

MAUI COUNTY CHARTER COMMISSION

Wailuku, Maui, Hawaii

PUBLIC HEARING

DATE: July 22, 1966

PLACE: Kalama Park, Kihei, Maui
(new pavilion-conference room)

CALL TO ORDER: 7:52 P.M.

PRESIDING: Douglas Sodetani, Chairman

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

MEMBERS EXCUSED: Nadao Honda
Harry Kobayashi
Keith Tester

OTHERS PRESENT: Stephen Lee, Maui News Reporter
Josephine Barton
Hilda H. Voss
Ellen M. Underwood
John Walker
Dr. Fumio Tsuji

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The Chair opened the hearing by introducing the Commissioners and staff of the Maui County Charter Commission to the audience. The Chair then called upon Commissioner Paul Pladera to give the opening remarks. The floor was then opened for discussion.

Mr. Sodetani: What do you think would be the kind of government that you would like to be governed under here on Maui?

Mr. Walker: Well, I think the so called strong mayor government if the appointments are okayed by the Board would be satisfactory here.

Mr. Pladera: If you are to have confirmation for most of the departments and there is some failure along the way, who are you going to blame in situations like that?

Mr. Walker: With the strong mayor type of government, the blame goes directly to the mayor.

Mr. Sodetani: How about your boards and commissions?
Presently, all boards and commissions are appointed by the mayor with confirmation of the members of the Board of Supervisors.

Mr. Walker: They refer not to the Board, but to the Chairman's office. The Chairman is responsible.

Mr. Sodetani: Not necessarily so. Let's assume that the Chairman would like to appoint you as a member of the Police Commission. However, you personally were opposed in the Board of Supervisors for confirmation, so you got only three to fight for you. The rest of the five people don't want to confirm you. They want to confirm Mrs. Barton. However, in the later date, the Chairman forces a compromise. Let's say she fails to be the kind of police commissioner she should be. The result of the police commission becomes all muddled up and various occurrences happen. Who is to be blamed?

Mr. Walker: The mayor. He has the authority vested.

Mr. Sodetani: Once appointed, the mayor does not have the removal power. He has only the removal power again with the confirmation of the Board of Supervisors.

Mr. Walker: Take it up with the Board of Supervisors then. If they refuse it, they are to be blamed.

Mr. Crockett: Which Supervisor do you blame? The five who appointed her, or the three who appointed you?

Mr. Walker: The majority.

Mr. Crockett: Sometimes you don't know who is in the majority.

Mr. Walker: It's spelled out in the open.

Mr. Crockett: Most of the time it isn't out in the open.

Mr. Walker: There's one thing that comes to my mind and that is the code of ethics. If we went back to Woodrow Wilson, they had no closed meetings, no executive meetings. Everything is in the open.

Mr. Crockett: It's hard to stop a bunch of people from getting together and having a cup of coffee down at the corner drug store.

Mr. Walker: That's all right, but if they voted as a majority to hold the incompetence of the job, then in that case, the mayor will be relieved of some of the responsibilities.

Mr. Sodetani: You talk about code of ethics, Mr. Walker. The previous charter had a very good code of ethics. What do you think about that code of ethics?

Mr. Walker: I don't think we need a written code if everything is out in the open and if special meetings are in the open. Wouldn't that deter crookery if everything is handled in the open?

Mr. Young: One of these charters, I think it was the Kauai one, which says they can meet at executive sessions. They can meet at caucuses as long as they don't vote. They still have to come out and vote. They may vote informal at the meetings, but they still have to come out in the open and vote.

Mr. Walker: If the mayor had direct authority to appoint and no one had the authority to force the appointment to be withdrawn, how would correction be made if they were slack at work and job. Maybe, the police commission were all sloppy--how would you take it out? I think this charter should have some means of reaching in and blanketing them out.

Mr. Sodehani: The previous charter provided this mechanic. The public official, whether he is appointed or elected, could be removed by initiative and referendum and recall, which presently there is. This machinery or mechanic could remove any incompetent person for malfeasance.

By the same token, maybe I would like to ask the ladies, too. All of us cry for efficiency, efficiency. Often times in our democratic form of government, we must sacrifice efficiency for responsiveness. If you want efficiency, you lose responsiveness. If you have responsiveness, you lose efficiency. Perhaps in business you can't afford responsiveness, but in government, I think the people would like to, even if it does cost a little, have some kind of responsiveness so that things would proceed a little slower so that we will have an idea and every opportunity for the people to be heard. It takes time and as time goes by, how do you feel about it? Would you prefer efficiency over responsiveness?

Mrs. Underwood: But due process of law is slow. It has to be. It can be too efficient and it can be too mechanical.

Mr. Sodehani: How do you feel Mrs. Voss?

Mrs. Voss: Very much the same way. I grew up under the city manager form of government and lived under the mayor form lately. It's very interesting to come from one benign mayor to another. In both places they have both been in office for a good while, and it's rather interesting to listen around how this one works.

Mrs. Barton: I think this is where the two year and four year come in. I prefer the two years.

Mr. Walker: We'll get more responsive type of government with the mayor type of government, rather than the managing type.

Mr. Sodehani: Right now the kind of county municipal government we're being governed under, there is no separation of powers. The administrative body and the legislative body is one and same thing.

Mrs. Barton: What is the objection to the Board?

Mr. Sodemani: Basically, our Constitution in the State, there are three types of government--the legislative, judiciary and administrative. Only our government we don't have judiciary. The judiciary functions are handled by the State. However, by separating the powers--the administrative and legislative--you have your checks and balances. Presently, we don't have that because the Board of Supervisors are also administrators. They are also a legislative body.

Mrs. Barton, do you have any other objections in the previous charter besides the four years for the councilmen?

Mrs. Barton: That is the principal one. I still don't see anything wrong with the government we have now, and I'm still not convinced of the appointments by the mayor with confirmation is right.

Mr. Crockett: Were you here when the Board of Supervisors raised their salary?

Mrs. Barton: I certainly was.

Mr. Crockett: What did you think about that?

Mrs. Barton: I strenuously objected it. They have less to do with this Act 97 and yet they raise their salaries.

Mr. Crockett: Your saying that you don't see anything wrong with the present form of government then is not really true?

Mrs. Barton: They could have done the same thing.

Mr. Crockett: Not under the charter. The charter had a provision that they couldn't raise their salary for that term of office, but they would have to at least postpone the raise.

Mr. Sodemani: I appreciate that statement there insofar as nothing is wrong with this government. Now, many of the things that exist in the previous 1964 Charter like this initiative, referendum and recall, we don't have that.

Mrs. Barton: We don't and that I would like to see.

Mr. Sodemani: You don't have the code of ethics? You don't have a board of appeals?

Mrs. Barton: I would like to see these things, but this isn't changing it to put these things in. It's not changing your basic form of government. I would prefer the weak mayor.

Mr. Sodemani: In other words, the Ford, the chassis, the wheels, the gears are all there, but we probably want to put in an automatic shift, bigger tires, so it will have a smoother running, it will be more powerful, so that when we step on the gas, we can go. In other words, giving the people who are driving the vehicle the power. This is what the charter is trying to do.

Mrs. Barton: But you aren't going to accelerate that by having a four year term instead of two. It's going to be that much longer before we can change it if we don't like it.

Mr. Sodetani: That's the kind of expression we want from you. That's why we're here.

Mrs. Barton: I went to the other charter meetings the other time, and I heard plenty of very well prepared statements on all these subjects, but they went ahead and wrote the charter.

Mr. Sodetani: This is why before we actually draft the charter we are here before the people so that we can have good ideas from them. When we get back and start formulating the charter we'll say Kihei had a strong objection on this from certain people, I wonder how many others feel the same way.

Mr. Balthazar: How does anyone feel about independent commissions or autonomous bodies in the County of Maui--those that are not subject to the control of the Board of Supervisors or the mayor? Have you given it any thought?

Mr. Sodetani: An example is the Water Board or Waterworks.

Mr. Balthazar: It is not subject to the commission.

Mr. Walker: We have only two commissions now that are not autonomous.

Mr. Sodetani: No. The police commission, the liquor commission and planning commission all operate on the same terms, except the Board of Water Supply.

Mr. Balthazar: Then in a sense they are really independent, too?

Mr. Sodetani: Not necessarily.

Mr. Balthazar: Is there any regulations now that requires the Board of Supervisors to approve the rules and regulations of the police commission?

Mr. Sodetani: There isn't.

Mr. Balthazar: There isn't, so in a sense they're quite independent. In the previous charter we recommended that all rules and regulations of all commissions we make no exceptions. We've given final approval by the council. We felt the council, being the legislative body acting for the people, should certainly review these rules and regulations, which had the effect of law which do effect people on a very personal basis. I personally feel there's sometimes a danger in saying let's leave certain functions out of politics and give it to commissions. We forget the commissioners can tend towards dictatorial decisions. They can become unaware of their duties and responsibilities, too, just as elected people are. People can become very frustrated with so many rules and regulations established by these commissions.

Mr. Crockett: Are you in favor of continuing to elect the Treasurer, Auditor, Clerk and County Attorney?

Mrs. Barton: Yes.

Mr. Crockett: You realize that there are no technical qualifications for the offices of auditor and treasurer. I mean I could run for treasurer. I don't know anything about keeping books. Do you think it's good?

Mrs. Barton: Well, if all these are appointed by your mayor, it's a one party administration in government then.

Mr. Crockett: Wouldn't you agree with me, on Maui at any rate, that you don't really select people because of technical complex, or he waves at you, or you like the way he smiles at you. Isn't that the way people are chosen? Do you think that is a good system to choosing people when they are going to handle so much money?

Mrs. Barton: Well, isn't there any reason that the mayor isn't going to appoint somebody because he likes the way he looks and smiles and particularly because he's somebody of his party? I can't see you're improving it any by having the mayor appointing unless he is required to appoint somebody.

Mr. Balthazar: Should the commissioners be paid for their services or do you agree with the feeling of the previous Charter Commission that they shouldn't be paid?

Mr. Walker: Only when they have to travel to Lanai or Molokai.

Mr. Balthazar: Expenses we would consider.

Mr. Young: We have a new commission, too--Traffic Safety.

Dr. Tsuji: As far as paying commissioners are, I think there should be a blanket ruling that no commission get paid. I served for six years on the Board of Examiners and we didn't get a cent. The per diem wasn't enough. We lost a lot of money in our practice, but it was a privilege and experience to function as a board as that.

Coming to the term of whether it's two or four years, I think this four years, we should have staggered terms, so that we have incumbents instead of a new body every four years.

Generally speaking, I think the previous charter put out was all right, except the ratification of appointments.

Mrs. Underwood: I felt the previous charter was well done, but I, too, felt that this ratification is important. I thought it was a well written charter in many ways, and I think it can be worked out.

Dr. Tsuji: I think you don't care too much about efficiency as Mr. Balthazar said. In a city manager type of administration, we sometimes fail to close the door of the bond people and most of the time it's difficult to get back in again. In the type of government that the previous charter proposed, it's meant more for the preventive type of thing. That is why you have your checks and balances.

Mr. Balthazar: I'm mostly interested in efficiency, but I do not want to see it overly stress to the detriment of responsiveness.

Mr. Crockett: I do think this efficiency and responsiveness are not to be carried too far because a lot of time people are sacrificing efficiency for dollars and cents. We're sacrificing money and we're not gaining one more bit of responsiveness. It's just money going down the drain pure and simple. I don't think it's necessarily because we lack efficiency.

Mr. Crockett: Mrs. Barton, the opinion you expressed was one that seems to be held by a number of people so I'd like to explore it. You said that you saw nothing wrong with government. Let me go back a little on the background as I understand it why we have charter commissions.

Back in 1959, I believe it was, perhaps it was 1961 or 1960, the Legislature authorized a contract with the Public Administration Service of Illinois that deals with the study of governments in general to examine the question of county government relationship in Hawaii. Incidentally, the Republicans were in office that time and they came up with a report in 1962. This is what they said on page 232. "Excepting in the case of the City and County of Honolulu, the granting of additional discretionary authority in local government is inhibited by the existence of an archaic form of government." This sentence by itself may not mean too much. They spend most of their time in this report talking about the heavy concentration of governmental authority in Honolulu--the State government.

This is the same thing that the Supervisors spent hours on at the last meeting when they were talking about Act 97. Basically, one of the things they came up with here in this report was that before the County government would be entrusted with more authority by the State government as they say they had, there had to be a change in the form in what they considered an archaic county form of government on the outside islands. Now, you might say why don't they just take it to Honolulu and don't give it to the outside islands. Well, there is a requirement in our State Constitution that all laws must be general and as a practical matter, if there is going to be any delegation of authority, for example, let's say the school department. They were going to give one time more authority to the schools. Naturally, it has to be uniform, otherwise it wouldn't be workable.

So, at the present time in the opinion of these people, at any rate, and in the opinion of many other people, until county governments are brought up to date, we are not going to have county governments given more authority. We are not going to have more "home rule." This is one of the problems. Now, as our Chairman pointed out on several occasions, there is a good possibility that if our second attempt to the charter fails, the Legislature, realizing this problem, may simply enact a charter for Maui, Kauai and Hawaii and say this is it and you take it and if you don't like it, it's just too bad because you're going to take it.

Mrs. Barton: What do they recommend in the type of government for counties?

Mr. Crockett: They said the charter commissions should be appointed. They said the Enabling Act should be created for many of the counties to set up charter commissions. There were some questions as to how the commissions should be set up, whether they should be elected or whether they should be appointed, but then they said it was up to the people to decide that they would appoint representative people from the community.

Mrs. Barton: But they refer to the type of government we now have as archaic. Is that right?

Mr. Crockett: That is correct.

Mrs. Barton: Then what sort of government do they recommend for counties then? I don't see any reason why a county should necessarily have to have the same type of government as the State or Federal Government. They are entirely different.

Mr. Sodehani: That is the kind of expression we want from the people. That is why we are here.

Mrs. Barton: Why does it have to be the same as the State government set up on the legislative and administrative? Why is it archaic?

Mr. Crockett: Let me give you one example. On the Board of Supervisors you have different committees. You have one committee that is in charge of parks. Perhaps you have one committee in charge of school construction, one committee in charge of highways, Public Works Department. These are operating committees because these committees and the chairmen of these committees have a great deal to say about, with respect to parks, for example, how the parks are operated. Not the Chairman so much as the particular chairman of the committee. Now, you say why is this archaic? Maybe it isn't, but certainly this is not the way any business organization operates. This is not the way you operate a reasonably good size sugar plantation. They have very definite lines of authority and they finally end up with one man who is in charge of the operation and he has people under him who are in charge of different departments, but they report to him. You don't have a group of nine people and then you chop up the business of the county into these different committees and over these committees you appoint a chairman who is supposed to be the executive officer, but who really doesn't have the power to say how the departments will actually operate. I think this produces a lot of confusion in the actual operation of the county. This is one of the reason why this type of government is archaic, and this is one reason why the people came up and made that statement.

Mrs. Barton: When you were discussing the city manager business, why you said that was decreasing now, too. What is the most common one now? Is the strong mayor the most used?

Mr. Crockett: I think you said you don't see any reason why the county government should be the same as the State and Federal Governments. I think in any type of organization, there are certain basic principles of organization and administration. I think you have the same principles

operating in the Army, you have the same principles operating in government, and you have the same principles operating in business when you are talking about administration. Basically, you come up with the solution that you have to have one person responsible and that he in turn has subordinates. When you talk about standing control, the number of people one man can actually control, then another principle is you have to divide your line operators from your staff men. You have staff men who are not suppose to be operating the departments. They are supposed to be advising the people who are in control.

I think this basic principle of administration and organization apply to any type of a functioning organization, whether you are talking about Federal government or State government or County government. I think we have now realized this. I think people who study organizations, who study administration, whether it is in the school or business administration at the university, or whether it's a school public administration in the university, they recognize this and these basic principles of administration, I think these people believe, don't exist in our form of county government at the present time.

Mr. Sodemani: Also, your Charter Commission doesn't necessarily have to come up with the kind of charter that says you have to have a mayor council type, or a strong mayor, or a weak mayor, or commission form, or city manager. We can take portions of each one of them and incorporate it in one charter and would fit the needs to be acceptable to the needs of the people of the County of Maui.

Mr. Sodemani: How do you feel about district representation?

Mr. Walker: I think the districts each should have their own representative. The people in each area would know who to go to to get their ideas before the board. It would be more satisfactory than what we have now. I think the districts need more direct representation. They say it will add confusion to the Board, but I don't see why.

Mr. Sodemani: Let me tell you some of the problems the commission face with regards to the recent reapportionment ruling of the Supreme Court. The Supreme Court rule that the smallest district and the largest district there cannot be a differential of more than 15%.

Mr. Walker: Doesn't the Constitution say that that sort of thing should be taken care by the State?

Mr. Sodemani: Well, that again, the Supreme Court made that ruling. So, using Kihei, for example. I understand Kihei has 450 registered voters. The total of the County of Maui is approximately 17,000 or 18,000 registered voters. So, using that as a basis, you will have about 35 Board members.

Mr. Walker: We are separated not only by the number of people scattered around, but also the three neighbor islands.

Mr. Sodemani: The next problem is gerrymandering--how you are going to divide the districts.

Mr. Walker: This board of appeals idea--wouldn't that be a means of people getting some corrective control? We were talking a while ago about sloppy work in commissions.

Mr. Crockett: To be specific, the intent of the Board of Appeals, as discussed vigorously at the last two nights of the last Charter Commission, I think there was felt a need on the part of the Charter Commission to have some body, who would hear minor grievances that the public had against a particular government official. I'm not talking about grievances like he didn't like his salary or anything like that. I'm talking about a person who is a member of the public and who rose to a government official. He gets something done, license granted, permit issued, something else along that line. If a government official refuses and the member of the public feels there's no good reason why he shouldn't have, he sees everybody else getting it.

We had an example at Makawao where the party was saying well, a man hooks up my meter and he gives me a quarter inch line and charges me so much for it and he hooks up, I think he used Mr. Sodehani as an example, his meter up and charges him half of what he charges me. Well, this is a relatively minor thing. At the present time, there is nobody to hear this guy. He just goes home mad and this sort of thing spreads out over a large number of people, and it builds up a great deal of frustration.

Very often you are talking about people who are inarticulate, who are not like us. You and I wave at Eddie Tam and anytime we want to go and see Eddie, we go knocking on his door and he'd talk to us. These other people don't have this access to government people. They are not articulate. They can't talk to people. They don't have any powerful groups perhaps representing them. If they do, perhaps they don't know their way around there.

Anyway, this Board of Appeals is set up so that these minor grievances will be heard by the people. Now, I'm not saying that the government officials are always wrong. Many times he's right. The people will know that there are three people in the county who will listen to them, have these people have their day in court, and they'll look into it. Now, they don't have the power after they decide, assuming they decide that the government official was wrong, they don't have the power to go up to these officials and say you are suspended for two weeks. They have to make their recommendation to the mayor, and it is hoped that the people who would be appointed to this board will have such public prestige in the community and the public will appreciate if they are impartial, disinterested type of people who are concerned about government and concerned about people that their recommendation will carry a great deal of weight. That is the idea of the board of appeals, and I think it's a good institution.

The hearing ended at 9:40 p.m.

Respectfully submitted,
Ayako Ishikawa
Ayako Ishikawa, Secretary