you can help the careers out of young engineers so that they can get that final experience to get that final registration.

MR. LEE: That is correct. To answer that question, also, is that the way the civil service is structured right now, using the civil engineers as an example, we have positions called Civil Engineer I, Civil Engineer II, III and IV. To be a Civil Engineer V, you need to be registered. Then, there is a Civil Engineer VI position, and the Division Head is Civil Engineer VII. Then there is the Director of Public Works. So, you have a series of requirements that--I don't want it to sound like there is only one registered engineer in the whole County of Hawai'i, and that has to be the director. It is a professional licensing program, and there are certain requirements for certain positions because of the degree of difficulty in the job descriptions assigned, that you have different ratings of Civil Engineers. The things that are common to the V, VI, and VII levels are the professional requirement.

MS. JARMAN: Thank you, that helped me a lot. I appreciate it.

CHR. HAITSIKA: Any other questions of Mr. Lee? Thank you, Mr. Lee. Any discussion on Section 6-2.1, 6-2.2, Section 6-2.3? Let's finish this Article with Chapter 9, and then take a 10 minute break.

MR. NAHALE-A: I have an overall question as to why in some sections the Powers and Duties just describe an ordinance and others are articulated in the Charter. Some sections, the Powers, Duties and Functions, they just reference the Code, and other sections the Powers, Duties and Functions are enumerated in the Charter itself. Is there some rhyme or reason as to why that is the case?

MR. MASUDA: Not that I know of. For some things, where it's going to be a developing area, or an area that is constantly moving, you are going to want to have the requirements in the Code, versus the Charter, so it can be amended quicker. But, none of these seem like something that is going to be developing so fast that you cannot put it in the Charter.

CHR. HAITSIKA: Chapter 9 is Miscellaneous. We have Section 6-9.1, the Clerical Pool. Any discussion? No discussion, let's move on to Section 6-9.2, the Board of Appeals. Any discussion? My only comment is that it seems odd that it is in this location. Maybe it should be under the Planning Department. Other than that, I don't have any comments.

MS. KAWAUCHI: I would agree. Should we ask our attorney to draft an amendment?

CHR. HAITSIKA: I can have him do one amendment that would cover some of the movements we have talked about. Ms. Jarman.

MS. JARMAN: I notice that they actually do final decisions of both the Planning Director and the Director of Public Works, so maybe that's why it's separate, I don't know. Under (a) it says, "Hear and determine appeals from final decisions of the planning director or the director of public works regarding matters within their respective jurisdictions."

CHR. HAITSUKA: I know for administrative purposes they are tied to the Planning Department, it looks like.

MS. JARMAN: I don't have any strong feeling either way.

CHR. HAITSUKA: Any further discussion? There being no further discussion, let's take a 10-minute break.

RECESS: At 2:55 p.m., the Chair called for a 10-minute recess.

RECONVENE: The meeting was reconvened at 3:08 p.m.

CHR. HAITSUKA: I'd like to call this meeting back to order. Mr. Shumway wanted to address a change to the section on Environmental Management.

MR. SHUMWAY: I just wanted to mention that I noticed that in Chapter 10, Environmental Management; Section 6-10.1 and 6-10.3 didn't have titles. They had been added in the other Charter, Organization and Director. I would ask that we ask the attorney to put those back in for clarity and consistency. I discussed with the Chairman, that possibly for all of these typographical things, we could group them all together as we go, and just have one amendment dealing with these minor issues. I do think it's important just for readability and consistency.

CHR. HAITSUKA: I think that's a good idea, and I'll ask Mr. Hookano to put something together with some of the other typographical errors, and other errors that were omitted from the past Charters, that we discussed last week.

MR. SHUMWAY: Thank you.

CHR. HAITSUKA: Any further comments before we move on?

## **NEW BUSINESS**

### **DISCUSSION OF ARTICLES VII-VIII, HAWAI'I COUNTY CHARTER**

CHR. HAITSUKA: We're moving on to New Business, and on our agenda are Articles VII and VIII. Let's start with Article VII, Departments and Agencies Under Commissions. Chapter 1 is the Department of Human Resources, and we have already heard from Mr. Ben. Let's go through that particular chapter and see if anybody has any questions or discussion. Section 7-1.1, is there any discussion? If there is no discussion on Section 7-1.1, is there discussion on Section 7-1.2? Let's move on to Section 7-1.3. This is the section Mr. Ben made some recommendations on so we'll hopefully cover that with the submittal of his proposed amendments. Is there any discussion on Section 7-1.3?

MR. SHUMWAY: I have one question. There is no mention at all of requirements, administrative or otherwise. I don't know if there is a reason for that or if it should be included.

CHR. HAITSUKA: Mr. Ben.

(Note: At this time, Michael Ben, Department of Human Resources, came forward to address the members of the Commission.)

MR. BEN: The requirements for the Director of Human Resources are described in the Civil Service Statutes.

MS. JARMAN: Mr. Ben, will you stay up there, please. My question is on Section 7-1.6, we're not there yet, I just didn't want you to leave.

CHR. HAITSUKA: We can go to Section 7-1.6.

MS. JARMAN: Mike, it says the Department of Human Resources shall come under the general supervision and control of the Mayor. But, if you are not appointed by the Mayor, and can't be fired by the Mayor, what exactly does that mean? Is that appropriate? Should you be housed there for some other purposes? What do you think?

MR. BEN: It's funny that you would bring that up, because I think that the Council is looking at amending the Code, too. Some departments are under the administrative directive of the Managing Director, and I pointed out that mine is still the Mayor, so you can't put me under the Managing Director. To me, the only purpose of that means that my budget approval, my leave requests, all that gets approved by the Mayor. It's not to say that the Mayor decides what courses of action I take in administering the Human Resources program. But, in terms of logistics, about budget preparation and everything else, it flows through his office.

MS. JARMAN: So, there's no need to change it, as far as you are concerned, just leave it that way.

MR. BEN: I'm fine with it, yes.

MS. JARMAN: Okay, thank you.

MS. HONMA: I have one question. The appeals board, are there term limits for the board members? All the other ones have term limits.

MR. BEN: Yes, there is a five-year term limit. If it's not prescribed in there--I'm sorry I didn't bring it up--I'm pretty sure it's prescribed in Section 13. I think everybody has five-year term limits, except for the Commission on Government, or whatever that was that you talked about.

MS. HONMA: Thank you.

CHR. HAITSUKA: Any further questions for Mr. Ben? Thank you, Mr. Ben. Any further discussion on Section 7-1.6? Is there any discussion on Section 7-1.4, or Section 7-1.5? Let's move on to Chapter 2, Police Department. I understand we have Deputy Chief Paul Ferreira. Good afternoon, Chief Ferreira.

(Note: At this time, Deputy Chief Paul Ferreira, Police Department, came forward to address the members of the Commission.)

DEP. CHIEF FERREIRA: Good afternoon.

CHR. HAITSUKA: Does your department have any questions or input regarding Chapter 2 of the Charter?

DEP. CHIEF FERREIRA: No sir, we have no changes or amendments to the Charter. I am here just to answer any questions that you may have.

CHR. HAITSUKA: Are there any specific questions for Chief Ferreira at this time?

MR. UNGER: I have a question. It was about a month ago, in the West Hawai'i Today, there was an article on the Police Department and the Police Commission. Tom Whittemore, I think, was the Chairman of that Committee. I'm looking for help here. There was one issue, I don't remember what it was, but it was something they specifically said they would like to take up with the Charter Commission. I meant to call him before this meeting, but I never got around to it. Do you have any idea what they could have been referring to? It was about a month ago in the West Hawai'i Today, and it was pretty lengthy.

DEP. CHIEF FERREIRA: Off the top of my head, no, but I can very well go back and look for it.

MR. UNGER: I'll call them too.

CHR. HAITSUKA: One of the other recommendations from Mr. Ben was to eliminate Section 7-2.5, I believe. Do you have any comment about eliminating that particular section?

DEP. CHIEF FERREIRA: Not the way it's written, no.

CHR. HAITSUKA: Ms. Jarman

MS. JARMAN: Thank you. I just have a couple of questions that come out of my ignorance that I just want to ask you. Do you think five years of training and experience in law enforcement is enough to be a Chief?

DEP. CHIEF FERREIRA: I believe that's a minimum qualification that is set by the Charter. I don't believe that's the qualification that is looked at by the Police Commission when they actually go out seeking an applicant for the position.

MS. JARMAN: Do you think we should raise it?

DEP. CHIEF FERREIRA: Maybe Mr. Ben can offer an explanation, but in looking at the Charter, all of the positions have that five year minimum qualification; but I understand that all of them carry a higher qualification when they actually go out to advertise.

MS. JARMAN: Do you think five years is enough?

DEP. CHIEF FERREIRA: I have 27 years, and I'm still doubting it.

MS. JARMAN: I'm just thinking that five years to be the Police Chief doesn't---Again, I know nothing, really very little.

DEP. CHIEF FERREIRA: I hold it to our Police Commission, or even the Mayor. Any position that is overseeing whatever department that they have, when they seek the candidates, although this is the minimum qualification, you are looking for somebody of a little higher caliber. You are looking for somebody that has the education, experience and background behind them. This is just a minimum level that is set, just a baseline.

MS. JARMAN: So you're fine with that.

DEP. CHIEF FERREIRA: Yes, for now, yes.

MS. JARMAN: For 10 years? There won't be another Charter Commission for 10 years.

DEP. CHIEF FERREIRA: Even if that is a baseline for 10 years, again, the qualifications would be higher, depending on what the Commission would put out.

MS. JARMAN: Do you think the Charter should reflect reality, or do you think it doesn't matter? If in reality we want a Police Chief who has had 20 years of experience, should we have that in the Charter?

DEP. CHIEF FERREIRA: Yes, you probably could. But, what would you set as the baseline? Would you say 10 years, or 15 years?

MS. JARMAN: I don't know. I would ask you for your expertise on that. I don't have strong feelings either way. It just seemed like five years is short.

DEP. CHIEF FERREIRA: Like I said, I think it is a minimum baseline, and we depend on the Police Commission or the Fire Commission to look at what they actually want in the applicant, what kind of expertise they want. They will do a comparative with other

departments throughout the nation as to what is the minimum qualification you would want in a Police Chief.

MS. JARMAN: My second question is that there is no qualification for somebody to be a Police Commissioner. So, I could be a Police Commissioner, and I really know very little, I know next to nothing about law enforcement. Are you fine with not having any Police Commissioners being required to have some experience in law enforcement?

DEP. CHIEF FERREIRA: The Police Commission is an oversight board for the department, so they do not necessarily have to have law enforcement background or experience. They have to have the feel of the community. They have to be able to be appointed to the board, and be receptive to whatever concerns the community would raise, not necessarily knowing what my expertise or my job is. They have to be able to reach out to the community, and the community has to be able to approach them, give them their problems, and trust in them enough to come to them with their concerns. They don't necessarily have to know my job, the police officer's job. That's what we are here for, that's what the attorneys are here for. They can always call us as witnesses; they can always call anyone in the department to explain to them what the actual procedures or policies are.

MS. JARMAN: So, you feel that is working well, at this point.

DEP. CHIEF FERREIRA: Yes.

MS. JARMAN: Okay, thank you very much.

CHR. HAITSIKA: Are there any other questions?

MR. NAHALE-A: Mr. Ben, are you involved in the recruitment of the Police Chief and the Fire Chief?

MR. BEN: Not specifically, but we have been asked, and we have provided assistance when asked.

MR. NAHALE-A: In terms of the minimum standards, do you do that research for them?

MR. BEN: I don't recall us doing that particular function for them. I think they did it on their own. If I may comment on that point, we need to be very careful when we use the minimum qualifications, to make sure that they are valid and appropriate. Minimum qualifications simply mean that's the minimum you need in order to perform the function of the position. We need to be careful that we don't set artificial minimums that in effect might start disqualifying other candidates who may be otherwise qualified.

MR. NAHALE-A: On that note, some of the language in the Charter says, five years of related experience. My hunch is those are worthless words. Anybody can make some kind of connection. This theme keeps coming up over and over again, and it sounds to me like the

issue of qualification is handled in some other process. Either the Police Commission articulates something or---

MR. BEN: Yes, it has been.

MR. NAHALE-A: Maybe it should be seven years of successful experience, maybe it should be eight and one half years of---When do we stop articulating criteria in the Charter? Should it be an accredited degree, or should it be just a degree? So, that's your field of expertise, and I'm curious how we balance. These minimums seem to be basically a non-issue, that since we are going so far and above the minimum requirements, then what place do they have in the Charter?

MR. BEN: The desire of the Commission to seek persons with higher qualifications, for lack of a better term, isn't really in violation of the provisions. They are using those factors to distinguish one candidate being a superior candidate than somebody who has only five years of experience.

MR. NAHALE-A: They basically qualify under the Charter.

MR. BEN: Right. Even though we don't have authority, when these things do happen, we are keeping an eye to see that there is some semblance to what the requirements of the job are.

MR. NAHALE-A: If we had a Mayor that appointed somebody with absolutely no qualifications to do a job, is there some other check in our system to question that appointment?

MR. BEN: That, to me, is left to the voters, subsequently, if they feel that somebody who is not qualified for the job, is not doing the job.

CHR. HAITSUKA: Mr. Ben, since we have you up here, and we're talking about the Police Department, perhaps you could state the basis for your recommendation for Section 7-2.5.

MR. BEN: Right, that's why I came up. I realize I did not explain that. As Commissioner Jarman pointed out, it's a redundant provision. Furthermore, it's a little bit complicated, because although we have that in the civil service laws, the collective bargaining agreement, the union contracts that cover the police officers also dictate procedures to be followed when disciplining and terminating and suspending police officers. There is actually another body of rules and regulations that we need to follow. But, basically it is a redundant provision.

CHR. HAITSUKA: I think I would agree. I found it odd that only for this department you had a section like that.

MR. SHUMWAY: Mr. Chair, can I talk about Alapaki's comment about people with not enough experience being appointed. Doesn't the County Council have to approve? That's the check, right.

CHR. HAITSUKA: Is there any further discussion? Ms. Jarman.

MS. JARMAN: Can I ask one legal question, since we have an attorney up there? So, if the Charter says a minimum of five years experience, then when the Police Commission advertises, do they have to say a minimum of five years, or can they say a minimum of 20 years? Do they have to at least advertise consistent with the Charter?

MR. MASUDA: I would say they have to advertise consistent with the Charter, because they are guided by the Charter. Now, how they go and evaluate the different applicants is up to the criteria established by the Commission. But, we're looking only at minimum qualifications.

MS. JARMAN: Okay, so they would still have to say minimum qualifications; then they could say desirable qualifications, and add the more experience, or whatever. I'm just making sure we don't have a legal problem when they're hiring people with higher qualifications. Okay, good. Thank you.

CHR. HAITSUKA: Any further discussion or questions on Chapter 2? Thank you, gentlemen. Let's move on to Chapter 3, Department of Liquor Control. We have the Director, Ms. Jan Pakele here.

(Note: At this time, Jan Pakele, Director, Liquor Control, came forward to address the members of the Commission.)

CHR. HAITSUKA: Good afternoon, Ms. Pakele. Does your department have any comments as to any revisions to Chapter 3?

MS. PAKELE: Good afternoon. I do not, but I am here to answer any questions that you may have.

CHR. HAITSUKA: Can you identify yourself please.

MS. PAKELE: Janice Pakele, Director, Liquor Control.

MS. JARMAN: Should we call you Ms. Mayor? Ms. Possible Mayor?

MS. PAKELE: No problem, I don't think Billy would like that.

MS. JARMAN: Did you know that you were in line to be Mayor?

MS. PAKELE: You know, I do recall that, fleetingly.

CHR. HAITSUKA: You probably don't agree with the line-up though. You maybe should have been up front.

MS. PAKELE: Bottom is good.

CHR. HAITSUKA: Are there any questions for Ms. Pakele? We have Mr. Takase here.

MS. JARMAN: How is the Liquor Adjudication Board working? Does that function pretty well? Are you happy with that? Is there any need to change it, add qualifications or anything like that?

MS. PAKELE: No.

CHR. HAITSUKA: Any questions, discussion? Thank you.

MS. PAKELE: Thank you.

CHR. HAITSUKA: So, that concludes Article VII. Let's move on to Article VIII, Department of Water Supply. We have Mr. Pavao here if there are any questions for Mr. Pavao.

(Note: At this time, Milton Pavao, Manager, Department of Water Supply, came forward to address the members of the Commission.)

MR. PAVAO: Good afternoon, again.

CHR. HAITSUKA: Thank you, thank you for staying around. We're looking at Article VII, Sections 8-1, 8-2, 8-3, 8-4 and 8-5. Do we have any discussion or questions for Mr. Pavao? Mr. Pavao, I think your department's position is that you don't see any need for change to any of these sections at this point in time.

MR. PAVAO: No, I don't see any need, but one thing you might consider is that the water utilities are kind of unique in the State of Hawai'i. We have our own association--it's the Hawai'i Waterworks Association--comprised of each water department from all the islands. In each instance, except for the Big Island, the head of the department is Manager, Chief Engineer, and rightfully so. The position requires that you be a licensed engineer so that you really can understand the workings of the water supply, the engineering aspects, and the design aspects. So, you might consider, and I know it's a real trivial thing, but you might consider wherever you see the word Manager in Article VIII, that it be changed to Manager, Chief Engineer, to be consistent with the rest of the counties, and to rightfully describe the position adequately.

CHR. HAITSUKA: Alright, thank you. Any questions? Ms. Jarman.

MS. JARMAN: What's the difference between professional engineer and a registered engineer?

MR. PAVAO: A lot. An engineer is an engineer that graduates from college and works under a licensed engineer. To become a licensed engineer, it is different from when I got my

license. Today, you need to have four years experience working under a licensed engineer, and you need to pass an eight hour exam to get a license. The exam tests your knowledge on design factors, and your ability to do calculations correctly. So, there's a big difference. Every engineer's goal is to have his license. Without a license you cannot practice as an engineer. It is equivalent to passing the bar for an attorney. It's pretty much the same.

MS. JARMAN: But, is a registered engineer and a registered professional engineer the same thing?

MR. PAVAO: There is no difference; it's just a registered engineer.

MS. JARMAN: No difference, okay. That was my question, because the head of the Department of Public Works has to be a registered professional engineer, and I just wondered if there was a difference between the two.

MR. PAVAO: No, every professional engineer is registered.

CHR. HAITSUKA: Are there any other questions for Mr. Pavao? Thank you, Mr. Pavao.

MR. PAVAO: Thank you.

MS. JARMAN: Mr. Chair, should we ask our counsel to make that change about the Manager, Chief Engineer?

CHR. HAITSUKA: Alright, I'll add that to the list for Levi. Is there any discussion regarding Article VIII, Sections 8-1, 8-2, 8-3, 8-4 and 8-5? No discussion. That concludes our discussion today on Articles VII and VIII.

## **REPORTS**

CHR. HAITSUKA: Next on our agenda is Reports, and we don't have any reports.

## **REFERRALS FOR EXECUTIVE SESSION**

CHR. HAITSUKA: Let's move on to Referrals for Executive Session. We don't have any referrals.

## **ANNOUNCEMENTS**

CHR. HAITSUKA: The next item on our agenda is Announcements. Our next meeting is scheduled to be on July 10, 2009 at 1:30 p.m. Ms. Kawauchi.

MS. KAWAUCHI: Mr. Chairman, do we still have to approve our meeting minutes from our last Executive Session?

CHR. HAITSUKA: That is correct, I forgot about that. Thank you.

MR. NAHALE-A: I also have a quick question. Is there a replacement Commissioner? Is that in process?

CHR. HAITSUKA: I'll inquire about that, and have Levi give us some notification. Or, Char, do you have any information on that?

MS. SHIGEMURA: It's in the works. I'll follow up on that.

CHR. HAITSUKA: Okay, it's in the works, thank you. As far as getting back to the approval of the minutes, we still need to approve the minutes for the Executive Session from the last meeting, May 8, 2009. Anybody have a motion?

Ms. Kawauchi moved to approve the Executive Session minutes of the May 8, 2009 Hawai'i County Charter Commission meeting. Seconded by Mr. Shumway and carried by the following vote:

Ayes: Commissioners Fuertes, Honma, Jarman, Kawauchi, Nahale-a, Osborne, Shumway, Unger and Chair Huitsuka.

Noes: None.

Absent: Commissioner Kealoha.

MR. MASUDA: Mr. Chairman, you also have to announce the location of the next meeting.

CHR. HAITSUKA: The location of the next meeting is going to be at the County Council Room, here at the Ben Franklin Building, in Hilo. Again, it's going to be on July 10, 2009, at 1:30 p.m. I understand, Ms. Jarman, you can't make it.

MS. HONMA: Me too.

MS. OSBORNE: I cannot make it either.

CHR. HAITSUKA: Commissioner Honma, Jarman and Osborne. Is everyone else going to be here?

MR. FUERTES: I cannot make it.

MR. UNGER: It's too early to tell.

CHR. HAITSUKA: Mr. Fuertes can't make it. So we have four, we don't have a quorum. Perhaps we could move it to another day to have quorum.

MS. JARMAN: I'll be gone the whole month of July.

MS. OSBORNE: I return on July 16, 2009, so any time after that.

CHR. HAITSUKA: Let me take a look at the calendar. How is everybody's schedule on July 17, 2009? Casey will be gone the whole month.

MS. HONMA: I have my basketball camp on that day.

CHR. HAITSUKA: We have Susie, Todd, Scott, myself, David, and Jamae. We'd have a quorum, as long as everybody's healthy and can be there on July 17, 2009, at 1:30 p.m. at the County Council Room, Ben Franklin Building. We need a motion to move the meeting date.

Ms. Osborne moved to change the next regularly scheduled meeting to July 17, 2009 at 1:30 p.m. in the County Council Room, Ben Franklin Building. Seconded by Mr. Shumway and carried by the following vote:

Ayes: Commissioners Fuertes, Honma, Jarman,  
Kawauchi, Nahale-a, Osborne, Shumway,  
Unger and Chair Haitsuka.

Noes: None.

Absent: Commissioner Kealoha.

## **ADJOURNMENT**

CHR. HAITSUKA: Next item on the agenda is Adjournment. Do I have a motion to adjourn?

There being no further business, at 3:35 p.m., Ms. Kawauchi moved to adjourn the meeting. Seconded by Mr. Shumway and carried by the following vote:

Ayes: Commissioners Fuertes, Honma, Jarman,  
Kawauchi, Nahale-a, Osborne, Shumway,  
Unger and Chair Haitsuka.

Noes: None.

Absent: Commissioner Kealoha.

CHR. HAITSUKA: The meeting is adjourned. Thank you.

Respectfully Submitted,

Karen Eoff, Secretary

Approved:

Mr. Ed Haitzuka, Chair  
Hawai'i County Charter Commission