

MINUTES OF THE
MAUI COUNTY CHARTER COMMISSION

DATE: December 5, 1963
PLACE: Board Chambers, Wailuku, Maui
CALL TO ORDER: 7:50 P.M.
PRESIDING: Masaru Yokouchi, Chairman
MEMBERS PRESENT: Masaru Yokouchi, Chairman
Emil Balthazar
C. H. Burnett, Jr.
Richard Caldito
William F. Crockett, Vice-Chairman
Shiro Hokama
Nadao Honda
Harry Kobayashi
Thomas Yagi
Charles C. Young, Research Assistant

MEMBERS EXCUSED: Cornwell Friel
Keith Tester

OTHERS PRESENT: Kase Higa, Deputy County Attorney
Tatsuo Asari, Chairman, Kauai Charter Commission
Dr. Kaoru Noda, Chairman, Hawaii County Charter
Commission
Mrs. J. Van Zwalenburg
Robert Johnson, Advertiser Reporter
Earl Tanaka, Maui News Reporter

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ROLL CALL:

There were 9 members present and 2 excused at the regular meeting of the Maui County Charter Commission on December 5, 1963.

MINUTES:

The minutes of the regular meeting held on November 21, 1963 were distributed to the members of the Charter Commission. Minutes of the meeting held on November 7, 1963 were approved as circulated.

LITERATURE:

The following were distributed to the members of the Charter Commission:

1. Excerpts taken from discussion at the meeting with members of the House Finance Committee and Subcommittee of County and Municipal Affairs.
2. Preliminary Report by the Maui County Charter Commission to the Board of Supervisors.

LITERATURE: Cont'd.

3. Compilation of purchasing by the various departments of the County of Maui and information regarding activities of the Hawaii County Charter Commission from Charles C. Young, Research Assistant.

Before going into the discussion on the strong mayor-council form of government, Mr. Burnett stated that he would like to have the following noted on record:

"From what I have gathered in listening to the present officials and from listening to and contacting people within the county, there is no indication that the people want a change in the present form of government. However, I feel that the commission is duly bound, as a result of the act, to present to the electorate the choice of keeping our present form of government or going for a new type of government. The consensus of the commission seems to be a strong mayor type, and the only reason I am going along with them at this time is because I think the people should have a chance to vote on whether we should have a change or not."

GENERAL DISCUSSION:

Strong Mayor-Council Form of Government:

The Chair suggested that, rather than making formal motions at this time, the members only state their views on the questions posed by the Chair or any other member of the commission.

1. What officials should be elected? (Mayor, council members, attorney, auditor, clerk, treasurer?)

- Mr. Balthazar: Inasmuch as I do, without reservations, support the strong mayor type of government for the County of Maui, I cannot see any reason why I should vote for a half-strong mayor. I feel that the executive branch of this government should be strengthened considerably and I personally feel that the four members - attorney, auditor, clerk and treasurer - should be appointed by the mayor.
- Mr. Caldito: The clerk should be appointed by the council.
- Mr. Balthazar: None of them should be elected. They should be appointed.
- Mr. Burnett: (to Mr. Caldito) - What is your reason for saying that the clerk should be appointed by the council?
- Mr. Caldito: He will be responsible for the minutes of the council meetings.
- Mr. Burnett: He has few other duties besides the minutes.
- Mr. Caldito: I feel that, if he is responsible to the council and not to the mayor, we would get better results.
- Mr. Burnett: Who would hire and fire him?
- Mr. Caldito: Council members. That is the only appointment that the council will make.

- Mr. Balthazar: Inasmuch as it is also the clerk's responsibility to supervise elections, I was wondering whether we should restrict his appointment to the council. It would appear to my personal view that there would be some restrictions to the latitude of power we could give him.
- Mr. Crockett: I think not only should they be appointed, but the appointment of the attorney, auditor and treasurer should not be subject to confirmation by the Board.
- Mr. Balthazar: Couldn't a secretary of the council be appointed to perform the necessary functions of the council?
- Mr. Yagi: The question is whether the clerk is going to be a cabinet member of the administration. If he is going to be a cabinet member, the mayor should appoint without confirmation of the council.
- Mr. Crockett: My recollection from what I have gathered when the clerk appeared before us, is that the clerk has very little discretionary authority; that his job was to file ordinances, contracts, supervise elections, etc. I don't see why he should be a member of the cabinet or why the mayor should want to have him included in the cabinet.

Messrs. Hokama, Honda and Kobayashi agreed with Mr. Balthazar that the cabinet members should be appointed by the mayor.

- Mr. Yagi: In Honolulu the council appoints the city clerk. The powers and duties of the city clerk are similar in nature with those of the county clerk. The city clerk is appointed by the council; therefore, the clerk is not a cabinet member. The council members fix the salary of the city clerk.

2. How many members should there be on the Council or Board of Supervisors?

Mr. Caldito: I propose 9.

Mr. Balthazar: I think that question should be answered after we decide the next question.

3. Should Council or Board members be elected at large? By districts? As they are now? - One each from Molokai and Lanai running at large?

Mr. Yagi: At the present time we have one member from Molokai, one from Lanai and six from the Island of Maui, making a total of eight. With the Chairman we have nine sitting on the Board of Supervisors presently. I suggest that we have the same setup with one from Molokai, one from Lanai and six from the Island of Maui elected at large and a chairman selected by the members to conduct the council meetings. The chairman has no vote; the only time he can vote will be in case of a tie.

- Mr. Balthazar: Don't you think there would be a danger if the chairman is not allowed to vote unless in case of a tie?
- Mr. Yagi: But there is another person above him - the mayor, who has veto power.
- Mr. Caldito: That is why I propose 9 - so that the chairman has the privilege of voting also.
- Mr. Higa: On this question of how many members should be on the council, we do have a general law stating that in order for any board or commission to take action they must have a majority vote. If you propose eight men on the council, you must have a majority of the vote and you are going to run into complication because majority means five; four will not constitute a majority of the members.
- Mr. Balthazar: I tend toward the favoring of district representation in the strict sense that the man would be nominated by his district by voting at large. It seems to me that Lanai certainly deserves representation and any part of Maui of considerable size should have a chance to vote. I would like to explore the possibility of having it by districts - East Maui, Up Country, West Maui and Central Maui. In the geographic area of Makawao - Paia, Kokomo, Kaupakalua, Ulupalakua, and Kula - we very easily have 10,000 people. I would tend to lump those precincts in such a way as to get a fair balance of population.
- Mr. Yokouchi: What is your main desire to have district representation?
- Mr. Balthazar: To have these rural areas have a greater say in the decisions the county officials make. I feel, sometimes, if I were a supervisor now residing in Wailuku or Kahului, it will be only logic for me to pay attention to Wailuku or Kahului. They pay more taxes and I might tend to forget the problems in the rural areas where the minority resides. I always think the minority should be protected.
- Mr. Caldito: I am very much in favor that we have the same setup as we have now for the reason that, if you turn back the pages, you will see that the Board of Supervisors always take care of Hana, Makawao, Molokai, Wailuku and Kahului. I think this year they spent about \$40,000 for drainage in Wailuku, and that is about all that you can see. If you look at the budget that is being set up in Hana, it is more than Wailuku, Lahaina, and Kahului combined. I think in the past we had district representation, but they did away with it because times have changed - transportation came into the picture. Under the present setup, everyone is responsible to all the districts - Lahaina, Hana, Makawao, as well as Wailuku and Kahului. The best solution I would suggest is to find the faults of the government and of the elected officials we have now. If they have neglected their duties, then we have reason for change.

Mr. Balthazar: I am proposing that you nominate by districts, but elect at large.

4. Should the office of the prosecutor and county attorney's office be separated?

Mr. Yagi: I would like to see one head with two attorneys -- one the prosecutor and the other the counsel for the board. Assistants be left at the discretion of the head man.

Mr. Crockett: I still feel idealistically that the prosecutor definitely should be elected. After giving it more thought I think it would be better to have one attorney and have him be appointed by the chairman. I don't think this small department should be split. I think it would be better to keep it under one head.

Mr. Balthazar: I tend to favor Tom's view.

Mr. Yokouchi: Who would you propose be the appointing authority?

Mr. Crockett: I know in Honolulu the council has something to say about it.

Mr. Higa: In Honolulu the City and County corporation counsel is appointed subject to the approval of the council; whereas, the prosecutor is appointed by the mayor and not subject to approval by the council. I think the theory behind it is that, if you have separate attorney for the council and separate attorney for the mayor, you are going to run into trouble.

Mr. Asari: We discussed this particular problem and the commissioners of Kauai thought the functions should be separate. I personally was for the separation. I wanted the prosecutor elected. They felt that the prosecutor should be appointed. The mayor appoints the counsel who only advises the administration and the prosecutor is appointed by the council because they felt this was closer to being elected.

Once the department is separate there would be a difference of opinions simply because their responsibilities would be defined.

Mr. Yokouchi: The Kauai Commission didn't take formal action on this idea. This is what they are contemplating.

Dr. Noda: Last night the Hawaii Charter Commission decided to elect a mayor and that there will be no separation between the prosecutor and legal counsel. I think the decision was reached on the basis of whether the County of Hawaii can afford this separation which had two distinct offices.

When we interviewed the county attorney, he mentioned the fact that as far as workload is concerned, workload, prosecution and legal advice

comes out about even. Therefore, we felt that, if we separate the two, one may clamor for more staff because of the heavy workload and yet, few months later find that they are overstaffed. So you are staffing two offices instead of one.

Mr. Asari: Large criminal cases will take a lot of time. We did consider the problem of cost. The justification is this - you will not have the same type of hire. Under our system he will be appointed. The responsibility will be on the position above him - the mayor. Therefore, the commission felt that we will go for the creation of the offices, but as to the staffing, we thought it lies with the administration so that they would be able to have the proper number. The commission will not be able to say that there will be so many staff members. They felt that that will be taken care by the chief administrative office.

Mr. Burnett: Was any thought given to the idea that the county attorney should reflect what the mayor wants done?

Mr. Asari: We are proposing the mayor appoint his own county attorney.

Mr. Burnett: You are getting back into your thinking that the prosecutor is responsible to the mayor.

Mr. Asari: In our setup he will be responsible to the council because the council is responsible to the mayor.

Mr. Higa: If you look at it objectively I think it would be good to have the county attorney appointed by the mayor and become responsible to the council and the mayor. The Kauai Commission has a very novel idea that the council appoints the prosecutor, but I think you will find that where there is a separate prosecutor and corporation counsel, in a lot of cases the prosecutor is elected.

I feel that the prosecutor should be responsible to the people as a whole and not to a group of individual people who might exert pressure on him. I think elected prosecutor would be more responsive to the public. If you have a prosecutor, you must have at least two. I think you can manage with two prosecutors and two attorneys who will advise the council and the mayor and still have the same secretarial staff of two or maybe three.

The Chair called for a recess at 9:00 P.M. Meeting was reconvened at 9:07 P.M.

5. What should be the term of office of elected officials?

Mr. Balthazar: I favor four-year term for the mayor.

- Mr. Burnett: I favor two. The reason is that they are little more responsive to the people. If the House and Senate go for two years, I don't see why we should put them in four years. You have a chance to throw them out in two years.
- Mr. Balthazar: I feel the complexity of modern government is such that in two years' time you cannot really get worthwhile long range programs to effect. In a four-year term he has one year to get adjusted, two good years for the program and the fourth year he is ready for the next election.
- I favor two years for the councilmen because I feel they more personally represent the people.
- Mr. Crockett: I am very definitely in favor for two-year term for the board. I think it is a good thing that they go to campaign every two years.

6. When should charter go into effect?

- Mr. Yagi: I think I will go along on the basis that the charter go into effect in 1966 and the people be elected on January 1, 1967. The reason is that I hate to see anyone be put out of office in the middle of their elected term. I want to see that their term of office is fulfilled.
- Mr. Crockett: If the election is in 1966 and the charter goes into effect in 1967, we are going to have the county and state elections at the same time. The basic question is whether we want separate elections. Also, if we have our election in the year we have the presidential election, then you will have a very long ballot.
- Mr. Yokouchi: Is it important to have elections simultaneously?
- Mr. Balthazar: I favor elections at the same time with the other because we cannot divorce county election from the state. If the administration is not good, we can get rid of them and at the same time get a new administration. I agree with Tom - we should wait until 1966.
- Mr. Kobayashi: Seems to me that the county attorney, prosecutor and police department are quite related. If the police chief is going to be appointed by the mayor, the prosecutor should be appointed by the police chief. If the police chief is going to be appointed by the board, we should have an appointed prosecutor. I think they should be responsible to each other. You cannot give all the powers to one person - the mayor. The mayor can appoint the police chief; the police chief can appoint the prosecutor.

7. Should some departments, now under independent boards or commissions, come under the control of the mayor or council? (E.g., Board of Water Supply, Maui Community Hospitals, Police, Liquor, Kula Sanatorium and General Hospital.)

Mr. Kobayashi: We should have a certain number of commissions; we cannot abolish all the commissions and boards. Possibly we should have the Police Commission, Hospital Board of Trustees who would take care of all the hospitals in the County of Maui (including Lanai and Molokai), and Board of Water Supply.

Mr. Balthazar: I agree they should be in an advisory capacity without quasi-judicial powers. Take the Water Board - I cannot see such a large business being completely separate from the county itself when it affects such a vital need to the people of the county. I will vote that the Board of Water Supply come directly under the mayor and not separately as it is now, not as an independent board. That is the position I will take on all of the boards and commissions.

Mr. Yagi: As far as the police, water and health departments are concerned, I think they should be autonomous as the present setup. At the present time I don't see any fault in them.

Mr. Kobayashi: How do you propose to carry it financially?

Mr. Yagi: I think it is the responsibility of the State to help. I don't think the Water Board will be self-sustaining. I don't think the Police Commission and the hospitals will be self-supporting.

I don't think we could ever include Lanai and Molokai under the county setup because they are community hospitals. They are not a responsibility of the county. They do not come under civil service. Maui County has no say in these community hospitals although they have state funds which are distributed by the county.

Mr. Balthazar stated that he doesn't want to see any quasi-judicial powers. I disagree with him because what is happening now is alright.

Mr. Crockett: I feel we should keep the Board of Water Supply, Hospital Board of Trustees and Police Commission. As far as the Board of Water Supply and hospital are concerned, they are really businesses and should be run in a businesslike manner.

Mr. Balthazar: I believe that, if the mayor appoints a commission of five members on an advisory capacity, he should have direct veto power.

8. Should the Personnel Director of the Civil Service Department be appointed by the commission or by the Mayor?

Mr. Yagi: I think he should be appointed by the mayor, not subject to civil service classification.

Mr. Balthazar: Should he be confirmed by the council or strict appointment?

Mr. Yagi: I think being a cabinet member, he should be appointed solely by the mayor.

9. Should the Chief of Police be appointed by the Police Commission or by the Mayor?

Mr. Kobayashi: The mayor.

Mr. Balthazar: (Agreed with Mr. Kobayashi.)

Mr. Yokouchi: I believe the proposed budget for 1964 is going to be over \$1,000,000. The finances are supplied by the County. One protest on the county level is that the elected officials responsible for the finances for the county have no say on the budget of the Police Department. Who shall appoint the Chief of Police? That is one way of controlling the department.

Mr. Yagi: Does the Board have anything to say about the budget of the Police Department?

Mr. Higa: As a matter of fact, the board has some control over the budget. Once a radio is installed, it becomes a fixed maintenance. As far as new hires, they cannot get any policemen.

Mr. Kobayashi: If it operates under a commission, the board of supervisors will have no control over them. What about the "B" account?

Mr. Higa: You can still make the proposal under the "B" account. The board has certain control.

Mr. Yokouchi: If the Police Department is run by the commission, the Chief of Police is appointed by the commission. The way the county can control the department is by having the budget channeled through the mayor. The final authority of the budget is the mayor. Presently the Police Commission prepares the budget; they appoint the Chief; they run the Police Department.

10. Should Manager of Board of Water Supply be appointed by the Board of Water Supply or by the Mayor?

Mr. Balthazar: Mayor should appoint him.

11. Should Planning Director be appointed by the Mayor or by the Planning Commission?

Mr. Yagi: The mayor. The Planning Director is presently under civil service. We should pay him as a cabinet member and make him non-civil service.

Mr. Higa: You could abolish the position, but the practice has been, in the past, where there is a civil service employee and you want to make him a non-civil service employee, make a provision that

this shall not take effect until the person resigns. There is a tendency to keep the employee on the job if he is under civil service until there is a change. I would suggest you consider these points.

12. Should Liquor and Civil Service Commission members be paid?

Mr. Balthazar: Yes, why not?

Mr. Caldito: They should pay all commissioners.

13. Should there be a Traffic Commission apart from the Planning Commission?

Mr. Crockett: I don't think there should be a Traffic Commission.

Mr. Yagi: I think they should be separate.

Mr. Crockett: I don't see why the Board can't take care of the things the Planning and Traffic Commission does. Basically I feel we shouldn't have any of these commissions.

The Chair suggested that voting on all the questions taken up at this meeting be held at the next meeting. Mr. Yokouchi also mentioned that the members should study the possibility of consolidating other departments besides the Treasurer's and Auditor's.

ADJOURNMENT:

The meeting was adjourned at 10:10 P.M.

NEXT MEETING:

December 12, 1963 at 7:00 P.M., in the Board Chambers.

Respectfully submitted,

Harriette E. Miyamoto

HARRIETTE E. MIYAMOTO
Secretary