

MAUI COUNTY CHARTER COMMISSION

Wailuku, Maui, Hawaii

PUBLIC HEARING

DATE: July 21, 1966

PLACE: Haiku School Cafetorium, Haiku, Maui

CALL TO ORDER: 7:45 P. M.

PRESIDING: Douglas Sodetani, Chairman

MEMBERS PRESENT: Douglas Sodetani, Chairman
Emil Balthazar
William F. Crockett, Vice Chairman
Shiro Hokama
Nadao Honda
George Kondo
Paul Pladera
James Ushijima
Charles C. Young, Research Assistant

MEMBERS EXCUSED: Harry Kobayashi
Keith Tester

OTHERS PRESENT: Jack Stephens, Maui News Reporter
Charles H. Burnett, Jr.
Miss Patricia M. Gouveia
Michael M. Suda
Vincent Rodrigues
Mr. and Mrs. Francis E. Pomroy
Haruo Watanabe
Mrs. Helen L. Calasa
Mrs. Sarah Javier
Mrs. Evangeline Sacapanio

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The Chair opened the hearing by introducing the commissioners and staff to the audience. The Chair then called on James Ushijima to give the opening remarks. The floor was then opened for discussion.

Miss Gouveia: I think most citizens don't really know the different types of government. Is it possible to explain the difference. I know it's detailed but just to give us a rough idea of what the difference is.

Mr. Sodetani: The strong mayor type is whereby the mayor is given all the administrative functions and the legislative portion is divided--administration and legislation. As a strong mayor, he has the whole say as far as in the administration in carrying out the whole functions of the legislative body within the purview of the law. The weak mayor, like the present mayor, has hardly any voice at all. The council manager type is this--you have an elected council, then they appoint a manager who runs the government or city or the county. The commission form--the legislative body and

administration appoints various boards and commissions. They function sort of as an autonomous body.

Mr. Crockett: On the commission form of government as I understand it--the way this thing originally came about was that and this is true in the County of Maui originally. They elected a number of Supervisors and each one of the Supervisors was responsible for different areas of county government. They had one Supervisor responsible for the road, another one responsible for the waterworks, another one responsible for the fire department, etc., and these people were the administrators, and they were also the legislative body at the same time.

Miss Gouveia: What about the weak mayor form?

Mr. Balthazar: The type of County government we have now may be called the weak mayor type in the sense that the mayor is really a member of the Board. He has one vote for one ninth of the power that is equal power with any other member of the Board. The Board both administers in a sense and legislates, and the mayor does the same inasmuch as he has the power to vote in the Board of Supervisors, he is a legislator in the sense as the Chairman of the County of Maui, he directs the administrative affairs of the County of Maui.

One further explanation of the so-called strong mayor type of government. It basically simply means separating your legislative powers from your administrative powers as in the government of the United States, the Federal Government and State Government of Hawaii, that most state governments throughout the 50 states would be considered strong executive type of government. It might be called by any other name for it merely simply means to divide your powers of government as provided for in the Constitution of the United States--the legislative, administrative and judiciary.

Mr. Sodetani: That doesn't necessarily mean that your Maui County Charter Commission must follow any one of these four basic forms of government. We can incorporate any part to form a charter that will be suitable and acceptable to the people of the County of Maui.

Miss Gouveia: I wasn't for the other charter that was drawn up for the reason that I didn't feel that one man should have all that power.

Mr. Sodetani: Is that the only objection you have to that?

Miss Gouveia: I didn't care for the mayor appointing the police chief.

Mr. Balthazar: As you recall, Pat, you were not in favor of the mayor's appointments without confirmation. You felt that the appointments should be confirmed by the Board of Supervisors.

Mr. Crockett: Let me say one thing about this confirmation problem. Maybe this is just one aspect of it, but I think it's an important consideration. It seems to me as I watch County government, when you have this point of confirmation, it results in a lot of maneuvering, and a lot

of this doesn't come out in the open. Maybe, theoretically, you might appear to get the very best person because somebody said we have nine people deliberating on it and these nine people will get together and that doesn't necessarily mean they'll choose the best person. As a matter of fact, you end up with the lowest common denominator. In other words, you end up with the person who hasn't stepped on anybody's toes the time he has been around, who isn't aggressive, who has a passive personality, a man, who everybody agree, that the nine people confirming, that when each one comes to him and they want something because that's why they're in the act, will nicely nod his head and say, yes, I'll give you exactly what you want. I just don't think that is the type of administrator you want. If the people want confirmation, we'll go ahead and give them confirmation, but that is the real reason I'm not keen about this confirmation business, because I don't think you'll end up with a very strong department head. You end up with somebody who's just very passive about things, who has never hurt anybody's feelings, and he'll let the Board of Supervisors or Council come in and run his department for him. I don't think you'll get good government.

Mr. Balthazar: Another point I'd like to bring out is I always felt in the people's criticisms of our County Chairman that you have now and in the past, and one of the basic criticisms that I have heard over and over again is that the Chairman never seems to take a stand, or he vaticinates or procrastinates. I thought maybe the problem with the Chairman was that he never had the powers to do the things he thought was right for the County because he had to defer. I felt if the Chairman were given the powers to appoint Bill Smith and in his judgment, he felt Bill Smith would best run the public works department, then if Bill Smith doesn't do a good job, then you could go storming to the right guy, who is the Chairman, and say he's your responsibility. He's your man and it's up to you to get him out. The way it is now, the Chairman can always hide behind the Supervisors because he has to compromise his position. I thought for once I'd like to see a Chairman make his own decision and stand up and be responsible for the legislation and not hiding behind the skirts of the Board of Supervisors. That was my reason for being very strongly against confirmation. But then I find that people are afraid of the powers we gave the Chairman.

Miss Gouveia: I think even if you had a strong mayor government, how is he going to get to be mayor? Is he going to be elected? You could still have a wishy washy system because he is going to want to please everyone and anybody who wants to please everyone still won't do his job, because in the Federal Government you find that, too.

Mr. Crockett: There's no cure for government. If you're going to have bad people, you're going to have bad people in government no matter how good our charter is. The point is if you give the mayor the power to operate in his executive authority, there's going to be a lot of responsibility left for the Board even on the strong mayor type of charter. If you give him responsibility, and he doesn't exercise it, then he doesn't have an excuse, but on the present set up, you can't blame the person who is the incumbent because he simply doesn't have the authority.

Miss Gouveia: In the strong mayor, he would appoint the police commissioner?

Mr. Sodetani: Not necessarily so. The previous charter provided that the mayor appoints the members of the Police Commission without confirmation, and the Commission in turn would appoint the Chief of Police.

Mr. Burnett: In great many places, the mayor appoints the Chief of Police without any confirmation or anything else. That is why I think you can go all over the cities of the United States, you find well over 50% where you find the Chief of Police can be removed by the will of the mayor.

I don't think you can get away from the fact that if you want responsive government, you got to have some type of a strong mayor government. I don't think there's any if's or and's about it. There are certain things the community disliked at the time the previous commission were approached. One was the four year term and they were also opposed to not having confirmation by the council or Board of Supervisors. I think most people were in favor of allowing the mayor to appoint those who were directly responsible to him without confirmation. The politicians, although with respect to them, wanted the four year term, and I think that was one of the things that caused trouble. I think you run into the same kind of things in your Commission that the previous Commission ran into.

The people of Maui, as far as I'm concerned, have not given any evidence of wanting any change in any form of government. I think people who think about it think it's fine that there is a Charter Commission trying to do something in the idea of improving the government of the County of Maui. You've got some people, quite vocal, that brought up the fact that if this Charter Commission doesn't come up with some form of government, a new charter, that the Legislature is going to force one down our throat. There's no if's or and's about that.

Miss Gouveia: The thing that worries me about the strong mayor type of government is because in the first place as an American, I was brought up thinking that our country was started this way because we didn't like having people who were put in the position to dictate like the kings and emperors and people like that. It's not that drastic, but we would be putting ourselves in that position. Couldn't you tell me some other way that we could improve on our government now because we do need improvements, I'm sure, but still not give the mayor so much power.

Mr. Rodrigues: You were talking about different forms of government. Now, under the council manager, how would the chief of police be appointed?

Mr. Sodetani: Appointed by the manager.

Mr. Rodrigues: Appointed by the manager with confirmation, or without confirmation?

Mr. Burnett: It could be both ways.

Mr. Rodrigues: I personally don't believe in the strong mayor because when you have too much power--the same thing as that Act 97 is today. Act 97--all the powers, hospitals and schools and different functions of government are all in the hands of one man--Mr. Marciel. He cannot handle everything. That is why there is a backlog. Things are not progressing when you have too much power in one man's hand, and that will lead to some elected dictatorship later on. If the Chief of Police had to be appointed by the mayor without confirmation by anybody else, look at the political machine it will be, and it's going to be bad for everybody and once you have it in, you cannot break the political machine later. Citizens should have the say. If he is not functioning, we can have a reason to throw him out.

Mr. Crockett: Pat, I think you made a statement a while back and you said that when you were a child you went to school and you took your first course in civics you learned that kings and dictators were no good. I agree with you on that, but I think you also learned or should have learned that the very basis of our form of government is a separation of powers. This is what Bill Balthazar is talking about. That our Constitution, United States Constitution, was built upon the executive branch, legislative branch and judicial branch and that the checks and balances you have in government were the results of having these three different branches operating within government and operating against each other. In the last go around, we were trying to implement that idea by separating powers in county government because they aren't separated. Right now they are scrambled. We're simply trying to separate the executive powers from the legislative powers. We don't have any judicial powers in County government, and we thought once these are separated, you can build in government your checks and balances.

Right now, you don't have any checks and balances simply because you don't have functions of government separated and it's after you get these things separated that you get your checks and balances, and we're not going to take all the powers away from the council. As a matter of fact, I think we are going to give the council a lot of powers and these things were never talked about because the people who were doing the talking, the people who had the press and the newspapers weren't on our side so they naturally didn't talk about things we wanted to talk about.

Mr. Balthazar: You see the danger of that, Pat, in calling this type of government we drew up in the last charter a strong mayor type of government. It was misnomer. I believe those who used that term over and over again were those who are opposed to any change in government, and I think they used that to their own advantage.

If the founding fathers thought that we could prevent dictatorship and not to repeat the mistakes of kings that we should separate the powers of government in order not to lump them all together so you create dictatorship, how then could the previous Commission be so far wrong in adopting this basic principle. I think the type of government we proposed to be more popularly called the Constitutional form of government, not the strong mayor type of government.

They were just concentrating on one point noting only the additional powers given to the mayor, forgetting the

the additional powers we're giving the charter and forgetting even more important, the additional powers that were given to the people, such as the right to recall, the right to petition, to initiate legislation, which you cannot do now. I don't think that is basically a strong democratic form of government, which I would like to bring up, but I think sometimes, as the previous Commission, we might tend to spend too much time defending what we did in the last charter.

No one realize today the powers that our commissions have in the County government today, which sometimes approach very close to dictatorship and unlike these commission sitting here, you are not going to vote on the things the commission do in the County today.

I maintained on the previous commission that we had too many commissions or too many powers in the sense right now we not only have a weak mayor form of government. We also have a commission form of government. The Supervisors have divested themselves of the controversial powers which should be theirs. They have given these powers over to commissions, not intentionally, or all at once. There were some Supervisors who screamed "bloody murder" when we took their powers away the last time, forgetting that today that this very Supervisors were asked whether they want the Water Board brought back, whether they want the problems of the Water Board back--no one said yes. I recall they didn't want the problems. There is a problem of setting rates and when you raise rates in the water department, the people scream it hurts their pocketbook. They really don't want those kind of powers. Give it to a commission. The commission will handle it fine.

There's the police commission. I think from our own experience in the Territorial government, we found that a commission probably worked much better for the police department because the intent was to get it from the direct control of political figures. But that doesn't necessarily say you will protect the people. You can have and you have had police departments in these United States who have become powers themselves. They have abused their powers. The elected officials, because they didn't have the power over the commission, have had a hard time straightening it out. So, we have to look to the two sides of this problem.

Mr. Pomroy: I think it's almost imperative that the electorates be educated along the lines of the three types of government--the three types of charters available. I believe that they should be given that education in small doses in the daily publication even if we had to go to Honolulu. I want to point out one thing when you came up with the completed charter the last time. They put it up on a four to five page spread. All this was in fine print. People are afraid of fine prints and they won't read it. This is what I am afraid of. This is what I'm trying to bring up.

It is my firm belief that the council manager type of government is ideally suited to any community of our size. Now, many people don't know what types of government there is. If these people who are going to vote on this thing, they should know what they're voting for and they are afraid because they don't understand and you cannot blame them.

Mr. Sodemani: Do you think, Mr. Pomroy, that people will find time to read these various forms of government when they don't even come to these hearings?

Mr. Pomroy: I am going to work on something to that end. I want to point out why I am so strongly in favor of a council manager type of government. There is a short cut. We could elect five councilmen and that would mean we would get the best man--non partisan. We would get them a very high council with those five positions. Those men in turn would hire the city manager. They are going to hire the best man they can get to manage government. The council sets up the policies of the government. The city manager carries it out. He administers the authority. The council can fire the city manager anytime they feel he is not doing the right job. He in turn have the free way to run every department under his jurisdiction in the administration. Now, it doesn't mean to say the man in office shouldn't be elected. We should elect the Treasurer, the Auditor, the Clerk and the County Attorney, but the last should be left up to the city manager or the county manager in this case. Now, the five councilmen of five major districts could be well represented. We could have one from Lanai, one from Molokai, one from West Maui, one from Central Maui, and one from Hana.

Mr. Sodemani: I take it, Mr. Pomroy, that you are not familiar with the recent supreme court reapportionment ruling.

Mr. Pomroy: The county is given power to create any kind of a charter that they wish and the State is not to interfere with the type of charter that we choose.

Mr. Crockett: Let me ask the other people this question. Do you think that by coming to this meeting that they have learned quite a bit about the problems we are facing. We have had particular attention on the strong mayor business, and I think the people understand more now what this is all about. They may not agree with us, but I think they understand what's involved.

Whatever the merits of the council manager form of government are, let us leave it aside for a minute and ask ourselves this question. Will the people on Maui buy it? Will they accept it? And I don't think they will. I think if we put the council manager form of government for vote, they'll turn us down in stronger force than the last time because the people want to elect this guy in government. They're not going to stand for a government where the chief executive of the county is not elected. It's about as simple as that. They simply will not buy it. If you go out and educate people as we're doing and you can convince enough people on Maui and also with whatever assistance you can get--fine. If we can feel that there is a genuine feeling for this type of government, then I'd be willing to look at the merits, but right now, the problem is and I'm looking at all the problems we face. Are the people going to buy it, and the people simply are not going to buy what you are proposing.

Mr. Pomroy: Don't forget the power of the press. Don't forget that advertising is a big thing.

Information is very important to get to the people and there is one media you can get to the people and that is through the press.

Mr. Sodetani: Another question is and from what little I know of the council form of government, what research that I have made, my personal feeling is that the council manager you propose is close to dictatorship. What you are proposing to me is much worst than a strong mayor. He's much stronger. This guy you are appointing has nothing to do except hire people. That is all he has to do. Whereas, the mayor has the populace of the county.

Mr. Crockett: You originally said that these five people would be elected would necessarily be the outstanding people in the community. I suppose that the five people who were elected are not, but they would attract people who would be far superior to the ordinary type of person that you have running for the Board of Supervisors or any political office. Why would they be any different from the people you have running for office now?

Mr. Pomroy: Because it would be people that are public spirited. Their job would only fall for the attendance at meetings once a week that would last for about three hours. There will be no reading of the minutes. There would be no inter-departmental communications and there would be no communications from the outside to the council.

Mr. Crockett: Why doesn't this type of people run for office right now?

Mr. Pomroy: We haven't got that type of government. We've got a spoil system. That is one reason people are afraid of a strong mayor. They're afraid of the implication that a strong mayor could build himself up a machine and perpetuate himself in office. That could be eliminated. That is the things the people are afraid of.

The hearing ended at 9:42 P.M.

Respectfully submitted,

Ayako Ishikawa
Ayako Ishikawa, Secretary