

MINUTES OF THE MAUI
COUNTY CHARTER COMMISSION

DATE: July 14, 1975
PLACE: Cameron Center, Conference Room, Wailuku, Maui, Hawaii, 96793
CALL TO ORDER: 2:10 p.m.
PRESIDING: Monsignor Charles Kekumano, Chairman
MEMBERS PRESENT: Monsignor Charles Kekumano, Chairman
Paul Mancini, Commission Attorney
Edwina Bright
Margaret Cameron
Hideo Abe
Lloyd Sodetani
Catalino Agliam
Ralph Murakami
MEMBERS EXCUSED: Stephen Petro
Joseph Souki
Allan Sparks
OTHERS PRESENT: Arthur Ueoka, County Attorney
Wilma Stegmuller, Secretary for the Napili-Honokowai Taxpayers' Union
Carl Longo, Press
David Slocum, Press

Minutes

Monsignor Kekumano explained to the Commission that the minutes from a number of past meetings has not been approved. After discussion, upon motion duly made and seconded, the minutes from the meetings of June 2nd, June 10th, June 16th, June 23rd, June 30th and July 7, 1975 were unanimously approved.

Monsignor Kekumano reviewed a luncheon speech he had given to the Kahului Rotary Club. A discussion followed.

Sunshine Law

Mr. Mancini discussed correspondence from the office of the Mayor concerning the Commission's adherence to the new Sunshine Law. A discussion followed on the various provisions of the new law.

County Attorney

Monsignor Kekumano welcomed Mr. Arthur Ueoka, County Attorney for the County of Maui, and asked him to proceed with his presentation.

Mr. Ueoka apologized for his postponements in meeting with the Commission and thanked the Commission for its indulgence with regard to the delays.

Mr. Ueoka reviewed the Charter provisions relating to the office of County Attorney. He explained the provisions regarding the qualifications of the County Attorney's role in civil and criminal cases. Mr. Ueoka commented on the Charter provisions with regard to special counsel and legal service of process stating that each provision had considerable merit and should be retained.

Staffing

Concerning the County Attorney's office staffing, Mr. Ueoka indicated that six attorneys staffed the office with four office staff supporting their role. He commented that his

Staffing

office was the only County Attorneys' office in the state providing the dual function of prosecuting attorney and legal advisor to the County. The other Counties within the state separate the roles into prosecuting attorney and corporation counsel with separate administrative heads for each role.

Mr. Ueoka outlined the staffing pattern of the office of County Attorney in other Counties as follows:

Kauai County: Total of six attorneys.

County Attorney-----1	Chief Prosecutor---1
Deputy County Attorney--2	Deputy Prosecutor--2
Total Attorneys 3	3

Hawaii County: Total of ten attorneys.

County Attorney-----1	Prosecuting Attorney-----1
Deputy County Attorney--4	Deputy Prosecuting Attorney--4
Total Attorneys 5	5

Mr. Ueoka suggested that Maui's office of County Attorney was more efficient than Kauai and Hawaii due to the dollars expended for the services provided; however, Mr. Ueoka did recommend that separation of the two roles might be advisable for specialization purposes.

With regard to the issue of efficiency, Mr. Ueoka provided the following comparative 1974 data concerning caseloads and filing:

<u>County</u>	<u>Caseload</u>	<u>Filings</u>	<u>Court</u>
Maui	413	167	Circuit
Hawaii	249	160	Circuit
Maui	1,868	1,657	District
Hawaii	1,729	1,562	District
Maui	13,819	13,219	Traffic Violations
Hawaii	13,763	13,552	Traffic Violations

Due to the lack of manpower, Mr. Ueoka indicated that his office was not able to provide counsel for all Boards and Commissions for the County of Maui. Currently, the County Attorney assigns one of the staff attorneys to the Planning Commission, the Board of Water Supply, and the Police Commission. Other Boards and Commissions are asked to put specific issues in writing and the office of the County Attorney then formally responds to such issues.

With regard to legal services to the County Council, Mr. Ueoka explained that he personally attends all council meetings as well as all committee meetings.

Specific Recommendations

Separation of Office Functions

Mr. Ueoka stated that it was his opinion that the office of the County Attorney should be separated into an office of Prosecuting Attorney and an office of Corporation Counsel. The separation would, in his opinion, result in greater efficiency due to the specialization involved. Mr. Ueoka further stressed that the office of Prosecutor should be an

Specific Recommendations

Separation of Office Functions

elective office in that the prosecutor should be responsive and accountable to the public. He further indicated that he had no opposition to an appointed prosecutor and felt either system would work well.

In response to a question from Mr. Ralph Murakami, Mr. Ueoka indicated that the term of office of the prosecutor should be consistent with other elected officials.

Special Counsel

Mrs. Cameron questioned Mr. Ueoka concerning Section 8-1.5 of the Charter - Special Counsel. Mr. Ueoka stated that he felt that this was a good provision and should be retained. He explained that the reason the council approved a special counsel was that the counsel controlled the financial resources for such a contract and not the Mayor.

Mr. Mancini asked Mr. Ueoka what logic existed to require the council to have the County Attorney's recommendation prior to hiring a special counsel.

Mr. Ueoka stated that in some ways this could deter unnecessary litigation. He commented that often the administration would move into a gray area which would be questioned by the council. The office of the County Attorney would then be asked to give an opinion on the issue. The County Attorney would sustain the administration if there existed a solid basis for such a position. If the council would retain special counsel on each of these occasions, unnecessary litigation would result. Therefore, this provision would tend to avoid such conflict.

Subdivision and Zoning Ordinance

Mr. Mancini asked whether the Charter Commission should merely delete the Planning Department provision regarding the subdivision and zoning ordinance or should it attempt to assign these responsibilities to Public Works or elsewhere.

Mr. Ueoka stated that the responsibilities should be assigned. Public Works appears to be the logical placement but other options should be reviewed.

Board of Adjustment and Appeals

Mr. Mancini asked whether the Board of Adjustment and Appeals should also be transferred to Public Works. He stated that three choices appeared to exist; a transfer to Public Works; a transfer to a separate new agency; to isolate the Board of Adjustment and Appeals from other departments and provide to it a separate staff.

Mr. Ueoka stated that the Commission should evaluate all alterations with regard to the Board of Adjustment and Appeals. He related that in considering the Soil Erosion Ordinance his office wanted to provide for appeals from the ordinance to the Board of Adjustment and Appeals. However, the Charter restricted this in that it provided for only specified appeals to that body. Mr. Ueoka suggested that a complete and thorough analysis must take place.

Upon the request of Mrs. Cameron, Mr. Ueoka explained the role of the Board of Adjustment and Appeals as it relates to the Planning Department and Public Works.

Ambiguities in Charter

Mr. Ueoka explained that there existed in the Charter many issues which needed clarification. He identified page 21, Section 8-9.4 as an example:

Dismissal, Suspension or Demotion

The dismissal, suspension, or demotion of any police officer or employee in the police department shall be under procedures set forth by civil service laws and regulations.

This provision has been interpreted to exclude the Police Commission from acting in this area. This obviously was not the intent of the Charter Commission and the ambiguity should be rectified.

Mr. Ueoka stated that he would identify various problem areas such as this and provide a checklist to Mr. Mancini.

Ethics Board

Mr. Mancini asked Mr. Ueoka's opinion with regard to the creation of an Ethics Board.

Mr. Ueoka stated that he saw merit in a strong Ethics provision in the Charter. He felt that public disclosure was the only mechanism that could be used in this area.

Police Review Board

Mr. Mancini asked whether Mr. Ueoka perceived any merit to a Police Review Board to hear grievance against the police.

Mr. Ueoka responded that the Police Commission could provide this function.

Monsignor Kekumano explained that in Honolulu this procedure did not seem to work and it was given to a separate body.

Charter Amendments/Structural Provisions

Mr. Ueoka stated that he had two further recommendations to the Commission:

- 1) To loosen up the procedural steps to amend that Charter. Mr. Ueoka felt that it took an excessive period of time to change a Charter provision.
- 2) To review all Charter provision to ensure that they relate to structural aspects of government.

Mr. Ueoka stated that the state constitution set guidelines for County Charters. This should be reviewed with the intent to have the Charter adhere to such guidelines.

Monsignor Kekumano thanked Mr. Ueoka for his time and efforts and stated that the Commission would call on him again for assistance.

There being no further business before the Commission the meeting adjourned at 4:05 p.m.

Next meeting will be on July 21, 1975 with the American Bar Association at 4:00 p.m.

Respectfully submitted,

Leonora Balidoy, Secretary