

MINUTES OF THE
MAUI COUNTY CHARTER COMMISSION

DATE: January 9, 1964

PLACE: Board Chambers, Wailuku, Maui

CALL TO ORDER: 7:40 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
Keith Tester
Thomas Yagi
Charles C. Young, Research Assistant

MEMBER EXCUSED: Cornwell Friel

OTHERS PRESENT: Kase Higa, Deputy County Attorney
Mrs. Jay Van Zwalenburg
Baldwin High School Students
Robert Johnson, Advertiser Reporter
Jack Stephens, Maui News Reporter

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ROLL CALL:

There were 10 members present and 1 absent at the regular meeting of the Maui County Charter Commission on January 9, 1964.

MINUTES:

Minutes of the meetings held on December 5 and 12, 1963 were approved as circulated.

LITERATURE:

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

1. Tentative draft of Charter (Pages 1 to 20).
2. Information gathered by Charles C. Young, Research Assistant:
 - a. Information re Kauai County Charter Commission reprinted from the Honolulu Star-Bulletin, December 31, 1963.
 - b. Information re Hawaii County Charter Commission reprinted from the Honolulu Advertiser, January 3, 1964.

LITERATURE (Cont'd.):

3. Memorandum from Mrs. Dorothy L. Moore, Research Assistant, Legislative Reference Bureau:
 - a. The applicability of the initiative, the referendum and the recall to municipal charters.
4. Minutes of the Hawaii and Kauai Charter Commissions were received and are on file for interested members to read.

OLD BUSINESS:

The following questions were discussed at this meeting:

1. Should there be a Managing Director as in Honolulu?

Mr. Tester: What is the difference between the administrative assistant as they have now and the managing director?

Mr. Higa: In the City and County of Honolulu the managing director is given a lot of powers. He becomes the acting mayor in the absence of the mayor. Ordinarily an administrative assistant will not have as many powers as the managing director. In Honolulu the managing director also is supposed to be a compromise between the city manager and the mayor. Some departments are responsible directly to the mayor and some departments, through the managing director, become responsible to the mayor.

Mr. Caldito: Under the strong mayor-council type of government, when the mayor goes on vacation for more than a month, can we do as we have been doing lately?

Mr. Higa: There are several approaches to this. You could still have an administrative assistant and, if you want to, there is no reason why you cannot say that he will be the acting mayor. In some cities the mayor can appoint a department head to become acting mayor in his absence. What I have in the draft is just a suggestion. In some of the charters the finance director becomes the acting mayor in the absence of the mayor.

Mr. Balthazar: I would tend to favor the chairman of the council be next in line of succession, but in the case of temporary absence, I would favor that the administrative assistant become the acting mayor.

(There were several suggestions as to who should become the acting mayor in the absence of the mayor - the department head, the finance director, the director of public works.)

Mr. Higa: You should leave it flexible and say the mayor should appoint any department head in his absence. You don't know whether the mayor will have a good finance director or a good public works department head.

Mr. Balthazar: Why must it be a department head? Couldn't it be the administrative assistant?

Mr. Higa: It would appear to me that, unless you give the administrative assistant the powers the managing director has, he would not have enough respect to run this office.

Mr. Crockett: I move that, in the temporary absence of the mayor, the mayor be given the power to appoint any department head. Seconded by Mr. Tester and carried unanimously.

2. Should there be a provision for amendment of the charter?
(Deferred)

3. Should a code of ethics be included in the charter?

Mr. Crockett: I think we should have a code of ethics in the charter.

Mr. Tester: I think we must include it in the charter.

Mr. Crockett: We should not expect this code to be self-executing. We should establish some body which would be independent of the elected officials.

Mr. Tester: I think what we need is some kind of body to enforce this once we pass it.

(Mr. Crockett proposed that the Research Assistant contact the corporation counsel in Honolulu regarding their code of ethics.)

It was moved by Mr. Yagi, seconded by Mr. Crockett and carried unanimously that a code of ethics be included in the charter.

4. Should centralized purchasing be included in the charter?

Mr. Balthazar: How far can we carry out centralized purchasing?

Mr. Higa: If you carry out centralized purchasing the way it is done in Honolulu and centralized purchasing is exercised by the finance director, this will mean that all purchases for all departments, including the hospitals and the board of water supply, will be done by this one agency. It is supposed to effect a lot of saving since you are going to order products on a bulk basis.

Mr. Caldito: Inasmuch as we would like to correct a lot of things which exist today, as far as purchasing in the County of Maui, I feel that the small businessmen should also be given a chance to make a living. If we are going to correct all these details, the people will not go for the charter.

Mr. Burnett: Centralized purchasing, as far as warehousing is concerned, costs money. Then you have the problem of inventory. To bring down an inventory is very hard.

- Mr. Yokouchi: One way is to buy all at one time and stock the supplies in a warehouse. Another way is to contract it and have it delivered to you on intervals.
- Mr. Kobayashi: The businessman takes a risk when he takes a contract for one year because prices fluctuate during the year.
- Mr. Yokouchi: When the businessman bids, he has to have a guarantee from the supplier. One of the points of centralized purchasing is the consolidation of manpower. Another factor is inventory control. Today we do not have a complete inventory control.
- Mr. Balthazar: I move that, without specifying that there shall be centralized purchasing, all purchases and inventory control for the County of Maui shall be the responsibility of the Department of Finance.
- Mr. Crockett: I would be in favor of including in the charter a provision leaving it to the discretion of the mayor.

It was moved by Mr. Crockett, seconded by Mr. Yagi and carried unanimously that we incorporate in the charter a provision that the mayor shall have authority to centralize purchasing and inventory control.

5. Should the charter provide for recall, initiative and referendum?

The Chair called on Mr. Young, Research Assistant, who gave the following report:

"I have been asked by our chairman, Masaru Yokouchi, to do some research on the subject of initiative, referendum and recall.

George R. Sidwell in his book "Ideas for Charter Commissions" has this to say on the subject:

RECALL OF ELECTIVE OFFICERS (Page 32): 'Recall is another means of creating a vacancy in the case of elected officers in some states. Usually, the procedure for recall and for filling any vacancy caused thereby is set forth in the statutes of the State in which a city is located. If so, there is no need of repeating it on a charter. However, a provision should be in each charter to the effect that elected officers may be recalled and any vacancy created thereby filled in the manner prescribed by law. If recall procedures do not appear in the law of a State, the procedure should appear in the city's charter.'

INITIATIVE AND REFERENDUM (Page 92): 'The initiation of new ordinances by the people themselves and the possibility of referendum on ordinances adopted by the Council is a cherished prerogative of the people of some states. These privileges of our democratic process are seldom used, but the people naturally have a greater sense of security in their city affairs when they know that these privileges are available to them. Each charter should contain provisions for the initiative and for referendum, whenever the law of the State in which the city or village is located permits.'

In placing provisions relating to the initiative and referenda in a charter, care should be taken to protect the city's government against rash and selfish acts on the part of small groups of citizens. This is usually accomplished by requiring petitions in each case to contain a sufficient number of signatures of electors to assure a genuine public interest in the action proposed, before that action may be had. Most recent Michigan charters have required that any such petition be signed by not less than 15% of the registered electors of the city, according to the records of the city clerk on the date of filing the petition. A further protection, to guarantee current interest in the ordinance which is proposed or objected to is a common requirement of recent charters that only the signatures of electors who have signed the petition within, say, two months prior to the filing date, shall be valid.'

During the holidays I had the opportunity to discuss the subjects of initiative, referendum and recall with a visiting neighbor of mine at Kihei. He is Don Hummel, Mayor of Tucson, Arizona, from 1947 through 1962, and president of the American Municipal Association in 1961, a member of the President of the United State's Advisory Committee on Inter-Government Relations, and a practicing attorney.

Mayor Hummel said all three provisions (Initiative, Recall and Referendum) give powers to the people that has a salutary effect on their elected representatives.

He said the provisions of initiative and referendum is a 'safeguard' to elected representatives when there is a need for certain legislation which might be controversial. Initiative gives the people a chance to introduce such legislation to put before the electorate, while referendum gives elected representatives the opportunity to put such legislation up to the electorate for a vote.

Mayor Hummel said the 'recall' provision is good. 'But its provision in a charter has to be couched in such a way, also that of initiative, especially, that crackpots cannot pull the rug from under capable elected representatives,' he said. He said that the best thing that can be said for a recall provision is, that as far as he has been able to determine, it has never had to be invoked 'because it serves as a club hanging over an elected representative's head to make sure that it can be invoked if he does not perform his duties above board.'

Mayor Hummel pointed out a bit of history on recall. He said the reason Arizona was the 'baby State' for many years, a few months behind New Mexico, was because in 1912 President Taft vetoed the Arizona Statehood bill because of the recall provision. This was removed and Taft signed the bill. After becoming a State, the State Constitution was amended to reinstate the recall provision."

The Chair advised the members that they read the memorandum provided by the Legislative Reference Bureau in order that they can discuss it at the next meeting.

The Chair called for a recess at 9:00 P.M. Meeting was reconvened at 9:10 P.M.

NEW BUSINESS:

Mr. Higa briefly summarized the tentative draft as completed so far. He suggested that the members look over the draft and see where changes should be made before the final draft is drawn up.

The Chair informed the members that, inasmuch as the schedule calls for the tentative draft to be completed by February 1st and a series of public hearings to be held thereafter, they should decide on where and when the public hearings should be held. His suggestion was that public hearings should be held in at least five or six districts - East Maui (Makawao), West Maui, Central Maui, Hana, Lanai and Molokai. He suggested that the first public hearing on Maui be held on February 11 and then public hearings on Molokai and Lanai be held on February 14 and 15. After some discussion on the flight schedule, it was left to the discretion of the Chair as to when hearings should be held on Molokai and Lanai.

Mr. Yokouchi stated that, in order to discuss some items in detail, we should hold meetings twice a week hereafter. In accordance with the flight schedule to and from Molokai and Lanai, it was decided that meetings be held on Wednesdays at 7:30 P.M. and Thursdays at 1:30 P.M., thereby making it necessary for the Molokai and Lanai commissioners to spend only one night on Maui.

ADJOURNMENT:

The meeting was adjourned at 9:50 P.M.

FORTHCOMING MEETINGS:

Wednesday, January 15, 1964, at 7:30 P.M. and Thursday, January 16, 1964, at 1:30 P.M., in Board Chambers.

Respectfully submitted,

Harriette E. Miyamoto

HARRIETTE E. MIYAMOTO
Secretary