

Presented to the Board of
Supervisors - meeting of: 2/9/67

A STATEMENT OF THE ACTIVITIES, FINDINGS AND
RECOMMENDATIONS OF THE CHARTER COMMISSION TO
THE BOARD OF SUPERVISORS OF THE COUNTY OF MAUI

To: The Honorable Chairman
and Members of the Maui
County Board of Supervisors

The Second Maui County Charter Commission was appointed by the Maui County Board of Supervisors on February 10, 1966, under the provisions of Chapter 143A, Revised Laws of Hawaii 1955, as amended by Act 65, Session Laws of Hawaii 1965. On June 16, 1966, after a thorough examination of the existing structure of county government, and several public hearings, the Commission agreed to proceed to prepare a charter for proposal to the Board of Supervisors and the people of the County of Maui. You were informed of the action taken by the Charter Commission by letter dated June 29, 1966. This is an analysis of the final draft of the charter proposed by the Commission.

There will be no radical change in county government under the proposed charter. The proposed charter incorporates several new concepts and procedures that should make county government more efficient and responsive. This statement sets forth the reasons for these proposed changes. The proposed charter and this statement should be read together.

THE EXISTING FORM
OF COUNTY GOVERNMENT

County government has two principal branches: The Board of Supervisors, and several important administrative commissions. The Chairman and Executive Officer, an elected official, has relatively little independent executive authority. The

Board of Supervisors and the Chairman are directly responsible for the administration of the Public Works Department, the Department of Parks and Playgrounds and the Fire Department.

The Board and Chairman also exercise certain legislative authority. They adopt the county budget, set the real property tax rate and enact ordinances and resolutions. The Chairman sits and votes with the Board upon these essentially legislative matters.

The Police Commission and the Board of Water Supply are responsible for the management of the police and water supply for the county. These commissions are responsible for the administration of two of the largest and most important departments of the county. The members of the Police Commission and the Board of Water Supply are appointed by the Chairman and Board.

The Liquor Commission, Planning Commission and Civil Service Commission are not administrative commissions. These commissions do not operate departments. These commissions perform staff, rule-making and adjudicatory functions. The members of these commissions are appointed by the Chairman and Board.

There are several other executive officers of the county who are responsible for administration, but these officers are not responsible to the Board or the Chairman, nor are they members of any commission. These are the Auditor, Treasurer, County Attorney and Clerk. These officers are elected. Since each is elected in his own right, they are independent of the Board and Chairman.

PROPOSED CHANGES IN THE BASIC
FORM OF COUNTY GOVERNMENT

The Commission recognizes several defects in the existing administrative structure of county government. The proposed charter attempts to correct these defects.

The Board and Chairman jointly exercise administrative and legislative authority. The administrative and legislative functions are not differentiated. These functions should be separated.

The American political doctrine that there must be "checks and balances" between the various branches of government rests on the basic premise that government is, in fact, composed of several separate branches. There are no "checks and balances," and government can become inefficient, arbitrary or even corrupt, if the executive and legislative functions are lumped together and performed by one monolithic body.

The proposed charter establishes a separate executive branch of government responsible to an elected Mayor. The proposed charter continues the Board of Supervisors (called the Council) as the legislative branch of county government.

There is widespread popular support for this proposal. This separation of the powers and functions of the present Chairman and Board will strengthen county government.

The proposed charter eliminates the elected executive offices of Auditor, Treasurer, County Attorney and Clerk. The functions of the Treasurer and Auditor have been combined into the office of the Director of Finance, who is appointed by and responsible to the Mayor. The County Attorney is a member of the executive branch. However, since he must also advise the Council, the County Attorney will be appointed and removed by

the Mayor with the approval of the Council. The Clerk will be appointed by the Council. The people favor the elimination of these elected administrative offices.

The people wish to retain the principal administrative commissions: the Police Commission and the Board of Water Supply. The proposed charter makes little change in the structure and authority of these commissions.

The existing Planning and Liquor Commissions perform important rule-making (legislative) and adjudicatory (judicial) functions. The proposed charter separates these functions.

RELATION BETWEEN THE COMMISSIONS AND THE ELECTED OFFICIALS

The various commissions are responsible for a large and important portion of the business of the county. These commissions affect all of us. Yet the commissioners who serve are not selected by the people.

These commissioners cannot be entirely independent of the popularly elected Mayor and Council. The proposed charter establishes certain definite relations between these commissions and the Mayor and Council.

First, the rules and regulations adopted by these commissions that have the effect of law must be ratified by the Council and Mayor.* (Section 13-10). Each commission can adopt its own rules of procedure for the conduct of its

*This section does not mean that the rates or fees fixed by a board or commission must be ratified by the Mayor and Council.

business. (Section 13-2(14)). Such rules of procedure need not be ratified by the Council and Mayor.*

Second, the members of any commission may be removed from office upon the recommendation of the Mayor and the approval of six members (2/3rds) of the Council. (Section 13-2(4)). Such removal must be "for cause."**

Third, the Mayor has the power to require a department administered by a separate commission, such as the Department of Water Supply, to cooperate and coordinate its work, personnel and equipment with that of a department directly responsible to the Mayor, such as the Department of Public Works, to achieve a more efficient use of county resources. (Section 13-15). This may create friction between an independent commission and the Mayor. On the other hand, the limited resources of the county must be employed efficiently. The departments administered by independent commissions are a part of county government. These departments must cooperate with the departments directly responsible to the Mayor.***

The Commission recognizes the fact that the people wish to preserve these commissions because, it is believed,

*Department heads responsible to the Mayor can promulgate rules for the organization and internal operation of their respective departments. Such rules must be ratified by the Mayor. (Section 6-4(3)).

**The phrase "for cause" is not defined. The specific meaning and application of this phrase must be left to the good judgment of the Mayor, Council, public opinion, and, as a last resort, the courts.

***The Mayor cannot, however, prescribe the specific duties to be personally performed by the department heads responsible to boards and commissions. (Section 6-4(4)).

these commissions are one step removed from the "hurly burly" that surrounds the public life of elected officials. Thus, the proposed charter contains provisions that will make it more difficult for the Mayor and Council to directly influence the activities of these commissions.

First, each commission, not the Mayor or Council, appoints its own department head, i.e. the chief of police, planning director, director of personnel services, director of department of water supply, director of department of liquor control. These department heads are responsible for the operation of their departments. They are each responsible to an independent commission.

Second, no member of a board or commission is eligible for an immediate second appointment to the same board or commission.* This will enhance a commissioner's independence. Since a commissioner cannot be reappointed, it is hoped that commissioners will not respond to improper suggestions from the Mayor or members of the Council. (Section 13-2).

Third, not more than a bare majority of the members of any commission can belong to the same political party.** (Section 13-2(2)). This does not mean that the two major political parties must be equally represented on a commission.

*Upon the expiration of his term of office, a member of commission A can be immediately appointed to commission B.

**The phrase "members of a political party" must be defined by ordinance. A person does not become a member of a political party by selecting a party ballot in a primary election. "Party membership" involves something more, i.e. enrollment, payment of dues, approval by the party's county committee, etc. How much more must be determined by ordinance. See also, Section 3-4.

On a five member commission, three commissioners can be members of party A, and two commissioners may have no party affiliation.

The Board of Water Supply must adopt an annual operating and capital budget for the Department of Water Supply. (Section 8-8.2(3)). The revenues received by the Department of Water Supply must be kept separate from the other funds of the county. (Section 8-8.4). The Department of Water Supply has the power to issue bonds. Such bonds may be secured by its revenues. (Section 8-8.2(5)). The Department of Water Supply will continue as a separately financed semi-autonomous body.*

None of the other commissions are separately financed. All of the revenues received by the other commissions must be transferred to the general funds of the county. The commissions responsible for the administration of these departments do not have the power to adopt a separate budget. Each of these commissions must request an annual appropriation for its department. Each appropriation allocated to a department administered by a commission must be a part of the county's operating budget or capital program.

Commissions are also important and desirable because they make it possible for private citizens to participate directly in government. This is healthy. Several commissions have been increased in size. More people can serve. Residents of Molokai, Lanai, Hana, and women, should be appointed to

*The powers of the existing Maui County Board of Water Supply are defined by R.L.H., 1955, Chapter 145A, as amended. The proposed charter vests these same powers in the Department of Water Supply, except as there may be some express inconsistency, in which case the terms of the proposed charter shall control.

these enlarged commissions. Since these commissions make it possible for private citizens to participate in the business of government, the proposed charter prohibits the appointment of a salaried government employee to a commission.* (Section 13-2(6)).

CREATION OF ADDITIONAL DEPARTMENTS

The proposed charter establishes a basic organizational structure for the government of the county. The proposed charter describes the structure and functions of the more important existing executive agencies.**

The people may hereafter demand that the county furnish additional services. The State of Hawaii may subsequently grant the county additional powers and functions. The United States may establish programs that must be administered by the county.

The proposed charter does not create an inflexible organization. The Mayor and the Council can create additional departments.*** (Section 6-2). The Mayor and the Council can

*Under Section 13-1(6)(b) a member of a commission is an "officer." Section 13-2(6) prohibits the appointment of an "officer" to a commission. There is no conflict between these provisions, for a person is not an "officer" prior to his appointment. These provisions, taken together, do mean, however, that a person cannot serve on two commissions at the same time.

**The proposed charter does not refer to many relatively unimportant existing agencies, offices and commissions. This does not mean that the Commission desires to abolish these existing agencies, offices or commissions. (Section 15-5(1)). These miscellaneous agencies, offices and commissions should be described by the administrative code to be enacted after the adoption of the charter. (Section 6-2).

***If the Mayor and Council establish the office of Prosecuting Attorney or the office of Public Defender, these offices must be selected by election. (Sections 13-17 and 13-18).

also change, abolish, continue and rearrange the departments created by the proposed charter. For example, if the State of Hawaii should return the hospitals to county control, the Mayor and Council can create a Hospital Department.*

POPULAR CONTROL OF GOVERNMENT

All of the provisions mentioned above, relative to the organization of the administrative agencies of the county, were designed to develop popular control of county government. In addition, the proposed charter creates several agencies, and provides procedures, for more direct control of county government by the people. The proposed charter puts government in the hands of the people. If government under the charter is inefficient or arbitrary, the people will be to blame.

The proposed charter provides Initiative and Referendum, and Recall. The proposed charter also provides for the impeachment of elected officers for malfeasance, misfeasance or nonfeasance in office. (Section 13-14).

The proposed charter creates a Board of Appeals to hear disputes between any member of the public and any officer

*The Commission has asked the Attorney-General of the State of Hawaii whether, in the light of Act 97, S.L.H. 1965, the proposed charter should provide for the administration of the county hospitals. The Attorney-General has not answered the question directly. However, the Commission has received a copy of a memorandum, dated May 31, 1966, from Clinton K. L. Ching, Deputy Attorney-General, to Bert T. Kobayashi, Attorney-General, titled "The Role of County Hospital Managing Committees under Act 97, S.L.H. 1965." The Commission understands this memorandum to mean that the Attorney-General is of the opinion that the proposed charter should not provide for the administration of the county hospitals, for these hospitals are now agencies of the State of Hawaii.

or employee of the county. The Board of Appeals will hear such disputes, arrive at a decision, then, if the decision indicates that the employee or officer involved has erred, the Board of Appeals will recommend to the Mayor or independent commission that the employee or officer be ordered to comply with the decision. The Board of Appeals can also recommend that disciplinary action be imposed against an errant employee or officer of the county.

The Board of Appeals, a three man commission, will act as the county Ombudsman.* The Board of Appeals may find it necessary to employ an Executive Secretary and a small staff. For the near future, it is hoped that the Board of Appeals will be able to function without a salaried staff.

*The "Ombudsman" originated in Sweden. The Ombudsman concept has been widely discussed and copied by New Zealand and other Scandinavian countries. The Ombudsman concept is new in the United States.

The charter proposed by the First Maui County Charter Commission created a Board of Appeals. The First and Second Charter Commissions have thoroughly discussed these provisions. The Board of Appeals is the product of a need recognized by both commissions to provide the public with a forum to hear disputes over administrative matters.

The commissions did not propose the creation of an Ombudsman-type Board of Appeals in an attempt to take advantage of the favorable publicity surrounding the Ombudsman concept. In fact, most of the popular and scholarly articles and books on the Ombudsman were written after the First Charter Commission proposed a Board of Appeals.

Thus, the provision that describe the structure, powers, duties and functions of the Board of Appeals are original, not a slavish copy of an accepted model, for there is no model. Interestingly enough, however, these provisions, first proposed by the First Charter Commission, are surprisingly similar to Ombudsman legislation proposed for other jurisdictions. Nevertheless, with time and experience, the need for changes in the structure, powers, duties and functions of the Board of Appeals may become apparent.

In Scandinavia and New Zealand the Ombudsman is a single person, appointed for a long term. The Board of Appeals is composed of three persons, each appointed for a term of five years. The Commission believes that the decision of three persons will be more persuasive than the opinion of a single person. The Mayor will find it relatively difficult to refuse to comply with the recommendations of a three member board.

The Ombudsman concept will not work unless the Mayor and Council appoint persons of absolute integrity, competence and intelligence to the Board of Appeals. The Board of Appeals should not be a spring-board for a political career.

The proceedings of the Board of Appeals should be informal. In many cases the Board of Appeals will be able to resolve the grievance within a department by discussing the problem with a senior employee or the department head. In such a case the Board of Appeals need not send the Mayor or independent commission formal recommendations.

There are several restrictions upon the powers of the Board of Appeals. (Section 8-16.3). For example, the Board of Appeals cannot "restrict or supersede the discretionary authority of any employee or officer of the county." This provision will probably be the subject of controversy. The officer or employee whose acts are the subject of a complaint will probably argue that he acted within the scope of his discretionary authority. His department head may agree. The Board of Appeals should not dismiss the complaint simply because the employee and his department head say that the acts were within the employee's discretionary authority. The Board of Appeals should determine for itself the scope of the employee's

discretionary authority. The Board of Appeals should bear in mind that employees at the lower civil service levels exercise little or no discretionary authority. Moreover, even though an employee has discretionary authority, it is wrong to exercise such authority arbitrarily. The Board of Appeals must protect the public against an arbitrary exercise of discretionary authority.

The Board of Appeals is also responsible for the enforcement of the Code of Ethics (Article X) and the implementing rules and regulations to be promulgated by the Civil Service Commission. The Board of Appeals can also exercise any additional power granted by law. (Section 8-12.2(7)). The Board of Appeals should not be charged with the enactment of rules and regulations or the active administration of the business of the executive branch. The Board of Appeals must stand apart from the executive branch.

The proposed charter also creates an ad hoc Commission on Organization of the Executive Branch. This Commission will function periodically, at ten year intervals. The provisions that establish the functions of this Commission are based upon the enabling act that created the federal Hoover Commission.

This Commission must study the agencies of the executive branch, then recommend such changes as may be necessary to promote economy, efficiency and improved service in the transaction of county business. The recommendations of this Commission should carry great weight.

The Council must enact an administrative code one year after the adoption of the proposed charter. (Section 6-2). The first Commission on Organization of the Executive Branch should be appointed soon after the effective date of

the proposed charter so that it can assist with the development of the necessary administrative code.

The proposed charter provides for the codification of the continuing ordinances of the county. (Section 4-5). The county has been enacting ordinances for more than sixty years. There is no compilation of these ordinances that a person can examine. No one really knows what the law is in the county. Some of the early ordinances may still be in effect. A complete code of the ordinances of the county must be prepared and enacted within two years after the effective date of the charter.* (Section 4-5).

THE ADJUDICATORY COMMISSIONS

The Civil Service Commission, the Planning Commission and the Liquor Commission enact rules and hear disputes. These commissions thus exercise quasi-legislative and quasi-judicial powers.

The proposed charter does not change the existing civil service structure. The Civil Service Commission is required to issue regulations implementing the standards of conduct

*The Commission strongly recommends the codification of the administrative regulations promulgated by the departments of the county. Although these regulations have the effect of law, these regulations are not generally known by the public. The Commission suggests the adoption and maintenance of a Code of County Regulations comparable to the Code of Federal Regulations.

stated in the Code of Ethics.* The Civil Service Commission will continue to enact civil service rules and hear employee grievances.

The proposed charter establishes a Department of Liquor Control composed of a Liquor Control Commission, Liquor Control Adjudication Board and a Director of the Department of Liquor Control. The Liquor Control Commission shall appoint the director (the department head), enact rules regulating the sale of liquor and grant liquor licenses. The director is responsible for the administration of the department and the investigation of alleged violations of any rule or law regulating the sale of liquor. The Liquor Control Adjudication Board shall hear complaints charging a violation of a rule or law regulating the sale of liquor.

The proposed charter sharply separates the rule-making power (quasi-legislative) from the adjudicatory (quasi-judicial) power of the present Liquor Commission. The Liquor Control Adjudication Board is independent of the rule-making authority (Liquor Control Commission) and the administrator/prosecutor (Director). The Liquor Control Adjudication Board will

*The proposed charter requires full disclosure by councilmen, other officers, and senior employees of the county of their financial interests. Every employee of the county should not be required to disclose his financial interests. Disclosure should be required of senior officers and employees who hold sensitive positions. These disclosure statements should not be completely open to public inspection. The office of the County Attorney may be a good depository. These disclosure statements should be open to inspection by the Mayor, County Attorney, Department Heads, the Civil Service Commission and the Board of Appeals. If the Board of Appeals determines that a violation of the Code of Ethics has occurred, the Board of Appeals must be free to publicize the violation, for the pressure of public opinion is perhaps the most effective sanction that can be imposed. The Civil Service Commission must enact rules to cover these problems.

determine whether a violation of the liquor control rules and laws has occurred, and, if so, what the penalty should be. The people favor such a separation of the powers of the present Liquor Commission.

The proposed charter establishes a Department of Planning composed of a Planning Commission, Planning Director and Board of Adjustment and Appeals. The structure of the existing Planning Commission has been modified.

The Planning Director, who is appointed by the Planning Commission, is the administrative head of the department, and responsible for the initial preparation of the general plan, subdivision and zoning ordinances. The planning director is also responsible for the administration of the subdivision and zoning ordinances.

The Planning Commission must review the proposed plans and ordinances prepared by the Planning Director. The Planning Commission also has the power to adopt rules and regulations implementing the subdivision and zoning ordinances. This rule-making authority is an important function of the Planning Commission. The Council can enact relatively brief subdivision and zoning ordinances, then direct the Planning Commission to adopt detailed rules implementing the general statements of policy set forth in the subdivision and zoning ordinances. (Such rules must be ratified by the Mayor and Council). This approach should provide flexibility, eliminate the need for frequent amendments to the zoning ordinance, yet preserve the necessary control by the Council of the planning process.

The Board of Adjustment and Appeals is independent of the Planning Commission and the Planning Director. The Board of Adjustment and Appeals exercises only quasi-judicial powers.

For example, the board will consider petitions for variances from the zoning and subdivision ordinances, appeals from any order made by any officer responsible for the administration of the zoning, subdivision and building ordinances, and applications for special permits.

The Board of Adjustment and Appeals exercises quasi-judicial functions. Only persons of unquestioned integrity should be appointed to this board. The members of this board, like judges, must avoid any act which suggests bias or improper influence. The members of this board must refuse to hear any ex parte communication.

The Board of Adjustment and Appeals has the power to adopt rules regulating its procedure. Since the petitions the board will hear affect not only the petitioner, but also the owners of adjoining land, these rules should provide that the owners of adjoining land receive notice of the petition and be afforded an opportunity to be heard if they wish to oppose the petition.

COUNCIL

The County Council is elected at large. However, of the nine seats, one must be filled by a resident of Molokai, and another must be filled by a resident of Lanai.

This means that two or more residents of Molokai, and two or more residents of Lanai, may be members of the Council at the same time. For example, if A and B, both of whom are residents of Molokai and candidates of Party X, should tally the highest number of votes at a primary election, then both A and B would run as candidates of Party X at the following general election. If A and B should tally the highest

number of votes at the general election, then both of them would be elected to the Council, even though both of them are residents of Molokai. This result follows because the provision that one member of the Council must be a resident of Molokai, and another must be a resident of Lanai, establishes a minimum requirement. Moreover, this requirement does not alter the basic principle that the Council is elected at large.

The Mayor and Council serve for two year terms. Each term of office begins on the second day of January following the election. The business of the county will not be interrupted at the close of a completed term of office. Any bill or resolution introduced during one term of office continues and may be considered by the succeeding Council and Mayor.*

(Section 4-2(9)). Since the county's fiscal year will begin on the first day of July, a newly elected Mayor and Council will have almost six months to prepare a budget and capital program for the next fiscal year.** (Section 9-1).

*This precludes any "pocket veto" by the Mayor.

**The Mayor must present his proposed budget and capital program for the next fiscal year to the Council on or before the first day of March. The Council must adopt the budget and capital program on or before the twenty-second day of June. This schedule will make it possible for the Council to fix the real property tax rate at about the same time it adopts the budget. The Council can thus relate the expected revenues of the county to the expenditures proposed by the budget and capital program.

Department heads appointed by a Mayor* whose term of office has expired will continue in office until their successors have been appointed by the newly elected Mayor. This is because the term of each of these department heads continues until "removed by the Mayor." Consequently, a newly elected Mayor need not appoint all of his department heads immediately upon taking office.

The Council is the county's legislative body. The Council exercises general legislative powers.

The Mayor, not the Council, is responsible for the execution of the laws and policies established by ordinance and resolution. The Council cannot interfere with the administration of county business by the executive branch. (Section 3-10). The Council can investigate the operations of a department and call for reports from the executive departments. (Section 3-7).

The Council is a powerful body. The Council exercises a great deal of authority in fiscal matters. The Council controls the county "purse strings." The Council has the power to add, increase, decrease or delete items from the budget proposed by the Mayor. (Section 9-5). Although the Mayor has the power to item veto portions of the budget, the Council can separately reconsider each item vetoed. (Section 4-3(2)).

*These department heads are the County Attorney, Director of Finance, Director of Public Works, Director of Parks and Recreation, and Fire Chief. The removal of the County Attorney and the appointment of his successor must be approved by the Council.

The administrative code should specify the form of the operating budget.* (Section 9-3(1)). The operating budget should be set up in terms of "programs" to be accomplished. For example, dollars should be appropriated for the maintenance of Park A and Road B, as well as to the departments responsible for the expenditure of the funds. In this way the Council and the public will know what services are to be provided for the money appropriated.

After the Council adopts the budget, the Mayor cannot transfer an unencumbered appropriation balance within a department, that is, from Program A to Program B (even though both programs are administered by the same department), without the consent of the Council. Nor can the Mayor transfer an unencumbered appropriation balance from one department to another. (Section 9-9(2)). This is an important restriction upon the power of the Mayor. The Council establishes the county's fiscal objectives. The Council takes this action by adopting the budget. If the Mayor desires to reallocate funds from one program to another (even though both programs are administered by the same department), the Mayor must obtain the consent of the Council. For example, if the budget calls for the expenditure of X dollars for the repair of Road A, if the Mayor desires to use half of this money for the repair of Road B, he must obtain the consent of the Council.

The proposed charter establishes the Office of Council Auditor. The Council Auditor should act as the Council's

*Pending the enactment of the administrative code, the Council shall determine the form of the operating budget.

fiscal watchdog. The Council Auditor is not responsible to the Mayor. He is the agent of the Council. The Council Auditor should assist the Council as the Comptroller General of the General Accounting Office of the United States acts for the Congress (31 U.S.C. Sec. 41), and as the Auditor of the State of Hawaii assists the Legislature (Constitution of the State of Hawaii, Art. VI, Sec. 8). There is virtually no restriction on the scope of the tasks the Council can assign to its Auditor.

To be effective, the Council Auditor must be removed from politics. For this reason he has a term of eight years.* The Council can remove its Auditor for cause by a vote of seven or more members (Section 3-8). The Council Auditor must be a certified public accountant. He should also be a dedicated, aggressive and intelligent public servant. The effectiveness of the Council will be largely determined by its Auditor.

The Council may, in its discretion, require an audit of county funds and accounts by an outside certified public accountant. (Section 3-9). The holders of the county's bonds may require such an audit. There may be other occasions for such an audit.

The Council appoints the Clerk. The Clerk is an agent of the Council.

Although the Council appoints the Auditor and Clerk, the Auditor and Clerk, like other department heads (Section 6-4(1)), each have the power to appoint their respective

*The Auditor for the Legislature has a term of eight years. The Comptroller General holds office for fifteen years.

staff assistants. Of course, the Council has the power to determine the size of the staff of each of these offices.

The Council has the power to determine the number of personnel positions each department is authorized.* (Sections 6-4(1) and 7-4(2) and 7-4(3)). This includes the power to provide a general job description for each position.**

The Council can hold its meetings at such times and places as it shall prescribe by rule. (Section 3-6(2)). The Council should hold several meetings each year in the outlying districts of the county.

AMENDMENTS TO CHARTER

Amendments to the proposed charter can be initiated by the Council, by Charter Commissions to be appointed at intervals of ten years, and by petitions presented to the Council. The proposed charter also provides for a special referendum, six years after the adoption of the charter, upon the question "shall a charter commission be appointed to propose amendments to the charter." (Section 14-3). The Commission is not infallible. Such a referendum will permit a complete review of the charter within a reasonably short time after its adoption,

*The power of the Council to create and eliminate personnel positions is based upon the Council's power to appropriate money. Since the Department of Water Supply is a semi-autonomous agency, which does not rely upon appropriations made by the Council, the Council does not have the power to determine the number of personnel positions authorized for the Department of Water Supply.

**The Mayor has the power to make temporary personnel transfers between departments and between divisions within a department without the consent of the Council. A "temporary" transfer should not continue for more than 30 days. A transfer for more than 30 days is not temporary. Such a transfer should be submitted to the Council for its approval.

for time and experience may reveal the need for a general revision of the charter.

FINDINGS AND RECOMMENDATIONS

The members of the Commission have thoroughly enjoyed working together for the good of the people of the County of Maui. The charter we have prepared, and do hereby propose, represents our common effort and collective good judgment.

The members of the Commission are not from a common mold. We differ in age, background, temperament and experience; we come from different parts of the county. None of us are alike. Yet we agree that the proposed charter should be adopted as the organic law for the government of the people of the County of Maui. We speak to you with one voice.

Moreover, we have found, and do report to you, that the public favors the proposed charter. The public understands the defects that exist in our present form of county government.

Under R.L.H., 1955, Section 143A-8, as amended, you have the right to propose alternatives to the proposed charter. We respectfully request that you propose no such alternatives. The charters proposed by the Second Charter Commissions of Hawaii and Kauai were defeated by the electorate of each county largely because the proposed charters were submitted with alternatives. The submission of alternatives may make it impossible to obtain a majority vote upon the proposed charter or any alternative. In this event, though it might appear that a majority of the electorate favor a charter, the proposed charter and all of the proposed alternatives would be defeated, and the existing form of county government would continue. This would be an unfortunate result.

We therefore recommend for your approval the draft of the proposed charter for the County of Maui submitted herewith.

Dated this 6th day of February, 1967.

Respectfully submitted,

Nadao Honda

Nadao Honda

Douglas Sodekani

Douglas Sodekani
Chairman

Harry Kobayashi

Harry Kobayashi

William F. Crockett

William F. Crockett
Vice-Chairman

George Kondo

George Kondo

Emil Balthazar

Emil Balthazar

Paul Pladera

Paul Pladera

Edward L. Cluney

Edward L. Cluney

Keith Tester

Keith Tester

Shiro Hokama

Shiro Hokama

James S. Ushijima

James S. Ushijima