

MINUTES OF THE  
MAUI COUNTY CHARTER COMMISSION

DATE: June 4, 1964  
PLACE: Board Chambers, Wailuku, Maui, Hawaii  
CALL TO ORDER: 7:45 P.M.  
PRESIDING: Masaru Yokouchi, Chairman  
MEMBERS PRESENT: Masaru Yokouchi, Chairman  
Emil Balthazar  
William F. Crockett  
C. H. Burnett, Jr.  
Nadao Honda  
Thomas Yagi  
Charles C. Young, Research Assistant  
MEMBERS EXCUSED: Richard Caldito  
Cornwell Friel  
Shiro Hokama  
Harry Kobayashi  
Keith Tester  
OTHERS PRESENT: Kase Higa, County Attorney  
Mrs. Jay Van Zwalenburg  
Jack Stephens, Maui News Reporter  
Robert Johnson, Advertiser Reporter

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ROLL CALL:

There were 6 members present and 5 excused at the regular meeting of the Maui County Charter Commission on Thursday, June 4, 1964.

DISCUSSION ON REVISIONS:

Mr. Higa briefly explained the revisions to the proposed charter, copies of which were circulated to the members of the Charter Commission.

Paragraph 4 of Section 6-6:

Mr. Higa: On page 13 the regulations were made to conform with the Administrative Procedures Act. The opinion of the corporation counsel was that this Act superseded what they had in their charter. According to the Administrative Procedures Act, you go through a regular procedure of giving notice to the public, which in a way is more stringent than what we had decided upon. What we had decided upon does not call for public hearings.

The enabling act says that general legislation is a matter which is reserved by the legislature and the Administrative Procedures Act is a general legislation of concern throughout the states.

Mr. Crockett: I do not care about the publication. We had agreed that such rules must be approved by the council and the mayor.

Mr. Higa: The Administrative Procedures Act is very technical. After adoption by the agency, the rules shall be transmitted to the county clerk. It becomes effective ten days after filing with the county clerk and thereafter the county clerk shall file it with the Lieutenant Governor.

Mr. Crockett: Wouldn't it mean that we are trying to amend the Administrative Procedures Act in the charter?

Mr. Higa: The Administrative Procedures Act covers things quite thoroughly as far as rules and regulations are concerned.

If you will notice the comments by Mr. Suzawa, he pointed out that this section should conform to the Administrative Procedures Act.

Mr. Crockett: Originally we had agreed that those regulations must be subject to approval of the council. My viewpoint is that we discussed it pretty thoroughly, not only concerning the Water Board but when Tom brought up the Liquor Commission. The second point is that I think the Administrative Procedures Act simply sets forth the procedure that must be followed before and after they are enacted. I don't think they preclude the approval of the rules by the council. I don't see anything in here that the legislature says you cannot require that they be sent to the council for their approval. I have no arguments on the procedures for publication, etc. What I would insist on is that we retain the words "Such regulations upon approval by the council and the mayor". I think it is very important.

Mr. Balthazar: I agree that that provision remain--that the regulations must be approved by the council.

Mr. Higa: We'll revise this to incorporate that idea so that it won't be any direct conflict with the Administrative Procedures Act.

Section 3-4. Vacancy in Office:

Mr. Higa: Regarding vacancies in the office of councilmen, we have decided that in the case of a vacancy by a Maui member of the council, the person who received the highest number of votes at the last election for councilmen shall fill the vacancy. Was it your intent in doing this to say that if that person was not available, to go to the next person?

Mr. Yagi: From a political party standpoint, when a Democrat dies, will he be succeeded by a Democrat?

Mr. Balthazar: That is what Mrs. Soule recommended at one of our previous meetings. I favor that compared to what is in the charter.

Mr. Higa: To be really consistent you should keep it like the vacancy in the Lanai or Molokai councilman. If it is less than one year, have the council appoint. If it is more than one year, it is important enough to have a special election. This is only a matter of technicality, but we should do it in a practical way.

Mr. Balthazar: I think the procedure for the Molokai or Lanai vacancy is consistent.

Mr. Yagi: Moved that this provision be retained as is. Seconded by Mr. Burnett and carried unanimously.

Mandatory Review:

Mr. Higa: The only other change is the mandatory review every ten years of the existing charter, which you commissioners had agreed upon at the last meeting. We have included this on page 57.

Hiring of County Physicians:

Mr. Higa: Among the powers of the finance director we have included specifically the fact that he shall be hiring county physicians. In other words, the charter will be self-executing in that respect. On page 19, paragraph 7 reads: "Contract for services of independent contractors, including contractors for public works and county physicians, and ..." As far as the indigent burials, we will explain this in your report to the Board of Supervisors.

SUGGESTIONS BY MR. CROCKETT:

Mr. Crockett: Under Section 3-2, shouldn't we eliminate the year 1967 because the terms of office of the first councilmen will be 1967, but thereafter the terms will be from 1971, 1975, etc.

(It was agreed that this section shall be changed to read "The terms of office of councilmen shall be for four years, beginning at twelve o'clock meridian on the second day of January following their election.)

Mr. Crockett: Suggested that under Section 3-3, in the last sentence, decisions made by the council shall be subject to review by the Second Circuit Court, State of Hawaii. (Agreed)

Mr. Crockett: Under subparagraph 2 of Section 3-9, which county employees or which county officers are subject to the direction and supervision of the mayor? For example, are the employees of the hospitals and police department considered in that category? I suggest we delete the words "who are subject to the direction and supervision of the mayor". (Agreed)

Mr. Crockett: In Section 4-3 I suggest we insert the words "or resolutions having the effect of law" after the word "bill". (Agreed)

Suggested the use of the word "agency" only, wherever it says "agency, department, board or commission" in the charter. (Agreed)

- Mr. Crockett: Under Section 6-5, subsection 2 of page 13, would you interpret this to include independent agencies?
- Mr. Higa: As far as the Water Board is concerned, the council has nothing to do with the finances. This section should be applicable to all departments where the council makes the appropriations.
- Mr. Crockett: On the section pertaining to the qualifications of the councilmen, there is a provision for the removal of a councilman for a crime involving moral turpitude. Shouldn't there be a similar provision for the mayor?
- Mr. Higa: The corporation counsel said perhaps this should be clarified.
- (It was agreed that this same wording shall apply under the qualifications of the mayor, Section 7-2.)
- Mr. Crockett: Suggested that the words "as he may deem desirable" in the first sentence of subparagraph 1 of Section 7-4, be deleted. (Agreed)
- Mr. Crockett: Under subsection 5 of Section 7-4, does it include the independent agencies? I think it should. Shouldn't their pay be established by the council? Shouldn't the mayor try to have their pay directly in line with the others who are going to be directly under the mayor?
- Mr. Higa: Under the act creating the Water Board, the Water Board fixes the pay of the manager.
- Mr. Yagi: I think the mayor and the council should set the salaries of the people they appoint.
- Mr. Balthazar: I suggest we omit the words "except those whose pay is fixed in this charter or otherwise provided for".
- Mr. Burnett: We should add "subject to the approval of the mayor and the council".
- Mr. Balthazar: Moved that the salaries of all department heads shall be subject to the approval of the mayor and the council. Seconded by Mr. Yagi and carried unanimously.
- Mr. Crockett: On page 16, subsection 2 of Section 7-6, there should be some executive order to cover the internal matters of the county. (It was decided that the department head shall be appointed in writing by the mayor.)
- Mr. Crockett: Under Section 8-1.5, don't you think a special counsel should not be appointed unless recommended by the county attorney? (It was agreed that the words "upon the recommendation of the county attorney" be added to this section.)
- Mr. Crockett: Section 8-6.4 says that the members of the Civil Service Commission shall be constituted as provided by law. We should spell it out in the charter because people will ask how is this thing set up. Also, later on as the charter gets older, the Revised Laws of Hawaii

will be further in the background. It is really a matter of convenience more than anything else. (It was agreed that the same should apply to the Board of Water Supply, Police Commission, etc.)

Mr. Yagi: If the mayor appoints a committee, can the mayor remove the committee, too?

Mr. Higa: No, he can ask for resignations, unless you are going to spell it out.

Mr. Yagi: It should be spelled out that the mayor has the right to appoint and the right to remove.

Mr. Yokouchi: The argument for staggered terms was for continuity. However, because of the political responsibilities of the mayor, we staggered within the term of office of the mayor. That is a compromise that we made.

Mr. Crockett: The first sentence of subsection 1, Section 9-11, reads "No payment shall be authorized ...as may be established by the director of finance". I suggest it read "as may be established by ordinance". (Agreed)

Mr. Crockett: Suggested that the second line from the top of page 40 be changed to read "sixty (60) days after the effective date of the ordinance" instead of "after adoption by the council". (Agreed)

If Section 11-8 is in a positive wording, it would be easier to read instead of in the negative. (Agreed)

Under Section 13-14, Impeachment of Officers, shouldn't the five percent have some knowledge of the charge against the person sought to be impeached?

Mr. Higa: Suggested that the word "verified" precede the word "petition" in the third sentence of this section. (Agreed)

#### PUBLIC HEARING:

The Chair reminded the members of the Charter Commission that there will be a public hearing at the Iao School Cafetorium at 7:30 P.M. on Tuesday, June 9, 1964, and a meeting of the Charter Commission at 1:30 P.M. in the Board Chambers on Wednesday, June 10, 1964, since June 11 is a holiday.

#### ADJOURNMENT:

The meeting was adjourned at 10:30 P.M.

Respectfully submitted,

*Harriette E. Miyamoto*

HARRIETTE E. MIYAMOTO  
Secretary