

MINUTES OF THE
MAUI COUNTY CHARTER COMMISSION

PUBLIC HEARING

DATE: June 9, 1966

PLACE: Kahului Library Conference Room

CALL TO ORDER: 7:40 P.M.

PRESIDING: Douglas Sodetani, Chairman

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

OTHERS PRESENT: Kase Higa, County Attorney
Robert O. Ohata, Planning Director
Daniel S. Higashi
Al Perry
Mrs. Virginia Wirtz
Willard Eller
G. Richard Mann
Tom T. Mizoguchi
Richard Mawson
Jitsuo Yoshimori
Lowell A. Hanks
Carroll Lindley
Mrs. Mary Ellen Lindley
Mrs. Kathryn C. Crockett
Mrs. Lucille Meddings
Constantine Tomoso
Dr. James Fleming
Mrs. Elizabeth Fleming
Francis E. Pomroy
Joseph Souki
Elaine Yamato

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The Chair opened the hearing by introducing the members and staff of the Maui County Charter Commission to the audience. A brief explanation of the duties and functions of the Maui County Charter Commission and a summary of the Charter Commission since its appointment and confirmation in February, 1966, was given by the Chair. The Chair stated that this was an informal meeting and requested that the audience,

when speaking, identify themselves as to whether they are speaking as individuals or representing an organization. If a charter is desirable, the Commission would like to have some indication from the audience as to the kind of government they would like to be govern by in the years to come.

Mr. Hanks: I'm Lowell Hanks and I represent the Maui Junior Chamber of Commerce. Our Board of Directors and our membership has gone on record as being in favor of the charter as was drawn up in the 1964 draft. The reason we were in favor of the charter was because the strong mayor type of government places responsibility squarely upon the mayor, and this man would be responsible back to the citizens. This way, there will be no wishy washy John did it or Jack did it. It is his responsibility. He picks the man, he is responsible for his action. In this way, there will be no buck passing. However, there is one exception that we would like to suggest and that is the four year term be staggered as far as the election is concerned. In other words, not have the entire change over in government at one election. We would like to see that staggered up in two different elections as a check and balance type of thing. I am sure you can appreciate that if they are some errors running along the way, and you got new people coming in, then it will be much easier to channel these people into the views or the ideas you have rather than try to change the existing ones who are working on programs already existing. Basically, that is what we had in mind, and what I have come to tell you this evening.

Mr. Tester: I'd like to ask Mr. Hanks whether he feels the four year term should apply to both council members and mayor?

Mr. Hanks: Yes, we do.

Mr. Kobayashi: One question I have. The election of the council as far as at large or by district, have you discussed that with your organization?

Mr. Hanks: No, we didn't go into that part of it at all.

Mr. Mann: My name is Richard Mann, and I am representing myself. I just moved to the island two months ago, and I am not quite familiar with the type of government you have right now. I wish someone would explain to me the present set up.

Mr. Sodehani: Mr. Mann, I am going to try briefly to explain. We have what we call a weak mayor commission form of government. In other words, the Chairman and Executive Officer of the County of Maui does not have as much power as what you would normally think of a mayor in a big city. He is just another vote insofar as the legislative body is concerned and yet he is also saddled with the duties of the administration. Right now, the present time, the legislative body and administrative body is one and same body. That in brief is the kind of government we have. If I am wrong, someone can correct me. I can go one step further insofar as the creation of this government here. Going back in history, the Organic Act, the creation of your county government from the Organic Act into the territory, into the State. The county does not have any one document to show that we have a constitution or by-laws. The duties, powers and functions of the county government is scattered within the statutes all over. We don't have one set document. Normal organizations will have a constitution and by-laws. The State will have constitution, or the United States government will have constitution--the Federal Government.

Mr. Eller: My name is Willard Eller, and I am a resident of Wailuku, speaking in my own behalf. I don't have with me or at home the copy of the charter last presented to the public. However, there is one feature of it which I would like to see changed in your version which you are working on now, and this is the various department heads be competent in their own fields. Too many of those in the last charter had identical definitions. You had to be a good citizen and have good administrative ability, but I do strongly urge that each department head be competent in the field in which he is the head.

Mr. Crockett: How do you define competence?

Mr. Eller: Well, as having experience over a number of years in the field in which he is to take charge. In the fire fighting field, I think he should have considerable number of years of experience in various phases as well as the administration of various phases of that field. Same with police department. I think the attorney is one example in the last charter. The attorney was well defined as being a registered attorney with good standing. Same thing would apply to engineers in the Public Works Department.

Mr. Crockett: Don't you think that when you are selecting people with positions of higher responsibility that inevitably a great deal of the basis on which you make your choice be largely subjective and not objective. Isn't it really a question of judgment we are talking about?

Mr. Eller: It is. However, I think if you are going to specify a person of judgment, it has to be done with a lot more words than with a lot of requirements that were set up in the last charter.

Mr. Tester: I'm sure you know, Bill, that in drawing up the last charter, in one particular area was the area of engineers. We specified that both on the water board and public works that the head of the department didn't necessarily had to be a licensed engineer. I know that this caused some conservation particularly with the engineers. I just like to say there that one of the reason was that good administrators are hard to find anywhere. Good administrators who are licensed engineers are pretty hard to find, too. Furthermore, in both of those departments you also have other licensed engineers besides the head of the department and you're really not saying that you can't be a licensed engineer as well as a good administrator, but you are saying that he doesn't necessarily have to be a licensed engineer. Now, how do you feel about that?

Mr. Eller: I might ask a question of you. How do you define a good administrator? In the few words that were listed in the charter?

Mr. Tester: No, I think you are right. It will be quite easy to draw up the requirements of a good administrator.

Mr. Eller: I think more attention should be paid in the charter in this area.

Mr. Tester: Do you feel in the engineering departments, is it necessary that they be a licensed engineer?

Mr. Eller: Not absolutely, but I think it helps a tremendous amount.

Mr. Tester: There are lots of top notch engineers in organizations that are being operated by people who are not engineers and for one good reason is that with the present day set-up, why many, many engineers are being

graduated from universities and many of them are getting licenses, and you can go out and buy engineers. I personally feel very strongly that the head of the engineering department does not have to be a licensed engineer.

Mr. Eller: In a small operation as we have here in the county, which is relatively small, you tend to get two people for one doing the job.

Mr. Tester: Of course, I don't believe that either. Even in the water board job, there is a great deal of administrative work. As I say, many of the licensed engineers may not be good administrators.

Mr. Eller: I agree with you on that.

Mr. Tester: I think this is one of the points which caused the last charter not to pass. Things of that nature.

Mr. Mizoguchi: I'm Tom Mizoguchi, and I came here representing the Jaycees, but on this question part, I would like to speak as an individual. Before I express my opinion on the charter, I'd like to ask the Commission if they would give out, how many per cent of the major cities in the United States have this almost exact type of charter?

Mr. Balthazar: We don't have it right now, Tom, but if it is in this book, I will give you the answer later on.

Mr. Mizoguchi: You have a strong mayor type in which the council does not approve the appointments, especially the department heads. Now, I think in some strong mayor type, so to speak, do have the department heads approved by the council. Now, why can't this be put in to this particular charter. It doesn't mean when the mayor appoints the department heads, that will be the strong mayor type. Even though he appoints the department heads and have the approval of the council, you can also have a strong mayor type. I don't like the part where the mayor appoints everything without the approval. That is why I asked how many of the cities in the United States do have this exact type. Is it popular in the United States or not? Even the Federal and State Government has this type of approval. I'd like to see that incorporated in the charter.

Mr. Sodetani: I gather, Tom, that you would like to see that all appointments of department heads have confirmation by the council or Board of Supervisors?

Mr. Tester: Tom, do you feel that all the department heads should be appointed by the mayor? Do you think the police department, your police chief should be appointed by the mayor?

Mr. Mizoguchi: I think that particular area many of the council type of government, I think it is not approved by the commission.

Mr. Tester: That is another point, I think, if we go for a new charter, these are specific things that I think we really got to work on. The police chief is a different category, and I feel also, so is the planning director. I feel there are several that are in the different categories to the regular department heads.

Mr. Hanks: One point on that very thing you are talking about there. It seems to me if you get involved in a situation where you are going to have to beg other people to approve your appointments, you're also getting yourself in a position where political powers is going to come into play. Whereas, with the strong mayor type of system, you may have political appointments. As a matter of fact, I venture to say 100% of the appointments are the strong mayor type of system with the political of one nature or another. However, you wouldn't have this interplay coming back and forth between the council and the mayor trying to push one or the other for political reasons.

Now, the mayor goes ahead and appoints, and he appoints on political basis. That is perfectly all right, but if the man doesn't produce, it is the mayor who is swinging for it, then it is him to answer for it, and it's him that is going to be kicked out if it doesn't come through, so his own political future as well as the people who are working with him are at stake. If you get back to the situation where Tom is talking about, you are getting into a position where the mayor can say, well, I wanted John Blow to do it, but instead the council goes along and compromise, and so we got a John Smith.

Mr. Tester: Supposing it was a commission. Supposing the police chief was selected by the commission. Do you feel then you don't have one person to blame, but you do have the police commission to blame.

Mr. Hanks: Well, here again, you are getting into personality conflicts and political powers.

Where you got more than, say, two or three or four people who are going to be making the decision, anyone of them can say, I didn't do it because the other three didn't go along, or you got this business where you are passing the buck back and forth. In the strong mayor system, it would seem to me that the single advantage that you have here, you have one person responsible. If he doesn't produce, it's his fault. He can't go back on anybody else. If you are trying to compromise and get a wishy washy system where in certain areas he is going to be responsible and in certain other areas, he is not, he is still going to be involved in this political power play. I'd like to see that thing abolished entirely.

Mr. Mawson:

I'm Richard Mawson of the Maui Publishing Company. The point that you are bringing up now about the police commission is one of the critical points in this whole previous charter and what has been said makes sense, and we are trying to approach an idealistic situation.

Under the old proposed charter set up, the police chief was appointed by the police commission, but the police commission in turn was appointed by the mayor without confirmation, and so in effect, you had the mayor appointing the police chief, which is not a healthy situation.

Also, along with what Bill Eller was saying on the spelling out more rigid requirements. You say that if the mayor appoints a water board head who doesn't do his job all right, then the mayor can be thrown out during the end of his two year or four year term, whatever it happens to be. This doesn't necessarily follow, because unless we have high professional standards set up for the head of the water board, the political appointment can be made, and then he can hire the brains you are talking about and turn in the job, but you are paying twice for the job, and you say that you are looking for administrators rather than engineers. I'll go along with you on that, but if you are going to hire the head of an engineering department for a multi million dollar corporation, the size of the County of Maui, you would insist that your engineering department head at least had a speaking acquaintance with engineering. He wouldn't necessarily have to be an engineer, but he would have to know the language and the problems of engineering or he couldn't be put in. I'm sure that this is the way you would run your business.

This I think was one of the weaknesses in the other charter. The basic concept of the strong mayor in the community size of Maui, and for the next 10 years we're not going to get that bigger, the basic concept of a strong mayor government takes the power of a government away from the people by one more step and puts it in the hands of one person. We don't need that in the community of our size.

What you are again talking about in political appointments, you do have clash of personalities in politicalism where you have to have approval by a council, but if you have one man making these appointments, he can build himself and again, I'm being realistic about this, and I'm not pointing fingers at anybody, he could build himself a terrific political machine, where if his appointments had to be approved by the council, you would have to assume that both the majority and minority parties would have representation on that council, and so you would have more emphasis placed upon skill and experience, background and qualifications, rather than the political part of it, and you would be moving one step farther away from this possibility of making a political appointment and hiring a second skilled man to do the job.

And I think several of your department heads, all you are asking for is I think it's three years of experience. It doesn't say in this particular field or any other field.

And again on your County Attorney--if you are operating a multi million dollar corporation, you would want to bring a corporation lawyer in. You would have more requirements spelled out rather than a man pass the bar examination of the State of Hawaii.

Mr. Tester: Back to the Chief of Police. How would you suggest that he would be appointed?

Mr. Mawson: I would feel the police commission is a good idea, but I feel the appointments to the police commission should be approved by the council. When you touch the area of police or courts, or any of that area, you are touching the vital rights of the people, and it has to be handled very, very carefully. I feel, too, that this was one of the points that worked very badly against the last charter.

Mr. Crockett: Your last comment, you are touching the vital interest of the people when you are talking about the appointment of the police chief, then

it would seem to me that you would want this appointment as close as you possibly could to the people, namely, having the appointment made by somebody elected by the people, rather than have him further removed by the people. I'm not saying this is what I necessarily believe, but I would think that it would be the logical thing to follow.

Mr. Mawson: I agree with you 100%. That is exactly what I said. I feel the police commission should be approved by the council, which are the direct representatives of the people in a bi-party level.

Mr. Crockett: The police commission is not elected.

Mr. Mawson: They are appointed. I say the mayor would appoint the police commission with approval of the city council. Your city council is a bi-partisan group. You are going to have majority and minority party members on the council. They would have to approve your police commission.

Mr. Crockett: Well, if you would want to bring it very close to the people, we would abolish the commission and have the appointments made directly by the mayor and perhaps confirmed by the council, but abolish the commission which is not an elected body.

Mr. Mawson: I disagree with you.

Mr. Crockett: I don't say this is what I believe now. I'm just saying this is the logical way of bringing the appointments and bringing this area very close to the people.

Mr. Mawson: Now we're splitting hairs. We are setting the police commission in the line of command in the appointment of the police chief aside from the other departments for the moment. It should be close to the people, and the way to get it close to the people is by approval of your council, which are the direct elected representatives of the people, as opposed to the mayor who was also elected, but is the products of a single party. You could eliminate the police commission, yes, but then you eliminate your policy making body, which you have to have in your police work. The city council is not necessarily qualified and that is not part of their responsibility to set police department policies. The police department policies has to be set by representatives of the people who are appointed by the mayor

with the approval of the council, the elected representatives of the people. I feel that you are putting it close to the people rather than taking it farther away and doing the way I am speaking about.

Mr. Kobayashi: If you want to bring it closer to the people, why can't you go another step further and have this police chief elected by the people?

Mr. Mawson: I don't think this is the practical way. I think that you lose sight of professional qualifications, and it becomes a political campaign issue. A man can be elected on personality or political machine. I don't think that is the answer.

Mr. Sodetani: Should all of the cabinet members of the mayor be appointed by him and confirmed?

Mr. Mawson: I would be a little reluctant on the county attorney. The others, yes. I would see no objection to that, but the county attorney again is an area where he is the defender of the people's rights, and that job, the same as the police chief's job, should be kept away from party politics as much as possible. And, of course, in our form of government, the only way you keep it away from party politics is by making it responsible to a bi-party group rather than one man.

Mr. Sodetani: Would you go one step further that if like the President of the United States and all of his cabinet members are with the advice and consent of the Senate.

Mr. Mawson: I don't think we are talking about the United States Government. We are talking about the Maui County Government.

Mr. Sodetani: Then the President also has the right to dismiss any of his cabinet members without confirmation from the approval of the Senate.

Mr. Mawson: I don't think we can draw parallel. I wouldn't care to get drawn into that. I don't think it is germane to the point. What we are talking about are problems peculiar to a community of about 45 to 50,000 people.

Mr. Balthazar: May I suggest that the right of confirmation to appoint also exists in the right of the mayor to fire. I think that is the point Douglas is trying to make.

Mr. Sodetani: In other words, if the mayor appoints a cabinet member with the confirmation of the

Board of Supervisors or council, however, if the mayor feels the cabinet member or department head is pulling his load, they can fire him without confirmation.

Mr. Mawson: I think he would be fired by the same body that hired him.

Mr. Tester: Speaking again about the county attorney--do you feel that it should be an elected or appointive position?

Mr. Mawson: It should be an appointive position, but with approval of the council.

Mr. Sodehani: Do you think the county attorney should have a public prosecuting department separate from the county corporation council or county attorney's office like what they have in the City and County of Honolulu?

Mr. Mawson: I know what you mean. I don't know that we need it in the community of this size. Again, I couldn't give you a studied opinion. I haven't considered it yet at that depth.

Dr. Fleming: At the last meeting, I brought up a point that I thought we should have election every two years. I reiterate that again tonight. The staggered term according to Mr. Hanks, I think is excellent, but the two year term is plenty long enough.

Mr. Hanks: I would like to make one statement on the two year term. We discussed this last night for quite sometime on two years verses four years, and we came up with the idea or the combined opinion that two year term is not long enough for people to actually get rolling to get their programs moving and at the same time in the two year term, it seems like you're back in the old political swing, where well, I got myself elected, now I have to show up, and I am going to have to start campaigning again, so it seems like you are just out of one election and you are starting another campaign for the next one already. If you have four years to go, it seems you would have more time to concentrate on problems at hand, rather than politics.

Mr. Kondo: Mr. Hanks, I suggested that at our meeting, and they brought up this question about Lanai and Molokai. How do you propose to treat them?

Mr. Hanks: Actually, we didn't discuss that either, so I can't come up with a solution on that.

Dr. Fleming: If we are going to carry reapportionment down to Lanai and Molokai, that may solve the problem there. There won't be enough people on Lanai and Molokai to have representation.

Mr. Kondo: But that won't take effect right away.

Dr. Fleming: But if we have reapportionment in the State government, then maybe we could have reapportionment in the County government also. I am not saying I'm for it. I'm just saying maybe it needs reapportionment.

Mr. Ohata: I'm Robert Ohata, speaking for myself. I want to speak from, say, 16 years of government service as a deputy department head and as department head.

I'm in favor of a four year term for the city council and the mayor. The reason for this is that when you try and propose programs before the legislative body, you will find that as you get quite close to election time, many of the controversial issues are not acted upon. This is understandable. Then after the election, there might be some lame ducks, and this prevents action on certain issues again, so as department head, we lose about six months in a year during election year. So using this theorem, one fourth of the term of office in the two year term is lost. That is why I would like to urge a four year term, rather than a shorter one.

The second reason for this is that the theory back of a two year term is that each official is reviewed by the public, but if you check the election record, you will find that about 80% of the officials are re-elected. Therefore, there is a continuation of a four year term or longer, as the case may be. Therefore, it subjects the officials to unnecessary expenses and it disrupts normal government operation.

Mr. Crockett: Your first observation is very interesting. You say that because of the two year term, there is certain amount of built-in inertia in government, which means that programs are initiated and carried through during only perhaps half of the term.

Mr. Ohata: I did not make that stand. I said the opposite--that during the election period, controversial issues are not acted upon.

Mr. Crockett: So there is a fairly long period of time when controversial issues are not acted upon.

Mr. Ohata: Yes.

Mr. Crockett: So this means there is a shorter period of time when controversial issues are acted upon.

Mr. Ohata: That is right.

Mr. Crockett: So then this means then the number of controversial issues which can be presented and considered by government are limited because of the two year term.

Mr. Ohata: Yes.

Mr. Crockett: This then makes for fewer controversial issues to be acted upon.

Mr. Ohata: No.

Mr. Crockett: It doesn't? Why not?

Mr. Ohata: Because the issues are usually not of the council's making. It is submitted to the council by the general public and by the department heads.

Mr. Crockett: But they are iceboxed during the fairly long period of time because of the two year term, and this doesn't necessarily make it a more conservative government, doesn't it?

Mr. Ohata: No. I wouldn't say that. Not necessarily so.

Mr. Crockett: It would seem to me that this would be the conclusion that I would come from your observation. The shorter period of time for controversial issues to really be acted upon, the rest of the time there is at the committee of the whole waiting for interment. Isn't that right?

Mr. Ohata: Well, we cannot make a general statement here.

Mr. Crockett: I am just trying to follow through in the line of what you said. The idea of the two year term like most people are opposed to is that it throws the government in turmoil all the time. You got new people coming in, they got new ideas, and there is more controversy. Your idea is really opposite of a two year term. It makes for more conservatism in government. Controversial issues are not taken up during this period right before the election. They are not taken right after election, therefore, there is a relative shorter period of time during the political biennium during which controversial issues are discussed, which I would think, therefore,

lead to a more conservative type of government.

Mr. Ohata: Your basis for that deduction is not true. I think you are going on the premise that controversial issue is anti-conservative.

Mr. Crockett: I am not using the word conservative and liberalism like everybody else is. I am using the word conservative that whether fewer changes are being made all the time, whether good or bad, I don't care.

Mr. Ohata: In other words, you are relating controversial issues to liberalism and I don't think this is so. That is why you have taken the anti of that and say that controversial issue forms for conservatism.

Mr. Crockett: I am saying that following your theory out, there are fewer controversial issues which are being considered acted upon and this being so, there is less time to talk about these things. There is less time fewer things will be enacted into law.

Mr. Ohata: No. That premise doesn't hold true, because it means that this issue must be acted upon any way.

Mr. Crockett: And they are acted on in one great big rush.

Mr. Ohata: That is right. There is less time to work this thing out and this disrupts normal operations by the various departments.

Mrs. Wirtz: I would like to say something about the attorney's section. I am a firm advocate of an appointive judiciary in any level. I do not believe in electing anyone from Supreme Court on down to the County Attorney, because a man who is really good in his field of the law is not necessarily a popular figure and doesn't necessarily make a good impression by going out and trying to gather up votes.

I do think the judiciary and political side of the administration should be kept fairly separate, and it is only segregated that way if you have an appointive judiciary, and I do think, however, that the definite qualifications must be written into the charter for the appointment of the County Attorney aside from being a member of the Hawaii Bar Association, or having passed your bar exams. Well, some boys are being known to pass the bar exams the first time out of college, and I don't think you would want somebody fresh out of college as your County Attorney.

I think more experience, etc., should be written in, and I also think and agree with the man who spoke on the subject of department heads that I think firm qualifications should be written into each department head's description, rather than general. I mean sure the engineering degree doesn't have to go along with the administration, but he should have some experience in the engineering field before he becomes the administrator of that department. I do feel the qualifications should be written in each one of those jobs.

Mr. Pladera: Are you in favor of permitting a non-qualified person by way of formal education? Are you in favor of letting a man take any administrative position to commence a program for the county and give us this opportunity because of the fact that he is a good man, and he can pick up the education just as well as a guy can formerly? Are you ruling out a man of that nature by idea of qualification?

Mrs. Wirtz: I think in the specialized field like the Board, you have to have your education requirements. You can't just pick up the knowledge of law. I do think in the specialized field, you need that qualification and maybe on your more general fields, the exact part you don't have to be a licensed engineer to head the engineering department if you had experience in that field.

Mr. Pladera: But you wouldn't object to the other types of field or departments?

Mrs. Wirtz: Ruling out medicine and law, I think other fields, you can acquire good deal of knowledge through experience without actual formal education.

Dr. Fleming: I have one comment to make. I don't like to disagree with Mrs. Wirtz, but I feel the fewer qualifications that you write into these things all through, the better. Depend on the people who are making the appointments. First thing is, you can't put all the qualifications, but you will find some loopholes somebody forgot. So, fewer rules and regulations, the better--generally speaking.

Mr. Hanks: I don't want to be repetitious, but it seems to me that under the strong mayor system, it would be rude for the mayor to pick the best man for the job, and if he is going to be responsible and answerable to the people, it seems to me like he is going to take a long

hard look who he puts in his department heads. It would solve a lot of our problem right here.

Mr. Balthazar: And even if he is not going to be responsible, you will know for the first time it is the mayor's decision and his decision alone. Under the present weak form of government, you don't know. That is the point I continually maintained under the old charter. You don't know who is running the county, who is doing what, whom to throw the roses to, or whom to throw the brick at.

Mr. Lindley: My name is Carroll Lindley, and I am speaking as an individual. I have a question to make before I make a positive statement that I think the charter is necessary. The question I have is would any of you care to hazard as to what we will wind up with if we do not adopt a charter.

Mr. Sodehani: I suspect and I have my fears that if the neighbor island counties do not have a charter within the next few years, the legislators will draft out the charter and tell the various counties this is the way you run your government, regardless of whether you like it or not. They'll give us a time table, if we don't have a charter within a specified time. This is my fear, and I do have some basis of that fear, not necessarily in black and white, but this is the intuition that I have.

Reapportionment of the recent Supreme Court ruling is one of them. The majority of the powers will be in the metropolitan area of Oahu. Neighbor island counties will have very little. So I have this fear that if the neighbor island counties in the next few years do not come up with the charter, the legislators will draft up a charter which will not be acceptable to the majority of the people of the various counties and tell us this is the way you run your government.

Mr. Souki: My name is Joseph Souki, and I am speaking as an individual. On this charter--I think possibly what should be elaborated to the people is that in the event we do have a charter and there is some provisions in the charter that the people do not care for and they want a change, the changes can be made. It states in the charter that you can make changes, and I think it is the fear of the people that once we have a charter, we will be stuck with it from here to eternity. I think possibly we can acknowledge or let the people know, become aware of it that changes can be made.

Mr. Sodehani: The proposed charter of 1964 outlined that in every 10 years that there will be a review of the charter.

Mr. Souki: I would think it would be good to have perhaps a lesser time than 10 years. Maybe 5 years.

Mr. Crockett: Along that line, Mr. Souki, this idea if we go ahead and draft a charter and throw it out and see what you and the other people think about it, I think it might be a good idea to put in the charter along with this provision for mandatory review every 10 years of the charter itself, a provision mandating the mayor and council to appoint a commission that would be required to look in the actual operations of government and to recommend changes that would be made in the actual operation of government.

I'm not talking about the review. This other commission would not be reviewing the charter itself, but they would be reviewing questions of efficiency, organizations, etc. In other words, it will be patterned after the Hoover Commission that functioned for quite sometime during the late 40's and early 50's. They'd be concerned primarily about the efficiency of government itself, and they, of course, would be the citizens group appointed by the mayor and the council, and this would tend to answer some of the critics who came in and said what are you doing about efficiency in government.

They don't realize, I think, that as a charter commission, we can't get in and start telling the department how to operate or to give any general rules and regulations to this particular department as to how it should operate. We are not concerned with the details of the operation. We are concerned with the structure of government, but I do think there should be some provision in the charter so that a citizens group can get into the question of details of operations of county government.

Mr. Mawson: I was asked the opinion on the necessity for a prosecutor for the County Attorney. Would one of you explain what the functions is of the prosecutor's office? What is the need for it? What's the background on it?

Mr. Higa: Generally, as in the city and county where you do have the functions divided between the prosecutor's office and corporation counsel's office, the prosecutor will devote all his time to criminal matters. Whereas, the corporation counsel devotes his time to all

civil matters and in advising the counsel and mayor on things other than criminal matters.

Mr. Mawson: The reason I asked this is what I understood. Would this not be an operational problem in the department rather than a charter's?

Mr. Higa: No. Lot of charters are spelled out that there shall be a prosecutor's office and there shall be a corporation counsel's office. Now, the proposed charter of the County of Kauai proposes an appointive county attorney and an elective prosecutor.

Mrs. Wirtz: Doesn't that depend on the size of your community though? I mean Honolulu, sure, they have to because of the tremendous volume of people, but it seems to me Maui is a little small to necessitate a division.

Mr. Higa: Well, to a great degree, depends on the size of the community. My personal opinion is, I've given it to the Commission, our operations are not that complicated or that immense that we need two separate departments.

Mr. Mawson: What we are talking about then in that area would be to create an area of specialization inside that office. Is that what we are talking about?

Mr. Higa: Yes.

Mr. Crockett: I think it goes further than that. I'm not saying that there should be two different offices set up in the charter, but I think the basic difference in functions between the two jobs, and the job that is more critical is the prosecutor because the prosecutor exercises a great deal of discretion. When a charge is brought before him by the police department, the prosecutor uses great deal of discretion as to whether he should prosecute, or whether he should drop it.

As you, yourself, pointed out when you deal with criminal matters when a person is charged with a criminal offense, you are getting very, very close to something that is very important to this particular person. When you are talking about the enforcement of the criminal laws, you are talking about something very, very close to the society as a whole. So that is why there is some argument that the prosecutor, because he does exercise his discretionary authority, should be close to the people--he should be elected by the people, but I'm not saying that I necessarily subscribe to it, but there is a certain great deal of merit in that particular point of view.

Mr. Higashi: I'm Dan Higashi, a resident of Wailuku. I came in favor of a strong mayor form of government. Of course, with an open mind, but I might change after hearing all the discussions. At this time, I still am in favor of a strong mayor form of government. The mayor should be given as much authority as possible to administer the government in carrying out the administration.

Mr. Sodehani: I take it that you feel the charter at this time is necessary for the County of Maui.

Mr. Higashi: That is right. I would like to ask the commission one problem having brought up that the police chief and planning director's office are special offices. In what way are they special? What's the definition for that?

Mr. Tester: I think the police chief is special merely because we don't like to see the chief of police get involved in politics. I would say the same thing about the planning director.

Mr. Higashi: So it goes with all the other directors. They can get involved in politics, too.

Mr. Tester: Yes, but the enforcement of law is something very close to the public. I don't think anybody wants to see the enforcement of law in politics.

Mr. Crockett: Of course, Keith, you've got to realize that more and more today, each one of our department heads is enforcing law. Bob Ohata here enforces laws and his enforcement of the law touches more people, I dare say, than the enforcement of the laws by the police chief.

My answer to your question would be every office is very special. It is special to the person who is occupying that particular job. Secondly, every position is important to the member in the public, if that particular member in the public has got to deal with that particular person. That member in the public has got that particular type of action from this particular department head. In Bob's case, if you want some specifications in zoning law and some other law he administers, this man is extremely important, but I don't think in the overall concept of our work, it's too desirable from my point of view. I don't know about the other people. It is proper to say that anyone department head is more important than any other department head because insofar as he touches the public, or insofar as he touches one person in the public, you or me, or somebody else, this man is extremely important.

Mr. Balthazar: I was wondering, Mr. Chairman, if anyone here felt we do not need a charter.

Mr. Sodehani: Anyone here feel the present government is fine, and we do not need a charter?

Mr. Lindley: I think we definitely do need a charter. After all, there is certain amount of responsibility that goes along with the privileges we have. I think we are capable of setting up our own form of government, and we're lax in our own responsibility. I think we have a capable commission. I do think that it is very important that we do have a charter.

There being no further comments from the audience, the Chair thanked those present at the hearing for their interest in our County government and invited them to attend any of our meetings.

The Chair stated that we will be having seminars on June 27 and June 30, 1966, which the public is also invited to attend. Speakers for the meeting of June 27, are Dr. Norman Meller, Professor at the University of Hawaii; Mr. Richard Takasaki, Vice President for Business Affairs at the University of Hawaii; and Mr. Herman Doi, Head of the Legislative Reference Bureau. The meeting on June 30, will include Mr. Herman Lemke, Chairman of the City Council, and Mr. Hiromu Suzawa, Deputy Corporation Counsel.

The Chair stated that various categories of the charter will be publicized so as to apprise the public as to what is transpiring at the meetings.

So far, the Commission has sent out letters, together with the proposed final draft of the 1964 Charter, to 200 organizations for their comments, evaluations, criticisms and recommendations. To date, only 8 or 9 have replied.

The hearing was adjourned at 8:55 P.M.

Respectfully submitted,

Ayako Ishikawa
Ayako Ishikawa, Secretary