

MINUTES OF THE
MAUI COUNTY CHARTER COMMISSION

SEMINAR

DATE: June 30, 1966 -- 7:15 P.M.

PLACE: Kahului Library Conference Room
Kahului, Maui

PRESIDING: Douglas Sodetani, Chairman

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

MEMBERS EXCUSED: Nadao Honda
Harry Kobayashi

GUEST SPEAKERS: Herman G. P. Lemke, Chairman, City
Council, City and County of Honolulu
Hiromu Suzawa, Deputy Corporation
Counsel, City and County of Honolulu

OTHERS PRESENT: Jack Stephens, Maui News Reporter
Seimo Oshiro
Dan Higashi

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A brief meeting was held by the members of the Charter Commission prior to hearing the guest speakers.

Copies of the Committee Report, dated June 29, 1966, and addressed to the Board of Supervisors were distributed to the members of the Charter Commission. It was moved by Emil Balthazar and seconded by Shiro Hokama that said Committee Report be adopted. Motion was carried.

The Chair introduced Mr. Herman Lemke and Mr. Hiromu Suzawa to the audience.

Mr. Lemke: One of the big things back of the charter is that, as I'll state here, to me the charter need not go into too much detail because that's where you make up the difference getting into details. You can always do that through ordinance as long as the authority is in the charter, so a lot of things can be done at the ordinance level, which sometimes gets put in the charter. Even, for example, you'll notice all our charters, including the one in Honolulu, the area on, for example, the general plan--how you handle zoning, etc. Lot of those things could be done by ordinance without even being in the charter. When you look at the model charter put up by the American Municipal League, you'll notice it's a

fairly concise document compared to even what Kauai put out or Honolulu put out. So, that's in general as far as that's concerned.

Your Chairman had asked me to comment, for example, on the operation of the county government on Oahu before and after the charter. Well, as you know, we have a so-called strong mayor type government. The biggest thing there is that the mayor now makes appointments of all the department heads without any confirmation of the council. Another thing, too, is that once the budget is passed, the mayor has a big blank check. Once that budget is passed, he has a lot of authority to move money within each department without coming back to the council. In other words, this is not a line type budget, so you have a lot of flexibility there that he did not have in the old days. The reason for that, I guess, is that those who wrote the charter felt that the administration should have that privilege. Of course, to counteract any wholesale changes without proper reasons, the council has a audit section under the council besides the CPA that's appointed at the end of each year and in this audit section under the council, their biggest job would be to count the cash and they get into what is known as performance auditing.

In other words, they go into a department and see that whatever is being done in that department is done in accordance with the budget that passed and if the mayor had move things around, so to speak, had not followed the budget the way it was originally proposed, well, they would disclose that and naturally, the mayor would have to explain why, etc. So, although the mayor gets the so called blank check after the budget is passed, he still is subject to scrutiny.

Mr. Crockett: How big is the audit section which you have?

Mr. Lemke: Well, the audit section that we have that checks the cash, I believe that's Mr. Jim Murakami with about four or five assistants, plus a secretary, auditors that just counts cash--not only count cash at a specified time to make sure it's there, but goes out and audits the cash flow in the various departments periodically.

Mr. Crockett: How about the performance section?

Mr. Lemke: On the performance section, we have two persons.

Mr. Crockett: Do they assign the task you assign them to or do they just periodically audit?

Mr. Lemke: Well, the way we have been working right now is that we have two standing committees--the Finance Committee and a Public Works Committee. The Finance Committee handles most of the things that comes out of the so called general fund, and the Public Works Committee handles practically everything that comes out of the roads fund, gasoline tax, and things of that nature, construction work out of the engineer's office.

We have one auditor assigned to the Chairman of the Public Works Committee and the other auditor assigned to the

Chairman of the Finance Committee. And this auditor is suppose to help these two chairmen. Each auditor is suppose to help these two chairmen on anything they want checked out.

I guess you are quite interested, too, for example, to what extent the outside CPA auditor should get in the act. Well, I think you should at least have it in the charter but leave it up to the administrator or under the council to decide on whether to hire him or not. In Honolulu, we hired the firm each year ever since we've been in existence as a charter county. It's not necessary that you do this every year, but in our case because of the size and the auditors argue, too, that once they start, it's easy for them to keep going each year, rather than maybe once every three years because on the third year they have to practically start from scratch anyway in order to audit that third year. So, we've kept it up each year. Cost is about \$50 to \$60 thousand a year.

Mr. Crockett: Do you need them in addition to the regular staff that you have?

Mr. Lemke: That's right. The regular staff we have of about four or five men, you see, are just primarily concerned with cash flow and the counting of cash.

I can see the problems you folks will have here, for example, with a budget, let's see, most probably about one-sixth of ours to carry on all this expenses of overhead. I mean this overhead is fine when you get over a certain amount, but when your budget is under a certain amount, this gets to be extremely expensive, so sometimes you have to cut from it, but it can be done on a periodic basis. As I said, you don't have to have your CPA every year, but sometimes it's good to have the administration know, maybe once out of every four years or thereabouts, that there might be an audit put into effect by the council, but at least I think the authority should be in the charter for the council to have that type of audit over the administration. I certainly wouldn't recommend that it had to be done every year.

Mr. Kondo: Regarding the audit section or audit system, I wonder if you could relate to the cost of the sewage system two years ago.

Mr. Lemke: They could get into it, but as far as I know our two auditors have not put in any exhaustive study on checking out whatever the administrator had stated about the sewage system. Sometimes you might have these bodies around, but they're not doing everything that you would expect them to do because for our city our size, two people can't very well get into too much of a detail program and at the same time service, for example, the two chairmen that we have on everyday things that are coming up before the council. We still use these people ^{to} go out and check things that comes up in various committees. We're using them for dual purposes, not only for performance because of the familiarity in government to help the chairman check out things which the chairman hasn't got the time to do himself, and still this person is not tied up with the administration.

Mr. Tester: Whom does this guy report to?

Mr. Lemke: He would report to the chairman concerned. In other words, Public Works Committee Chairman or Finance Committee Chairman.

Mr. Lemke: Now, despite the fact that the mayor has been given all this administrative powers and the council has been given a broader authority in the field of setting budget and problems relating to the master planning we had under the old set up, nevertheless, we would work pretty much the same as we have done in the pass despite the changes. And the reason for it is that it's just a matter of cooperation because although the mayor has more powers once the budget is set, for his own public relations, he still has to work with his councilmen. So, we're right back to the old way of running the government, so to speak, but it's on a cooperative basis.

Mr. Tester: Do you have a budget director?

Mr. Lemke: Yes. Under the administration, we have a budget director.

Mr. Tester: Does he work very closely with the council?

Mr. Lemke: He has assigned to the Finance Committee a person that works every week.

Mr. Tester: Does each department turn over their budget before the council presents its final budget to the budget director?

Mr. Lemke: Under our set up, the mayor is responsible to prepare the budget. It's his budget and it's turned over to the council sometime around February (we're on a fiscal year basis), and we are suppose to act on this budget. Now, we can add or we can subtract. In other words, he'll come up with three categories. One on salaries, one on operating expenses and one on equipment. All we can touch is the total. In other words, you can see the power of the administration. Although he justifies what the totals are and to back up the figures he's given us, when we cut, we might say, well, we're cutting this out.

Mr. Crockett: As I recall, the mayor has the right to shift funds within the department, but he can't shift funds from one department to another.

Mr. Lemke: That's right.

Mr. Crockett: So you could establish your programs, for example, besides the programs which you made out that for the next year highways will be improved, and he couldn't take that money, for example, if you got a park, but if you should decide that you wanted X Highway to improve over A Highway, why you could disregard that.

Mr. Lemke: He could disregard it, although generally speaking, he has not.

Mr. Suzawa: This transfer of funds actually relates to your operating expenses. When it comes to

your capital improvements, the mayor has no authority like that. So if it's an appropriation for a highway, its a capital improvement rather than an operating expense.

Mr. Tester: Supposing we're building a highway which we say costs \$3½ million, but instead it costs only \$2½ million, could he take the \$500,000 and put it on something else?

Mr. Suzawa: No, that you cannot do, because the way we have it set up, we appropriate specific funds for specific projects. Let's say, if you appropriate half a million for a particular project and you find that by the time you're finish, maybe you have \$50,000 left over, then that money simply will lapse because it's surplus. The mayor cannot use that money without going back to council and having council appropriate that money to another project.

Mr. Pladera: Is that right by ordinance or by charter definition?

Mr. Suzawa: This is in the charter itself, because the charter spells out where operating funds are involved. The mayor may within a department transfer funds, but between departments, it's the council's prerogative. The mayor by himself would not be able to transfer funds between departments insofar as the operating funds are concerned.

Mr. Pladera: To your knowledge, has the council added any more ordinances to streamline the things or to put more text into it so far in four years?

Mr. Suzawa: Well, in your operating budget ordinance, you have specific appropriations for various departments. As Herman indicated, the appropriations are in general categories of salaries, equipment, etc. By specific provisions in the ordinance itself, the council has in certain instances indicated their desire for their policy with reference to specific types of expenditures and in our new budget for 66-67, I think we have inserted a provision with reference to your capital budget ordinance, which provides that where federal funds are to be used for the acquisition and construction of parks property, the money that have been appropriated for the different projects can be expended only if federal funds are actually received. That kind of provisions are found sometimes in the capital budget ordinance and sometimes in the operating budget.

Mr. Crockett: As I recall in the Honolulu Charter and also in the National Municipal League Charter, they have a provision for five year capital improvement budget or program?

Mr. Lemke: That's right.

Mr. Crockett: Has that thing actually been of any value?

Mr. Lemke: It has been of tremendous value. I remember when I was first elected to the old Board of Supervisors back in 1954. I tried to get that started then, but naturally the department heads didn't want to get in a

lot of extra work. My idea was that we should be able to see what they're doing two or three years ahead. Well, they finally got it into the charter that requires that they have to have this six year program as part of the whole program, and it's a big help because you could almost visualize where you're headed for, for example, your tax rate and it tells you the flow of your bonds. In our case, we are desperate because we spend so much money on bonds. We could see what we can buy during the next five or six years. It gives you a real good picture of the problems before you.

Mr. Crockett: Whom would the administration get together in planning that?

Mr. Lemke: The responsibility of putting that together would be the planning director.

Mr. Crockett: Does he actually do that?

Mr. Lemke: He actually does that with the cooperation, of course, of various departments that spends all the money.

Mr. Balthazar: How much power do you have to add and detract from the priority list?

Mr. Lemke: Well, we're actually in the council level. We do not get into this projection. This is an administrative thing that they bring out. All we're concerned with is the passing of the budget for that year.

Mr. Crockett: Getting to the personnel director appointed by the mayor--has there been any complaints about that?

Mr. Lemke: Not particularly. A lot of these things are depended on the personalities that are involved and apparently, we got along okay.

Mr. Tester: How about the chief of police?

Mr. Lemke: He is one of the several department heads that is appointed by the commission. That's the only one appointed by the commission, plus the Board of Water Supply Chief.

Mr. Crockett: But the police commission was omnibus because that came in after the charter.

Mr. Lemke: Yes, but the theory still held it was under the Governor. In other words, that break in policy you don't have a direct chain of political reaction. In other words, you have the so called commission who has been in there to break that political influence, so to speak.

Mr. Suzawa: On that, may I add this. When the Charter Commission was working on the City and County Charter, they did consider the possibility of bringing the police commission to the county level. Ultimately, they decided to leave as it was at that time, but they could have brought the commission to the same county level.

Mr. Crockett: What was the thinking of the Honolulu Commission? If they had, how would they have worked it?

Mr. Suzawa: Basically, their theory was that the existing set up was working all right and therefore they didn't want to disturb the set up. And that was the same thinking on the liquor commission at that time, because there was some discussion about the liquor commission, too, whether or not it should be brought to the county level, but both the police and liquor felt that inasmuch as the existing system was working all right, they would leave it as it was then.

Mr. Young: Do you appoint the clerk, or do you have to have council confirmation, or are you a strong chairman, or do you appoint the staff?

Mr. Lemke: It's actually a council appointment, just like the council appoints the chairman, but naturally you know how practical politics are. Somebody has to take the lead, or somebody outwardly becomes chairman and generally, it's a package deal, where whoever becomes the chairman is generally with the majority group to ultimately decide who the clerk will be.

Mr. Tester: Going back to the chief of police--does the mayor appoint the commission with the approval of the council?

Mr. Lemke: Right.

Mr. Tester: And the commission men appoints the chief of police?

Mr. Lemke: Correct.

Mr. Balthazar: I was wondering if you had any formal presentation to make?

Mr. Lemke: All I've done is to answer your letter of your Chairman. I understand you have this as a real problem--election of councilmen by district or at large. You folks have a very peculiar problem which is naturally different from Honolulu. I don't know how you're going to work it out, but we are about to pass a resolution which will go before the people, whereby according to our attorney, we are malapportioned right now because we have three district men and six at large. So, the people in the district are voting for actually seven people while the people in town are voting for six. So, we're going to have that changed and naturally, the majority point of view on the city council is we should all run at large. Naturally, the three district men are very unhappy about it, but they're in the minority. We know we're not all going to run by districts. We'll have this out before the people at the next election (not this coming election) to make it at large.

Mr. Crockett: Have you considered increasing the size of your council?

Mr. Lemke: No. We feel nine is sufficient. I don't think the size hereafter should be too important. Nine should be a fairly good group where you

can get a decision made and especially when you're all running at large. So, if you made it 11 or 13, I don't think the decision will change too much.

The next one, of course, is the tenure of elected officials. Well, we've been very happy with the four year term.

Mr. Tester: Did you have any trouble getting the four year term for the City?

Mr. Lemke: No. If I recall, our Commission thought it was a good idea. We didn't have any static on that. In Honolulu, that was not a controversial issue at all as I recall. People don't get too excited about the charter. You have lot of reaction from the press on certain issues and certain pressure groups, but which is to be expected.

Mr. Balthazar: Do you see any disadvantage in giving the administration the term different from that of policy making? In other words, give the mayor that of four and the board two.

Mr. Lemke: No. It could have good points either way. The only good point about a four year term is that a poor politician can be a statesman for a few more years.

Mr. Crockett: In the Clerk's office, is there any real merits in having him directly in the council?

Mr. Lemke: Yes, because the clerk is suppose to be the custodian of the minutes of the meeting and, therefore, an appointee of the council.

Mr. Crockett: Do they have any other work to do?

Mr. Lemke: Yes. They handle all the elections. The Clerk does the same thing that has been done traditionally. In other words, all the elections, plus record keeping of the minutes of the meetings.

Mr. Tester: In your set up of your liquor commission-- are the commissioners appointed on the basis of qualification in any way or areas of interest? We had discussions on whether you should have a minister or a law enforcement officer or lawyer.

Mr. Lemke: I don't think you should ever write into the charter the type of people you should have in any commission. I would expect that whoever the appointing officer would be would try to get a cross section of reputable people. To write it in the charter would be a little unruly.

Mr. Crockett: How about requirements for department heads?

Mr. Lemke: As I recall, there is no requirement.

Mr. Higashi: I have a question on the liquor commission. I favor strongly about having certain qualified person in it. Now, what is your reason of not having a qualified person in it?

Mr. Lemke: My idea is that the mayor will stand and fall on his appointments. I just feel that trying to write into the charter this kind of things is like trying to guarantee that you're going to have a good mayor. You just can't guarantee that type of thing. I'd like to think that whoever the mayor is going to be will be free to make appointments.

Mr. Higashi: Don't you think it won't interfere with the mayor's power by putting only qualifications of certain individuals in?

Mr. Lemke: What kind of qualifications would you put in?

Mr. Higashi: Like a minister or a professional individual.

Mr. Lemke: Well, sometimes you got better people in town than just ministers in certain types of work. I don't think the minister should have any advantage over any other professional group.

Mr. Higashi: Why do you say a minister shouldn't belong in there?

Mr. Lemke: I'm not saying a minister shouldn't belong in there. I'm just saying if you're going to have certain types of persons on the liquor commission, like one be a minister, one be a lawyer, one be an accountant, that would be wrong because then you're packing your commission only with certain types of people. Personally, I think at that level on appointments, the only restriction I feel is he should be an American citizen. Whoever the mayor puts on the commission is going to determine the kind of mayor he really is and the council.

Mr. Higashi: The area of liquor control involves moral community. This is definitely an important area. The liquor commission at present is not strong enough in this area.

Mr. Lemke: I don't think you'll be guaranteed good government because you write these kind of things in.

Mr. Balthazar: I was wondering what could one vote of one minister on a liquor commission do to save the morals of the community if four others disagreed with him.

Mr. Crockett: Are any commissioners paid in Honolulu?

Mr. Lemke: As I recall, no.

Mr. Suzawa: Under our original charter, board and commission members did not get paid. They received reimbursements if they incurred. But now under the transfer of the liquor commission to the county, I think the laws are a little different there, because they may be paid \$10 a meeting or something like that.

Mr. Lemke: We have in the case of the planning commission, I recall, the only fringe benefits they've

gotten is we sent one or two to conferences that we think they should get into at City's expense. That's about all.

Mr. Suzawa: Going back to appointment of department heads insofar as qualifications is concerned. For certain department heads there are general types of qualifications required. For example, the Corporation Counsel of the City and County of Honolulu must be a licensed attorney for five years of experience or five years of practice. Your Planning Director might also have some qualifications like general type of qualifications. Also, your police chief and your medical examiner might have some general qualifications, but for most of them, there's nothing said about qualifications.

Mr. Tester: In our former charter discussions and meetings we had so far, there has been considerable discussion on what should be written in. For instance, on the Manager of the Board of Water Supply. Some of us felt that it wasn't necessary to say that he had to be a licensed professional engineer. We felt in writing up the qualifications for the Manager of the Board of Water Supply, it should be that he need not necessarily be a licensed professional engineer. However, we felt that he certainly should have some knowledge of engineering.

Mr. Lemke: I could visualize the head of the Water Department in Honolulu knowing nothing about engineering. The moment you start specifying too much what these people are going to be especially in the charter, it is going to be difficult as the years go by. I always like to go on the view point that the person who is planning to make these appointments better make darn sure who he is putting in regardless of who he is, otherwise his neck is involved. That's what you want in government anyway.

Mr. Pladera: It would seem to me that by cutting all the qualifications here, they are making a kind of government like civil service instead of a government of the people and by the people.

Mr. Young: This thing you mentioned--the change to a charter amendment--is that what is going to be done with the change of the council proposals--change it to at large?

Mr. Lemke: That's right. It will have to be done by charter amendment.

Mr. Young: In Mr. Dodge's discussion at the Conference of Government Attorneys recently, he brought up the fact that specifically what he had written into the charter a clause, if I understood correctly, that no amendment could be made to the charter, which means for a period of sixteen years.

Mr. Lemke: I think what he was referring to is that in the charter, the council can initiate these things by resolution to get on to the ballot, or it can be done by the people coming to the resolution either by signatures or requested resolutions, but at no time could the council be changed. It was to protect the fact that

they wanted to keep that type of council at least in effect for eight years. In other words, unless the council got into the act, it could not be done through an effort by the people.

Mr. Suzawa: With reference to Mr. Dodge's statement--I don't think it was quite an accurate statement of what the charter contained. The sixteen years he refers to is a provision in the charter for mandatory appointment of a charter commission to review the charter itself and to see whether or not changes should be made, etc. Because sixteen year period is a mandatory number of years at which point a charter commission is to be appointed, and I'm not quite sure he is correct when he said you cannot amend until the sixteenth year period had arrived.

Of course, as Mr. Lemke points out, there is another provision whereby the voters or citizens of the community could at the end of the eighth, but not more than the ten year period, come in and petition for a change in the council composition in the number of councilmen, etc. and on that petition, they do not have to have council approval the way council approval is required on other petitions and that eighth year provision primarily was for this particular purpose that if it was found that the existing council composition or the way they were elected was not working out, then the voters between this eighth and tenth year could propose changes and that was the basic idea without going into council because the charter commission felt that once the council make up has been established under the charter the way it is now, the council members themselves would be reluctant to initiate any changes insofar as the membership might be involved. Therefore, they gave the voters the right to petition for a change if they found it necessary between the eighth and tenth year after adoption of the charter.

Mr. Lemke: Going on with this thing here. I have the appointment of department heads by mayor, which I have already touched. It is my opinion that the mayor should have as much as possible complete control of his department heads and not be hindered by councilmen as to who should be appointed. That's my view point despite the fact that I'm a councilmen.

Mr. Ushijima: Do you think the department heads should be under civil service protection?

Mr. Lemke: No. I think they should be people the mayor wants to get rid of, they're out, because you got to give this mayor a little flexibility. Civil Service is good. It creates certain amount of career type people in government, but somewhere up on the top there, this mayor should have, I would think, the freedom to put in there men who he would feel--well, let's take for example, a new mayor--he comes in--if all the department heads are under civil service, then this guy is "dead" before he starts. A mayor going in where, frankly, everybody is under civil service, you're not going to have much of a chance.

Mr. Balthazar: Otherwise deny the people the basic point of changing.

Mr. Lemke: That's right. I think it's a good healthy thing that the department heads and the deputy be completely at the whim of the mayor, and if he starts firing the wrong guy at the wrong time, then that's the mayor's hard luck. I mean that's part of the deal. Then he can't start buck passing and say, well, you know I got elected, but I got stuck with all these guys.

Mr. Crockett: Do you think it's all right to have the planning director appointed by the mayor rather than by the commission?

Mr. Lemke: I think so. If you're going to believe in a mayor who is going to be responsible, I think you have to give him that privilege.

Mr. Crockett: How about the appeals board that you have for variances, etc.?

Mr. Lemke: Appointed by the mayor and confirmed by the council.

Mr. Crockett: Is it better to have a separate board and consolidate all that in one planning?

Mr. Lemke: Well, in our case, it's not necessary that you have to divorce it, because now the planning director is appointed by the mayor. He's not subject to the whims of the planning commission, so I guess you could have that done by the planning commission where you have that extra board.

Mr. Crockett: Is there any room for drafts, etc., for that type of arrangement where the planning director is appointed by the commission?

Mr. Lemke: I don't think so because everything that's passed on by the planning director, it ultimately must mean a change, ends up before the city council on three readings and other times it goes through the scrutiny of three readings. So you have a lot of protection there.

Mr. Lemke: Appointment of boards and commissions. I believe this is a semi-legislative function--policy making to a certain extent--and therefore quite different from the department head and as a result should have confirmation of the city council.

Appointment of civil service director. We already touched on that. If you want a real strong mayor, I say he should be appointed by the mayor.

I think we've touched the chief of police to a certain extent. It's been working fine--leave it alone.

The board of water supply status, of course, on the so-called authority basis is satisfactory on Oahu.

I got a topic on code of ethics. There has been a lot of press coverage on this and, of course, you are writing a new charter, so you can almost write anything into the code of ethics. As it was brought out in our discussion last week and the public hearing we had last Tuesday, we are not against

the code of ethics as a council. It's just a matter of philosophy that we feel lot of these things that are being brought up to tighten up controls, so to speak, can be done by ordinance.

Mr. Balthazar: How do you enforce it?

Mr. Lemke: If you have a strict one, it gets enforced in this way that you have public pressure, the press--

Mr. Balthazar: When you see the code of ethics among the employees or among the department level, who, or what body do you vest the authority to--No. 1, police; Now 2, judge?

Mr. Lemke: We have done that through the so called mayor committee on ethics, which they now feel should at least be given a little more permanency under an ordinance, where the persons are not yet appointed by the mayor but also confirmed by the council.

Mr. Balthazar: Does this body or committee recommend or only have the power to recommend?

Mr. Lemke: They're just advisory, but to date they have done a lot for the City and County of Honolulu. They've done all the screening of employee powers dealing with moonlighting or extra work after hours and things like that, to what's compatible, what's incompatible.

Mr. Balthazar: Should not that policy be that of the council?

Mr. Lemke: The mayor took it upon himself to do that as an administrative act.

Mr. Balthazar: In your thinking, should that be of an administrative prerogative or should that be prerogative of the council?

Mr. Lemke: Well, under our set up, the responsibility is strictly at the administrative level when you're talking about employees because actually, the council has nothing to do with the employees, and the mayor has taken it upon himself to set this up. Now they want to give more permits to an ordinance--the Citizens Committee feels this should be more than just ordinance. It should be part of the charter. Therefore, their recommendation goes as an amendment to the charter.

Mr. Balthazar: And the detail code of ethics would be part of the charter itself?

Mr. Lemke: That's the way the Citizens Committee would like to see it written. Fair amount of detail.

Mr. Balthazar: I think all of us have gone through a period of social change where we've seen what might have been considered very unethical 40 or 50 years ago is a matter of common practice. I'm not speaking in the area of morals. I'm speaking strictly in the area of ethics. I'm wondering whether a document which we write with some idea of permanency should go into a detail code of ethics rather than

saying in general that a code of ethics must be written.

Mr. Lemke: Of course, you do run into the problem, especially in the code of ethics in this respect--if it's too general like ours is right now, you could practically include almost any act done by the councilmen, subject to conflict.

Another problem that you run into is, for example, to what extent does a councilman vote on an issue. Now, our charter, I think the way it's written right now is good enough in this respect--that disclosure must be made. Of course, before he votes. I've taken a position on the council that even though the person has a conflict, I insist that he votes, otherwise, you're going to have guys taking off on all this controversial issues and say, I've got a conflict and then they don't vote, unless a guy just happens by accident to have a large pecuniary interest. For example, you take these people elected. Most of them are attorneys. They have clients all over the place. Clients are forever coming before them. They got to make up their mind that they're elected to government, forget their clients, and act for the government.

I think our provision where we say that disclosure must be made is a good one, and it stands or falls on whatever the results are.

Mr. Kondo: The Federal Government has the Hatch Act. Doesn't the local government have anything pertaining to politics?

Mr. Lemke: That is controlled by statute.

Mr. Suzawa: We do have provisions relating to political activities, but in general insofar as the general workers are concerned, they can do practically anything as far as political activities are concerned. They can join political parties, they can support candidates, etc. It's only for specific agencies like maybe the police where political activities are prohibited. So, in general, government workers are allowed to participate. It is not like the Federal Government under the Hatch Act where civil service workers can't do any politicizing at all.

Mr. Lemke: I got a conclusion here which says in my opinion a charter should not be too restrictive. It should be written in such a manner that details to a large extent can be controlled either by ordinance or a so-called administrative code. It is merely a framework within which to work and should be left in such a manner that the problems of the future can be handled without continuous charter amendments. So, actually, the shorter the charter, the better, if that's possible.

Mr. Balthazar: Do you feel the man with the highest vote should automatically be the chairman?

Mr. Lemke: Sometimes the guy who is number one is not really the leader of the group. You have to work on the leadership of the group. Sometimes the guy on the bottom of the list might be made the chairman because he

might have certain natural abilities or something that makes him the leader.

Mr. Young: How big a staff does the council have?

Mr. Lemke: All we have directly under us is Ron Bennett as Executive Secretary, we have two stenographers, and we have the County Clerk's office with about 20 or 30 employees, and the Auditor's office--we have about 6 or 7 employees.

Mr. Balthazar: You have a Prosecutor's Office and you have a Corporation Counsel's Office. Do you have a Public Defender?

Mr. Suzawa: Not at the present time, although by statute we are authorized to create that office of public defender, but the City and County of Honolulu has not taken any steps to do so.

Mr. Balthazar: Do you feel it's necessary to create an office of coordinator for all federal programs?

Mr. Suzawa: Primarily this office was created even before this anti-policy program came into being. Primarily, it was to coordinate work between city agencies under your renewal programs.

Mr. Lemke: This is a very important program as far as we are concerned because of the large amount of money that is now coming to the large cities--federal grant. In the mayor's conference that I attended a couple of weeks ago, this is a real touchy point because it seems that most of the federal funds are going to the larger cities and not to the smaller cities. So you have this big fight going on all the time. Even on the mainland the smaller cities are quite disturbed they're not getting cut in on this thing.

Mr. Ushijima: Mr. Chairman, could we have Mr. Lemke's presentation attached to the minutes?

Mr. Sodehani: Yes.

Mr. Kondo: Our Liquor Commission brought up this point, and I think it's a very good point. Should the Liquor Commission have two bodies--one administrative and one adjudication? In other words, the administrator would be responsible for policing as well as licensing. As far as the commissioners are concerned on any given case, they sit down as judges. Right now, they prosecute as well as judge.

Mr. Lemke: It would seem to me, although I don't know much about it, your administrative staff, your civil service staff, should be the ones to call the "shots" and the commission itself review. That's where I would think the liquor commission director, whatever you call him, should be the person who would be responsible for all the administrative acts and the enforcement.

Mr. Suzawa: Actually that's a hard question in this sense. Liquor, as everyone knows, is a

sensitive field. Now, whether you would let one man make the decision that a commission is presently making, whether that is a good practice or not, should be weighed.

If you separate your administration from your hearing body where if you have a suspension or revocation of a liquor license where your Liquor Commission will sit only as a hearing body, but initial act must be taken at the administrative level, the question is right now the commission itself is taking that act. If you were to separate your administration so called from appeal type of hearing then you are asking the so called executive officer to take the initial action. Now whether he should be the one to do it or not, I don't know. Normally, we say yes, but in this particular area, I don't know.

Mr. Sodetani: Coming back to this Enabling Act of the charter there--I believe the last time you mentioned that the Enabling Act gives the commission certain broad powers to enact certain laws within the charter or certain provisions in the charter, which can be directly opposed to the statutes. What happens if they oppose to that? Certain procedures like civil service, police and liquor. There are certain provisions within the statutes that certain procedures had to be followed. Now the charter goes in and changes some of these procedures.

Mr. Suzawa: Well, I was going to suggest that you get an opinion from your County Attorney on that question. Your Enabling Act is really general. I think it says you are to provide in your charter the structure for the county government and also the powers. Now when it comes to powers, the Enabling Act only reserves certain types of powers, that is, the State Legislature reserves the powers to enact legislation of state wide concern and interest and also fiscal provisions. Now, just what those reservations mean with reference to the type of powers granted to you under the other sections of the Enabling Act, I'm not at all sure.

Mr. Tester: Isn't it the powers that the county has now?

Mr. Suzawa: Not necessarily, because when the City and County of Honolulu considered adopting a charter, we had a similar type of Enabling Act. The wording is somewhat a little different, of course, but primarily, the type of provisions included in the City and County Enabling Act is also included in the Enabling Act pursuant to what the county is now asking.

Now the Charter Commission of the City and County of Honolulu at that time went into a discussion of various areas of county government. At that time, they even considered the possibility of bringing the Liquor Commission, which was a state agency under the jurisdiction of the city. They also considered bringing the police under the jurisdiction of the City. At that time, the police commission was appointed by the governor and confirmed by the Senate, if I'm not mistaken. But the fact and further, they also established a civil service system for the City and County of Honolulu, which you have right now. They also proposed a separate pay plan. However, the Legislature in ratifying the City and County Charter changed that provision relating to pay plan so that we reverted back to the uniform plan applicable to all government workers, but if the

City and County Charter Commission considered that it had the powers to go into these different areas and make these changes that they did, for example, with reference to civil service and pay plan, I'm not at all sure that your commission can do the same thing or not. I'm not at all sure that you cannot change. Assuming, for example, you wanted to set up your own civil service system and you want to provide for a separate pay plan at this time, I'm not at all sure you cannot do it. I would check with the County Attorney on that first, but I think perhaps you could. Of course, if the Legislature doesn't agree with what you have done, they'll come back and then pass general legislation saying that all counties shall conform to a particular pay plan.

After thanking Mr. Lemke and Mr. Suzawa, the Chair called for adjournment at 9:40 p.m.

Respectfully submitted,

Ayako Ishikawa
Ayako Ishikawa, Secretary

Chairman Herman G. P. Lemke
Notes for Maui County Charter Meeting
June 30, 1966, Thu.
7:00 p.m.
Kahului Library
Wailuku, Maui

The operation of the county government on Oahu has been relatively the same before the charter as after the charter. Despite the fact that the Mayor has been given certain administrative powers and the Council has been given broader authority in the field of setting budgets and problems relating to master planning. The reason for this is that the Administration of the City and County of Honolulu has continued to work very closely with the elected Council members.

In other words, despite the so-called strong-mayor government where the Mayor can operate with no restrictions under the new charter, he has seen to it that the various department heads cooperate with the City Council to the extent that the City Council members do get involved permissively in administrative work.

The Council in return has not abused this courtesy given by the Administration and has carried on a program of working with the Administration largely ^{from} with the point of getting more information to itself and to the people who are seeking relief. In other words, to a large extent both the Administration and the Council have been extremely cooperative with one another in the dealings of the problems that they face daily. Some of the problem areas which you gentlemen will have to make decisions on and which attract the most attention are as follows:

1. Election of council by district or at-large.

Personally, I feel that as much as possible the council should be elected at large, for the reasons that first, our counties are small as far as population is concerned and, secondly, the metropolitan concept of running a government is much easier on an at-large basis than at the so-called district basis. The problems that face a county of our size are county-wide and not related to specific districts.

2. Tenure of elected officials. I personally like the 4-year term because elections on a 2-year basis are time consuming, expensive and tend to make an elected official too concerned about the next election and hinder him to operate as a statesman. If he is incompetent or dishonest, he can always be removed from office, but in general the average elected official works hard whether he is elected for 2 years or 4 years.

3. The appointment of department heads by the mayor. It is my opinion that the mayor should have as much as possible complete control of his department heads and not be hindered by councilmen as to who should be appointed. The mayor must stand or fall on his appointments and if he makes too many bad ones then it is time for a new mayor.

4. Appointments to boards and commissions. I believe that this is a semi-legislative function--policy making to a certain extent--and therefore quite different from the department head and as a result should be confirmed by the city council.

5. Appointment of civil service director. I have mixed feelings concerning the appointment of the civil service director as to whether he should be appointed by the mayor or the civil service commission. As chairman of the former Territorial Civil Service, I operated under the old system where the civil service director was appointed by the commission. However, there are many authorities in government who see nothing wrong with the appointment of the civil service director by the mayor and the civil service commission more on an appeal commission basis.

6. Chief of police appointment. It seems that for the time being the police commission should be appointed by the commission--just in order to break the so-called politics at the police level. This, likewise, is ^athe controversial area, but in Hawaii it appears that the present system of the police chief being appointed by the commission has worked fairly well and therefore ^{should be} continued.

7. Board of Water Supply status. The history of water in Hawaii has indicated that the operation of this problem has been satisfactorily done under the so-called water authority and for that reason should be continued.

8. Code of ethics. Yes, the code of ethics should be incorporated in the charter. The question is just how much is to be spelled out in detail. The present Honolulu charter has a strict code as far as county codes are concerned, but there is a request before the City Council to make it even stricter. An examination of the Model Bill for charters indicates that at the national level, the incorporation of an ethics code is left at a very broad level because of the fear of writing an ethics code which may be complicated for cities of all sizes and problems.

The present Model Bill may be too general and therefore something in more detail as shown in the present Honolulu charter would be in order. The question as to whether an ethics board should be created is also ~~problem~~ problematical because in theory, ~~the~~ city council itself should be involved in the consideration of ethics and not necessarily be passed to another commission or board. The present national bill does not provide for an ethics board.

Conclusion. In my opinion a charter should not be too restrictive. It should be written in such a manner that details to a large extent can be controlled either by ordinance or a so-called administrative code. It is merely a framework within which to work and should be left in such a manner that the problems of the future can be handled without continuous charter amendments.