

MINUTES OF THE
MAUI COUNTY CHARTER COMMISSION

DATE: February 28, 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
C. H. Burnett, Jr.
Richard Caldito
William F. Crockett
Shiro Hokama
Nadao Honda
Harry Kobayashi
Keith Tester
Thomas Yagi
Charles C. Young, Research Assistant
MEMBER EXCUSED: Cornwell Friel
OTHERS PRESENT: Kase Higa, County Attorney
Mrs. Ann Gillin
Mrs. Jay Van Zwalenburg
Mr. Nathan Ambrose
Robert Johnson, Advertiser Reporter

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ROLL CALL:

There were 10 members present and 1 excused at the regular meeting of the Maui County Charter Commission on February 28, 1964.

LITERATURE:

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

1. Reports prepared by Charles C. Young, Research Assistant:
 - a. Memorandum re Code of Ethics;
 - b. Memorandum citing pertinent authorities on appeals from disciplinary action by county employees, requested by Commissioner William F. Crockett; and
 - c. Activities of the Hawaii County Charter Commission.
2. Provisions of the proposed Administrative Board of Appeals from Commissioner William F. Crockett.

OLD BUSINESS:

Liquor Commission:

- Mr. Higa: I understand that the City and County of Honolulu Charter does not mention the Liquor Commission because the Charter Commission felt at that time that liquor matters should be handled by the State entirely. Actually, they have a Liquor Commission, but there is no provision in their charter. The Liquor Commission is at present appointed by the Governor. In 1965 the liquor commissioners will be appointed by the chairman with the approval of the Board of Supervisors.
- Mr. Balthazar: I feel that the license functions can be handled by the Finance Department, the policing functions by the Police Department, and the policies can be set by the council. This is a way we can save money. The Police Department normally checks our liquor establishments, so it would be appropriate for them to handle the policing functions. Since the Finance Department would be issuing the licenses, they should be able to grant liquor licenses once the council approves the relocation or establishment of a liquor agency. The proposed Administrative Board of Appeals could handle the suspension of licenses.
- Mr. Yagi: Would the councilmen be working under this Board of Appeals?
- Mr. Balthazar: The Board of Appeals would not be made up of councilmen. The members would be appointed by the mayor and confirmed by the council.
- Some of these appeals are not satisfactorily concluded in the Civil Service Commission and certainly the appellants would have a just hearing from a Board of Appeals such as proposed.
- Mr. Yokouchi: Who determines who shall have licenses?
- Mr. Balthazar: The council does.
- Mr. Yagi: It would mean that, if the council denies an applicant from getting a license, he would go to the Board of Appeals. Then wouldn't the Board of Appeals be higher than the council?
- Mr. Crockett: That is not my idea in this proposal.
- Mr. Burnett: If there is such a Board of Appeals, it isn't necessary to have a Liquor Commission. The council can decide on the granting of licenses.
- Mr. Yokouchi: If we do away with the Liquor Commission and other areas of approval, an application of this nature would be handled by the council. Doesn't the Board of Appeals conflict with this principle? The council is the most responsive group where the people should go to appeal. The council, being elected officers, should be the most responsive group to the people, and all decisions made should be handled by the council.

Mr. Crockett: There is a provision in my proposal that the council may give this Board of Appeals any additional authority. The average person will not go to see the council; the average person is going to see the executive department. My idea is that this provision is a check on arbitrary action on the executive branch of the government and not the council.

The idea of this proposal is to take care of disputes between the particular member of the public and a particular member of the administration. It will be a matter concerned with the citizen.

Mr. Balthazar: Moved that the Liquor Commission be abolished and that the licensing function be transferred to the Department of Finance, the policing powers to the Police Department, and the policy-making function to the council. Seconded by Mr. Crockett.

Mr. Kobayashi: What about the lowering or raising of prices? Who is going to handle that? This is a special kind of business. I don't think that policing could be handled by the Police Department.

Mr. Caldito: Do I understand that the inspectors' jobs will be eliminated?

Mr. Balthazar: Whether the commission would like to assign the inspectors to some other department is out of the question.

Mr. Caldito: Practically all of the inspectors came from the Police Department.

Mr. Balthazar: I feel that any police officer can do what the inspectors are doing now. It doesn't take an officer five minutes to make his inspection for the night. There need not be so many inspectors to be paid thousands of dollars a year.

Mr. Yokouchi: Basically, the duties of the policemen and the inspectors differ. The policemen are charged with keeping things in order--things in violation of laws. The duties of the Liquor Commission inspectors go beyond that. They try to uphold certain federal standards.

(Motion made by Mr. Balthazar to abolish the Liquor Commission and to transfer the licensing functions to the Department of Finance, the policing powers to the Police Department and the policy-making function to the council was defeated. 3 ayes (Crockett, Balthazar and Tester) and 7 noes (Burnett, Caldito, Hokama, Honda, Kobayashi, Yagi and Yokouchi).

Mr. Balthazar: Moved that the Police and Liquor Commissions shall be combined. Seconded by Mr. Tester.

Mr. Hokama: Haven't we agreed that we shall have a Police Commission? Does your motion mean that we will add 5 or 6 members to the Police Commission and make this a 10-member commission?

Mr. Balthazar: I only want to transfer the functions to the Police Commission.

- Mr. Hokama: I would think that the Police Commission has enough problems without adding the problems of the Liquor Commission.
- Mr. Balthazar: Maui has had a very good record. There have been a very few times for the Liquor Commission to have problems. A separate commission means separate expenses.
- Mr. Hokama: The reason why they do not have enough problems is because we did not have an effective Liquor Commission.
- Mr. Yokouchi: The records will show that the Liquor Commission meets a minimum of 5 times a month.
- Mr. Balthazar: Because they have done a good job does not mean that we must perpetuate them.
- (Motion made by Mr. Balthazar to combine the Liquor and Police Commissions was defeated. 3 ayes (Balthazar, Crockett and Tester) and 5 noes (Caldito, Hokama, Honda, Kobayashi and Yagi).
- Mr. Crockett: The reason why we had the mayor appoint the other people without confirmation by the council is that the other appointees are going to be very close to the mayor. This isn't true with the Liquor Commission.
- Mr. Burnett: Moved that the Liquor Commission be retained and shall be appointed by the mayor without the approval of the council. The Commission shall appoint the executive secretary. Seconded by Mr. Caldito.
- Mr. Higa: The executive secretaries throughout the State are under civil service. You should be wary of changing the civil service status of these employees.
- Mr. Burnett withdrew his motion.
- Mr. Burnett: Moved that there shall be a Liquor Commission. Seconded by Mr. Caldito and carried.
- Mr. Burnett: Moved that the Liquor Commission shall be appointed by the mayor without confirmation of the council. Seconded by Mr. Caldito. Motion was defeated. 2 ayes and 6 noes.
- Mr. Crockett: Moved that the Liquor Commission shall be appointed by the mayor with the approval of the council. Seconded by Mr. Yagi and carried.
- Mr. Yagi: Moved that under Section 6-5(4), the council will have final say in adopting regulations. Seconded by Mr. Crockett and carried unanimously.
- Mr. Crockett: The council will review all rules and regulations before the Liquor Commission can function and any future rules and regulations shall be approved by the council. At present the Liquor Commission adopts its own rules.
- Mr. Kobayashi: Who will interpret the rules and regulations?
- Mr. Burnett: The council will interpret such rules and regulations.

A recess was called by the Chair at 9:10 P.M. The meeting was resumed at 9:20 P.M.

NEW BUSINESS:

The Chair asked Mr. Crockett to briefly summarize his proposal of the Board of Appeals.

- Mr. Crockett: Basically this is an idea which might provide some safety valve for the people when they have any disputes with anyone in the executive branch of the government. The members of this board won't have any right to interfere with any discretionary authority of the council. This is a safety valve which should be imposed in the strong mayor form of government which we are working on so that the general public will be protected.
- Mr. Balthazar: This board would be like a little court for the people to go to without paying the necessary court fees and to get a little satisfaction.
- Mr. Yagi: This appeals board is much more powerful than the council. The only power the council has is to adopt the rules and ordinances, which the appeals board does not have. The council cannot interfere with administration, but these people can, under this setup.
- Mr. Crockett: We should have some way of solving these problems in a more or less judicial way--sort of like arbitration.
- Mr. Yagi: Does this apply to all departments?
- Mr. Crockett: It will not apply to some departments which have procedures for holding a hearing.
- Mr. Balthazar: It should be a little court in which you can seek redress.
- Mr. Crockett: I think it is in the interest of good government to have a method in local government whereby an individual can have someone listen to his complaints. Under the strong mayor form of government, the executive branch is so strong, we should have some provision for individual members of the public.
- Mr. Crockett: Moved that there shall be an Administrative Board of Appeals under the charter. Seconded by Mr. Balthazar and carried. (The members agreed to adopt the Administrative Board of Appeals in principle and to have Mr. Higa and Mr. Crockett work out the details.)

ADJOURNMENT:

The meeting was adjourned at 10:00 P.M.

Respectfully submitted,

Harriette E. Miyamoto

HARRIETTE E. MIYAMOTO
Secretary