

MINUTES OF THE
MAUI COUNTY CHARTER COMMISSION

DATE: March 10, 1966

PLACE: Board Chambers, Wailuku, Maui

CALL TO ORDER: 7:30 P.M.

PRESIDING: William F. Crockett, Vice-Chairman,
and Douglas Sodetani, Chairman

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

MEMBERS EXCUSED: Cornwell Friel
Harry Kobayashi

OTHERS PRESENT: Civil Service Commission:
James M. Izumi, Personnel Director

Police Department:
Jean R. Lane, Chief of Police

Others:
Kase Higa, County Attorney
Robert Johnson, Advertiser Reporter
Jack Stephens, Maui News Reporter

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ROLL CALL:

There were 9 members present and two excused at the regular meeting of the Maui County Charter Commission on March 10, 1966.

ORDER OF BUSINESS:

Vice-Chairman William F. Crockett took the chair in the temporary absence of the Chairman.

There was no communication or new business to be acted on, and the Chairman immediately called upon the Chief of Police Jean R. Lane of the Maui County Police Department.

Chief Lane circulated copies of the annual report of the Maui County Police Department of 1964, the new table of organization, and copies of Act 176, SLH 1964.

Chief Lane said that as far as he was concerned the present system, where the Chairman and Executive Officer appoints the members of the Police Commission and where the Police Commission appoints the Chief of Police, works satisfactorily.

Mr. Crockett asked Chief Lane if he would care to comment on the final draft of the former proposed charter of the County of Maui.

Chief Lane stated that the qualification of the Chief of Police in Section 8-8.2 should be classified.

He said that the phrase "responsible administrative capacity" is rather vague. He cited six requirements of the Police Chief contained in a book entitled "Police Systems in the United States" by Bruce Smith. These requirements are (1) the Police Administrator must be appointed; (2) he must be protected from partisan politics; (3) there should be no specific term of office and he should be removed only for cause; (4) the Administrator should have reasonable security and a right to appeal in the event of removal; (5) Administrator must have authority to balance responsibilities and freedom to plan and train for improvement; and (6) policy should be set by persons other than the administrator.

In answer to a question by Mr. Tester, Chief Lane said if there is no confirmation by the council of the members of the Police Commission, you could have "dirty politics" in the police commission. The Police Commission is a fold or buffer between politics and the police department.

Under Section 8-8.3, the dismissal, suspension, or demotion of any employee in the Police Department can be appealed to the Civil Service Commission. If the members of the Police Commission are not confirmed, Section 8-8.3 should remain as it is. If the members of the Police Commission must be confirmed, however, any appeal by an employee should be to the Police Commission.

Chief Lane explained that the Police Commission acts as a buffer. The Police Department is not like other departments. It is important that semi-military discipline be carried through in the Police Department; otherwise, you will have inefficiency. Chief Lane said personally he feels that the present system is operating well.

In answer to a question by Mr. Tester, Chief Lane said he has no security at present, and he felt that the dismissal of the Chief of Police should be appealable to somebody or that he should be dismissed only for cause.

In answer to a question by Mr. Crockett, Chief Lane stated that such an appeal should go to the Civil Service Commission.

Mr. Crockett commented that this was inconsistent if the Police Chief would appeal to the Civil Service but other officers would not appeal to the Civil Service.

There was some discussion between Mr. Crockett, Chief Lane and Mr. Tester as to how the phrase "responsible administrative capacity" should be interpreted. Chief Lane stated that this was not a major item.

Chief Lane stated that there had been only one appeal to the Police Commission by a police officer in the last 22 years.

Mr. Ushijima stated that if a man is subject to discipline by the Police Chief and can only appeal to the Police Commission, this is discretion against the man. Chief Lane said that this could be true but on the other hand, there have been cases where the Department had appeared to be on trial. Mr. Ushijima commented that the Police Commission would tend to pick up the Administrator. Chief Lane said this is possible but the Administrator should take only iron clad cases.

Mr. Pladera questioned whether policy making and adjudication should be in the same body. Are not three separate bodies better? Chief Lane stated that making a police officer to appeal to the police commission was started in 1939. Honolulu went through a big turmoil at that time and it was thought best to permit an appeal to the police commission.

One Attorney General interpreted the law to mean that the police officer can appeal to the Civil Service Commission. Two other attorney generals thought otherwise.

Mr. Crockett observed that the police may be a semi-military unit, but at present, under the military court of justice, there is a court of appeals of three civilians.

So even in the military analogy some civilian control is present.

Mr. Tester observed that Mr. McNamara is the civilian head of the Department of Defense, and that there is no appeal from him in the military.

Mr. Sodemani questioned whether the qualification of the Chief of Police should not be elaborated a little more in the charter. Mr. Sodemani also asked if the deputy chief should be protected under civil service. Chief Lane answered that personally he thought the Deputy Chief of Police should be under civil service for continuity of service. Should the two top people be removed at once, this might cause great disturbance. Chief Lane suggested that possibly the Chief should appoint one deputy "without strings" and one deputy with civil service protection.

In answer to a question by Mr. Crockett, Chief Lane stated that all the employees in the Sheriff's department were transferred to the Police Department. Under Chief Larsen, Jean Lane was the Assistant Chief of Police.

Mr. Pladera said that if the mayor has control over the Police Commission, he could dictate to the Police Commission and remove the Chief, but if the Chief of Police is lax and the causes are not enough to remove him, shouldn't the mayor have the power to remove the Chief of Police.

Chief Lane stated that the Chief of Police should have reasonable security. A Police Commission confirmed by the board will be a strong buffer against political pressure.

In reply to a question by Mr. Ushijima, Chief Lane said there is a policy for complaints by police commission. The commissioner reports this to the Chief of Police without opinion. Then the Chief makes an investigation. He also said that the Maui Police Commission has eliminated the annual police ball.

Mr. Balthazar asked what the Chief thought if a police officer appeals first to the Police Commission and then to the Civil Service Commission.

Mr. Crockett thought that this might delay things. Mr. Balthazar said that the Administrator should have a free hand in suspension but that any demotion or removal should be appealable to some body. Chief Lane suggested that a survey of the police officers should be made as to whether or not they would like this system.

In answer to a question by Mr. Crockett, Chief Lane said that the FBI has no appeals system. He thought that members of the FBI do not have civil service status.

Mr. Crockett commented that the director of the FBI is appointed by the attorney general, who is a political appointee, and yet there has been only one director for 35 years. Chief Lane thought this was not a very good example and may never happen again.

The meeting was recessed at 8:25 p.m., and reconvened at 8:30 p.m.

Mr. James K. Izumi was called to testify. Mr. Izumi presented a written statement with legal references and authorities on which the Civil Service Commission is based. Mr. Crockett asked as to what the status of the various deputies to the department heads in the County is. Mr. Izumi and Mr. Higa explained that deputies to department heads appointed by the Chairman and confirmed by the board and deputies to elected officials are exempt from civil service. Deputies are protected by the grandfather clause. The deputy to the manager and chief engineer of the Board of Water Supply is under Civil Service.

Mr. Balthazar asked if all deputies should be under Civil Service. To this, Mr. Izumi stated that all department heads and deputies should be exempt from Civil Service. In order to make use of career employees, however, the law should permit the appointment of an employee to an exempt position with the right of return to a civil service position. Mr. Izumi then read from page 9 of his written presentation. (The written presentation is on file in the office of the Charter Commission).

Mr. Tester said that the Civil Service director should be in sympathy with the merit system. He wondered if the qualifications were stringent enough. Mr. Izumi said that although the position of the Civil Service Director is exempt, the Civil Service Commission has required that the director have 5 years of experience and some background in technical personnel work.

In answer to a question by Mr. Tester, Mr. Izumi said he recommended that the civil service director be appointed by the commission and be removed for cause by the commission. He also recommended that the commission be constituted as it is now. Mr. Izumi disagreed with the provisions of the former proposed charter where the mayor appointed the personnel director.

Mr. Tester asked what would be wrong if the personnel director was appointed by the mayor. Mr. Izumi answered that the personnel director deals with the person's job and pay. In the process of classification, the personnel director has to make unpopular decisions, therefore, the personnel director should be out of politics.

Mr. Kondo said he doesn't understand the original proposed charter on the Department of Civil Service. The director is appointed by the mayor and the members of the commission are appointed by the mayor. Under the original proposed charter, what does the commission do? Only act as an appeal board?

In Paragraph 4 of Section 6-6 of the original proposed charter, Mr. Crockett said that this was meant to have any rules and regulations approved by the council. Right now the Board of Supervisors have nothing to say about the rules and regulations of the Civil Service Commission.

Mr. Balthazar said that the commission may become arbitrary, whereas, the council must be responsive to the people.

Mr. Crockett mentioned that the Board of Water Supply adopted a rule requiring \$100.00 for new subdivisions. The Board of Supervisors didn't have anything to do with this particular regulation.

In answer to a question by Mr. Crockett, Mr. Izumi said that to provide for the use of the existing talent, a provision should be made whereby a deputy could become a department head and then revert to his civil service status when the administration changes.

Mr. Pladera said that the personnel director might get better security if the mayor appointed him with the approval of the council.

Mr. Tester said that the council should also approve any removal.

There was some discussion about the educational qualifications of the personnel director. Mr. Pladera and Mr. Balthazar stated that too much emphasis should not be placed on formal education.

In answer to a question by Mr. Kondo, Mr. Izumi said that if employees are transferred to the State under Act 97, the county would lose 394 full-time employees. It was for this reason that Mr. Izumi does not have a full time deputy.

On disciplinary appeals, it was pointed out that under the original proposed charter a policeman can appeal to the civil service commission.

There being no further questions, Mr. Sodehani thanked Mr. Izumi for his informative presentation on the functions of his department.

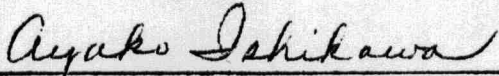
ADJOURNMENT:

The meeting was adjourned at 10:00 p.m.

NEXT MEETING:

March 11, 1966, at 8:30 a.m., in the Board Chambers with the members of the Police Commission and Civil Service Commission.

Respectfully submitted,



Ayako Ishikawa, Secretary