

MINUTES OF THE
MAUI COUNTY CHARTER COMMISSION

DATE: July 10, 1963

PLACE: Board Chambers, Wailuku, Maui

CALL TO ORDER: 7:35 P.M.

PRESIDING: Masaru Yokouchi, Chairman

MEMBERS PRESENT: Masaru Yokouchi, Chairman
William F. Crockett, Vice-Chairman
Richard Caldito
Emil Balthazar
C. H. Burnett Jr.
Keith Tester
Nadao Honda
Harry Kobayashi
Shiro Hokama (Lanai)
Cornwall Friel (Molokai)

MEMBERS EXCUSED: Thomas Yagi

OTHERS PRESENT: Kase Higa, First Deputy County Attorney
Herman P. Lemke, Councilman, City & County of Honolulu
Hiromu Suzawa, Deputy Corporation Counsel & Former
Legal Advisor to Honolulu Charter Commission

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ROLL CALL:

There were 10 members present and 1 excused when the second Charter Commission meeting was called to order at 7:35 P.M.

MINUTES:

The minutes of the previous meeting held on June 28, 1963, were distributed to the members.

Motion: Mr. Tester moved that the minutes be approved as circulated.

Seconded: By Mr. Balthazar.

Vote: Passed unanimously.

COMMUNICATIONS:

The following "congratulatory" letters were accepted, same to be acknowledged with thanks and filed:

1. Letter from Maui Citizen's Association, dated June 26, 1963.
2. Letter from Maui Chamber of Commerce, dated June 28, 1963.
3. Letter from Dept. of Civil Service, dated July 5, 1963.

COMMITTEE REPORTS:

1. The Program Committee; comprised of Mr. Yokouchi, Chairman; and Messrs. Crockett, Kobayashi, & Balthazar, Members; submitted its report recommending adoption of an "Over-all Program", setting forth specific dates for completion of certain phases of work to be accomplished by the commission. Also submitted was a "Schedule of Meetings" to be held with various County departments for orientation purposes. Orientation meetings are scheduled for the period July 25, 1963, to November 14, 1963, on a weekly basis. The "Over-all Program" provides for completion of the first phase, study and analysis of existing governmental structure, by January 1, 1964. Tentative drafts of the charter will then be prepared and a series of Public Hearings held. The final draft of the proposed Charter should be ready for submission to the Board of Supervisors by June 20, 1964. Alternatives recommended by the Board of Supervisors will then be considered; same to be accepted or rejected by the commission. The proposed Charter, together with any alternatives not accepted by the commission, should be ready for transmittal to the County Clerk by Aug. 20, 1964. The proposed Charter, with alternatives, will then be publicized before it is submitted to the electorate at the General Election to be held on November 3, 1964. The County Clerk will then transmit the Charter to the Lt. Governor by Nov. 18, 1964, for subsequent submission to the State Legislature in 1965. (It is anticipated that changes may have to be made in the foregoing schedules to cope with any new situations that may arise in the interim.)

Motion: Mr. Balthazar moved for adoption of the committee report.
Seconded: By Mr. Caldito.
Vote: Passed unanimously.

OLD BUSINESS:

The Chairman reported that he had complied with instructions to submit a proposed 3-months budget to the Board of Supervisors, requesting a total appropriation of \$4,170.00; for compensation of commission members (\$3,300.00); and for current expenses (\$870.00). However, this written request was withdrawn, due to the action taken by the Board of Supervisors in adopting Res. No. F-78, allotting the total sum of \$7,600.00 for 6-months operation; (\$6,600.00 for compensation); and (\$1,000.00 for expenses). This action was accepted by the commission.

NEW BUSINESS:

The Chairman informed that secretarial services were still being rendered on a temporary basis, and that he had made further inquiries concerning payment of reasonable fees for part-time secretarial services. The Chairman then requested authorization to compensate Mrs. Marjorie Wilhelm for services rendered to date at the rate of \$25.00 per meeting; with further authority to hire whatever part-time secretarial help is required henceforth, at the said rate of \$25.00 per meeting.

Motion: Mr. Tester moved to grant the authority requested.

Seconded: By Mr. Hokama.

Vote: Passed unanimously.

GENERAL DISCUSSION:

Mr. Lemke and Mr. Suzawa were officially introduced to the Commission members; and were subsequently requested to express their views on the Honolulu Charter, as well as to offer helpful hints, gained through experience, regarding preparation of the proposed charter for the County of Maui.

Following is a brief outline of pertinent comments made during the discussion period:

PREPARATION OF CHARTER:

1. Preparation of the charter will take a lot of time. The Honolulu Commission met about 150 times while in the process of preparing the Charter for the City & County of Honolulu.
2. Get into the philosophical areas first; do not spend too much time delving into administrative problems. Stay in the Legislative area.
3. A Charter is the basic law, in general terms; ordinances deal with specific problems.
4. Charters come in all forms; some are very short, others do not contain too much detail. The type of charter does not depend upon the size of the City or the County. In drafting the Honolulu Charter, reliance was placed on newly-adopted charters. To a great extent, the Philadelphia and Omaha Charters had a great impact on the drafting of the Honolulu Charter.
5. Different provisions set forth by different jurisdictions, and the reasons or theories back of these provisions, are very important factors to consider.
6. Basically, you must know what the existing governmental structure is, and what the problems are, before drafting anything.
7. It would be a good idea to have all 3 County Charter Commissions get together and request the PAS to prepare a rough draft within a period of one or two months, which would deal with the various problems of the separate counties. The individual counties could then work on their own charters from this rough draft. If this is done, be sure to have them set forth reasons for different provisions they may include in the rough draft. You will want to know why they are inserting certain provisions, and they may know of certain problems which you are not familiar with.
8. Maintaining good liaison relationship with members of the State Legislature will enable the commission to determine what the legislators thinking is in certain areas.

TYPE OF GOVERNMENT:

1. Strong-type Mayor.
2. Weak-type Mayor.
3. City Manager type.
4. In larger cities they generally have an elected Mayor. In smaller cities, they usually have a City-Manager who is appointed by the Council. This is an area where there is a difference of opinion. The present form of government may be good enough to be continued.
5. The efficiency resulting from a new-type government will not be tremendous enough to prevent raises in tax rates.

DELEGATION OF POWERS:

1. Charter provisions, to a large extent, depend on what kind of powers you have. If you have no power to provide for certain things, these items should be excluded from the charter.
2. It was suggested that Section 16 of the Enabling Act (Act 73, SLH 1963) pertaining to "Reserved Powers of the State Legislature", be clarified as soon as possible. This section relates to laws of general application and fiscal powers of the Counties. It was further suggested that an opinion be obtained from the County Attorney or the Attorney General's Office as soon as possible, so that the scope of authority could be determined at the outset.
3. It was generally assumed that the charter could not contain any provisions relating to taxing powers.

PROVISIONS:

1. Type of Government. (Strong or weak Mayor; City Manager, etc.)
2. Size of the Board of Supervisors. (Retain the same number; increase or decrease this number.)
3. District representation. The City Council was increased from 7 to 9 members; 3 to represent the rural areas, 6 running at large. You have two districts with everyone running at large, which appears to be more satisfactory.

PROVISIONS (cont'd):

4. Elected or appointed officials at the administrative level.
5. Retain or abolish all commissions and boards. Honolulu abolished all commissions after the charter was adopted. Only those serving in an advisory capacity were retained.
6. Four-year terms. It may be assumed that provisions for four-year terms may be included in the charter.
7. Compensation Plan. It should be determined in the initial stages whether or not salaries should be set at the County level or at the State level. Each County should handle this particular problem on its own, dependent upon its revenues. A mainland expert in this field was aghast at the fact that Hawaii was the only area in the United States where the pay scale was set at the State level. However, this is one of the questionable areas where the Legislature would be vitally interested. It would seem more feasible to obtain an opinion from the Attorney General's Office on this matter, rather than end up with 3 different opinions from the respective County Attorney's offices.
8. Many problems you will encounter will be taken care of by the Administrative Code, which should be provided for in the charter. Some items should be taken care of by Ordinance, rather than be included in the charter itself.
9. If the charter is written in very general terms, there is a possibility of conflict later on between provisions contained in the charter and certain ordinances which could lead to litigation. The Honolulu Charter is very general in many respects, rather than specific, and this was done on purpose. It was felt that if any problems arose, they could be handled either by legal opinions or even by Court decision.
10. Setting forth of certain procedures by Ordinance would permit adoption of a flexible charter that would not have to be changed too often - at least for 20 years.

PERSONAL SERVICES & EXPENSES:

1. Full-time Executive Secretary. The Honolulu Commission retained the services of a full-time Executive Secretary with government experience, who proved to be very valuable. He did extensive research work; corresponded with various sources throughout the country; compiled data on the different forms of government; and prepared agendas. You must have someone to do this type of work to relieve your Attorney, who will be much too busy with other legal matters.
2. Secretarial Services. A full-time Secretary is also necessary to take minutes of meetings and public hearings, and to perform other office duties.
3. Consultant Services. The services of a mainland consultant were also retained by the Honolulu Commission. However, it would be more advisable to have something prepared in rough draft first that could be discussed with a consultant, in order to get his opinion on various provisions contained therein. Assignment of someone from the Legislative Reference Bureau to provide consultant services to the 3 Charter Commissions would be very beneficial, provided such assignment is on a full-time basis and the person assigned is experienced in this field.
4. Expenses. The Honolulu Commission members were only reimbursed for necessary expenses; they received no compensation. The total estimated cost involved for preparation of the Honolulu Charter was \$25,000.00. The greater portion of this amount was primarily expended for payment of salaries to the two full-time employees, as well as for consultant services and travel expenses.

BOARDS & COMMISSIONS:

1. Police & Liquor Commissions. In Honolulu, it was felt that the Governor should not appoint commission members to a County-functioning department. Such members will be appointed on the County level in 1965. The charter should spell out the functions of the Police Commission which shall appoint the Chief of Police; but they should not interfere with administration of the department.
2. Board of Parks & Recreation. It was felt that an appointive department head, under a strong-type Mayor, would be more desirable than a 5-member board. The Department head makes recommendations and the City Council sets the policy. It was the general trend of thinking that good department heads are a lot more effective than good commissions.
3. Planning Commission. The Planning Director is appointed by the Mayor and confirmed by the City Council. He is the administrative head of the department and makes the decisions. The Planning Commission serves in an advisory capacity, with the additional authority to adopt regulations pursuant to the Subdivision Ordinance. The Zoning Board of Appeals performs certain functions which were formerly handled by the Planning Commission. This Board hears and determines all appeals and petitions. The City Council was also given the right to over-ride the actions of the Planning Commission.
4. Board of Water Supply. This Board remains substantially the same; except that the Manager now handles all administrative matters, while policy making functions remain with the Board. They have the authority to issue their own revenue bonds and set water rates. They are not ham-strung and have been very successful in obtaining a good bond rating. There is a great difference in public reaction when the City Council or Board of Supervisors raises water rates.

HONOLULU CHARTER:

1. The City Council is strictly legislative; they are restricted by law from telling administrative employees what to do.
2. The City Council has the authority to appoint any investigative type person to check on the administration.
3. The City Council meets once a week, although it is mandated to meet only once a month.
4. Under the old set-up, the City Council could not add on to the Budget. Under the new set-up, they may add or subtract. However, once it is approved, the Council cannot amend it for the calendar year. The Mayor can transfer funds within the total amount allocated to a certain department (i.e. Highway Dept.); but he cannot transfer monies from one department to another. It is felt that the Performance Budget should not be written into the Charter.
5. The Honolulu Charter provides for an independent audit of all receipts and disbursements by a CPA, to be appointed by the City Council, which they have found to be unnecessary.
6. The Office of Information & Complaint should not have been provided for in the Honolulu Charter. All complaints must be channelled through this department; but the general public still approaches the City Council.
7. The charter has streamlined many things on the Council level, inasmuch as only legislative matters are dealt with. All other matters are handled at the administrative level.
8. The Honolulu Charter contains too much detail which is not necessary. However, the commission felt that if certain procedures were not spelled out, it would not accomplish what they wanted. They felt that the old procedure was not producing the type of government which they felt could be obtained. The initial concepts of the commission have been carried out; but whether or not attainment of such has resulted in greater efficiency is hard to say.

SOURCES OF INFORMATION:

1. County Municipal Library in Honolulu.
2. Report of the Honolulu Charter Commission, dated May 8, 1958, which was distributed to the members.
3. David Trask, Chairman of the County Committee, First State Legislature, will make available all data submitted to said committee on this subject matter.
4. All material used by the Honolulu Commission is filed with the Division of Archives in Honolulu, and it should give you some idea on why the commission decided on certain things the way they did.
5. Model Charter put out by the Municipal League of America. This charter is not long but its contents must be digested.

ADJOURNMENT:

After thanking Mr. Lemke and Mr. Suzawa for their very informative comments, the Chairman adjourned the meeting at 9:25 P.M.

NEXT MEETING:

July 25, 1963, commencing at 1:30 P.M. in the Board Chambers.

Respectfully submitted,



MARJORIE K. WILHELM
Secretary Pro-tem.