

MINUTES OF THE MAUI
COUNTY CHARTER COMMISSION

DATE: August 4, 1975
PLACE: Cameron Center, Conference Room, Wailuku, Maui, Hawaii, 96793
CALL TO ORDER: 4:00 p.m.
PRESIDING: Monsignor Charles Kekumano, Chairman
MEMBERS PRESENT: Monsignor Charles Kekumano, Chairman
Paul Mancini, Commission Attorney
Edwina Bright
Margaret Cameron
Hideo Abe
Catalino Agliam
Ralph Murakami
Lloyd Sodetani
Joseph Souki
MEMBERS EXCUSED: Stephen Petro
Allan Sparks
OTHERS PRESENT: David "Buddy" Nobriga representing Mel Bartolome, Chairman
of the Board of Water Supply
Hideo Niibu, Police Commission Chairman
Wilma Stegmuller, Secretary of the Napili-Honokowai Taxpayers' Union
David Slocum, Press

Minutes

Action on the minutes of the Commission's meeting of July 28, 1975 was deferred until the August 11, 1975 meeting.

Materials Distributed

The following materials were distributed to the Commissioners:

- a) Summary of Interviews: July 23-24, 1975, Honolulu Trip; Committee on County Government.
- b) Summary of Major Changes undertaken by the 1971-1972 Charter Commission, City and County of Honolulu: P.R. Mancini
- c) Components of Decision Model; Committee of the Whole
- d) Comparison of Charter provisions; Article 2-Article 7; County of Maui, Hawaii, City and County of Honolulu
- e) Schedule of Opinions concerning the Maui County Charter; Office of County Attorney

Schedule of Speakers

Mr. Mancini announced that Representative Ron Kondo would address the Commission on August 11, 1975 at 2:00 p.m. followed by Mr. James Ushijima, the County Clerk, at 3:00 p.m.

New Commissioner

Monsignor Kekumano related that Dr. Sanae Moikeha had been confirmed as a member of the Charter Commission to fill the vacancy created by Mrs. Rodrigue's resignation.

Board of Water Supply: Mr. David Nobriga representing Mr. Mel Bartolome, Chairman of the Board of Water Supply

Mr. Nobriga read a prepared message to the Commission which is attached to and made a part of these minutes. Mr. Nobriga related the history of the Department of Water Supply from its inception in 1949 to present. The legislature in 1949 created a County Water Works

Board of Water Supply

Board, consisting of five members appointed by the County Chairman and confirmed by the Board of Supervisors. The Board was given the powers to manage and operate the water systems in the County. In 1955, the legislature abolished the Board and created the Maui County Water Department with all powers and control vested in the Board of Supervisors. In 1961 the legislature again created a Board of Water Supply, consisting of seven members. In 1969 the Maui County Charter took office and created a Department of Water Supply, consisting of a Board, Director and necessary staff.

Mr. Nobriga reflected that the previous semi-autonomous status of the Water department had been removed by section 13-10 of the new Charter. This section requires that all rules and regulations of the Department must first be approved by the Council and Mayor before having the force and effect of law. Mr. Nobriga stated that the Water Board in 1973 had submitted its amended rules and regulations to the Council for approval; the Council has failed to take action on these amendments and to date the Board has been unable to provide adequate services to the public because of this.

During his presentation Mr. Nobriga quoted from the American Water Works Association Water Utility Management Manual citing its recommendation that a complete separation should exist between the activities of the water utility and other functions of government.

In concluding his remarks, Mr. Nobriga provided three recommendations for the Charter Commission to implement:

- a) To retain the semi-autonomous status of the Board of Water Supply;
- b) To allow the Board of Water Supply to adopt its rules and regulations as required under the Administrative Procedures Act without further approval of the Council and Mayor;
- c) To delete Charter provisions restricting reappointment of members to the Board;

Monsignor Kekumano asked whether any accountability to the electorate existed under the current system?

Mr. Nobriga indicated that public hearings are held on all actions and policy was set in accordance with the needs of the public.

Mrs. Bright asked Mr. Nobriga to expound on the issue of the rules and regulations of the Board being before the Council for a period of two years.

Mr. Nobriga explained regulations with regard to fire hydrants, storage assessments and certain exemptions for 2-3 acre subdivisions. He stated that some of these regulations have been implemented but others await Council action.

Mr. Souki asked whether it was necessary to provide that a licensed engineer be the Director of the Department of Water Supply.

Mr. Nobriga stated that traditionally the Director has been an engineer but good management is the key issue and one can be a good manager without being an engineer. He explained some past history with management under an engineer and the current structure with a non-engineer as the Director as justification for his opinion.

Monsignor Kekumano asked whether the Department was operating on a self-sufficiency basis.

Board of Water Supply

Mr. Nobriga explained the current rate review now taking place and stated that no capital has been obtained from the County but C.I.P. funds were obtained from the State. Mr. Nobriga further commented that there was nothing in writing authorizing the Board to require funds from the State. For the past two years the Board has submitted its requests to the State along with the Counties other C.I.P. requests.

In response to a question from Monsignor Kekumano, Mr. Nobriga indicated that the County Attorney's office had provided an opinion that the Council must approve the water rates.

Mr. Sodetani asked Mr. Nobriga for his opinion with regard to merging the administration of the Sewer Division in Public Works with the Water Department.

Mr. Nobriga indicated his disfavor with the proposition. He stated that if the Sewer administration were to come under Water, two divisions would be needed in Water. He also commented the problems of Water administration and Sewer administration were quite different.

Mr. Mancini stated that a major criticism cast against the current system was that in order to do comprehensive planning, the County must control Water resources. He stated that if Water and County planning did not act in accord, chaos will result. He asked Mr. Nobriga if he agreed that a potential problem could arise under the current system.

Mr. Nobriga agreed that it could but that it hasn't occurred and would not occur.

With that in mind, Mr. Mancini asked if Mr. Nobriga would support a Charter amendment requiring that the Water Department coordinate with and act in development activity consistent with the Planning Department.

Mr. Nobriga stated that he would not support such a concept. He commented that the department needed independence to be effective.

Mr. Mancini questioned the causal relationship between the Department's effectiveness and its role in comprehensive planning and implementation.

Mr. Souki asked whether the Planning Director should sit in the Board of Water Supply.

Mr. Nobriga commented that this would not hurt but that the Planning Director may have too much work for additional roles.

Mr. Mancini asked if he was correct to assume Mr. Nobriga's position to be that he would favor a Charter provision requiring coordination with Planning but not a mandatory directive to follow Planning

Mr. Nobriga stated that such was correct.

Mr. Nobriga, in response to a question, indicated that the Board of Water Supply handles its own appeals and this seems to work smoothly.

Police Commission: Mr. Hideo Niibu, Chairman

Mr. Niibu introduced his remarks by commenting that the views he was to express were his own and not that of the Police Commission.

Police Commission/Mr. Niibu

Mr. Niibu read from a prepared statement commenting on various Charter provisions as follows:

Section 9-4 Budget and Capital Program: Notice and Hearing

Recommendation to add a provision for a public hearing for all departments

Mr. Niibu reflected that the Police Commission was told that it could not testify before the Council at the public hearing. Its role was to go before the Finance committee to plead its case. He stated that the Commission only received a few minutes before the Committee. His feeling was that one night for a public hearing was inadequate.

Section 13-2-11 Boards and Commissions

Recommendation that the Deputy Chief of Police be confirmed by the Police Commission

Mr. Niibu also commented that the Deputy Chief should have the same qualifications as the Chief.

Section 8-9.4 Department of Police, Dismissal Suspension or Demotion

Recommendation that Police Commission action should be required on all dismissals

Mr. Niibu further stated that investigations on complaints by the public should be in the hands of the Commission not the District Commander of the Department.

Section 3.-7-4 Powers of the Council "Investigations"

Recommends prohibition of Council investigation on a Department until the executive Board or Commission has an opportunity to investigate.

Political Activities

Recommends restrictions on political activities of police in that the police are not 100% civilians, being a quasi-military organization.

Section 13-2 (5) (7) Boards and Commissions

Recommendation that members of Boards and Commissions be permitted to serve a second term and be permitted to continue to serve until a successor can be appointed.

Dog Wardens

Recommendation that all responsibilities with regard to dogs be removed from the Police Department.

Advisory Commissions

Recommendation to keep the Police Commission as a buffer between the public and government.

Mr. Niibu commented that without the Police Commission the Council and/or Mayor would control the police. This he felt would be an unacceptable concentration of power.

Mr. Souki questioned Mr. Niibu concerning the practicality of having the Commission dismiss police officials. He felt that the Chief would not have adequate powers to manage if he couldn't dismiss.

Mr. Sodetani questioned the Police Commission's inability to testify at public hearings. It was his opinion that the Commissioners could testify at public hearings.

Advisory Commissions

Mr. Niibu expressed his desire to review dismissals prior to the issue going to SHOPO. SHOPO has its own grievance procedure as part of its contract. The dismissal normally goes to the union and then to court. If the Commission gets the case prior to it going to SHOPO, litigation may be avoided.

Mr. Murakami asked whether the Commission prepared its budget on a priority basis.

Mr. Niibu responded in the negative and provided an explanation of the department's budget process.

Mrs. Cameron asked Mr. Niibu his opinion concerning the merits of a Police Review Board.

Mr. Niibu stated that this should be the responsibility of the Police Commission not an independent body.

Monsignor Kekumano asked what restricted the Police Commission from setting policy with regard to the qualifications of the Deputy Chief of Police.

Mr. Niibu stated that the Commission was told it could not set policy in this area.

A discussion followed considering the nature of permissible policy that can be established by the Police Commission.

Mr. Niibu stated that Section 8-9-2-1 was too broad and the Police Commission didn't know what to do.

Mr. Sodetani asked for a copy of the SHOPO contract as well as a copy of Mr. Niibu's prepared remarks.

Mr. Sodetani also asked the Commission staff to check with Mr. Goshi on the Commission request on a statement from his division.

There being no further business before the Commission, the meeting adjourned at 6:05 p.m.

Next Commission meeting will be on August 11, 1975 with Representative Ron Kondo and Mr. James Ushijima, County Clerk speaking at 2:00 p.m. and 3:00 p.m.

Respectfully submitted,

Leonora Balidoy, Secretary

Mr. Sharpless-Managing Director

He provides a functional role and expediting work between the Council and the administration. Mr. Mancini indicated Mr. Sharpless's opinion that the County Attorney's function should be separated into a prosecuting attorney and corporation counsel in that it seems impractical for one man to specialize in the two fields.

Also, Mr. Sharpless feels that the Water department should be under the administration. The Managing Director felt that it was inconsistent to have water to go its own way and the administration to follow its path.

Mr. Mancini further commented that Mr. Sharpless felt that the police department is a different animal. It seems the police department works under the administration but the police commission appoints the chief.

Corporation Counsel-Mr. Barry Chung

Mr. Mancini said that Mr. Chung favors the separation of the County Attorney and the Corporation Counsel. Mr. Chung was reluctant to say whether the prosecuting attorney should be elected or appointed.

Mr. Akahane-Council Chairman

Mr. Mancini said that Mr. Akahane gave a philosophical aspect of government. The Council in Honolulu has an office of Council services with a budget of \$400,000.00 a year. This department has two planners, two attorneys and other technicians; Mr. Peter Leong is the director of the office. Mr. Mancini commented on the O.C.S. being a mini-administration. Mr. Mancini said an interesting point made by Mr. Akahane was the Council's hope in providing a City Manager for the city and county of Honolulu.

Mr. Way--Director of the Building Department and Land Utilization

Mr. Mancini indicated that this was a very productive session. He reviewed how Honolulu utilizes its Planning department, Building department, and the department of Land Utilization. Mr. Mancini said we can compare Honolulu's department of Land Utilization with Maui's Land Use and Codes Division. He commented on Mr. Howard Nakamura's suggestions that the general plan be policy oriented and Honolulu's experience with this type of general plan.

Mayor Fasi

Mr. Mancini said Mayor Fasi is against districting and feels that the at-large system is the best form of representation. Mayor Fasi feels that when you deal with districting the citizen has only one Councilman to approach rather than nine.

Mayor Fasi said that the biggest problem with the Honolulu Charter is the Council's ability to build up its staff and spend money without any control on the part of the administration. Mayor Fasi indicated that there is no checks and balances with the Council at this point.

Mayor Fasi advised "don't create departments without necessity." He felt government is too expensive and his current hope is to bring down the cost of government.

Monsignor Kekumano asked Mr. Souki when he felt the final report by the committee on County government would be presented to the Commission.

Mr. Souki responded that the report would be completed by September 1, 1975.

Mrs. Cooper--President of the Maui Chamber of Commerce

Mrs. Cooper distributed a package of materials to the Commissioners which included:

- a) Memo to the Commission regarding suggested Charter revisions.

- b) Proposed amendments to the State Constitution-November 5, 1960.
- c) Official ballot: 1968 Constitutional Convention.

Mrs. Cooper read from her letter to the Commission relating that because of the large number of members of the Chamber of Commerce it would be difficult to get a consensus on any one issue. It was the opinion of the Chamber that any changes that are made to the present Charter be made from a broad democratic base. With this in mind it was the Chamber's recommendation that the Charter Commission not present a revised Charter on an "all or nothing" basis.

Mrs. Cooper made referenced to the Constitutional Convention of 1968, whereby a three part ballot provided options to the voters on all issues. She indicated that such an approach would provide greater flexibility for the public. Such issues as the length and term of office, Council districting, a mandatory Council auditor and a water department under the administration were related as appropriate for placement on the ballot.

Mrs. Cooper continued to praise the Commission's public discussions and hearings and offered support in this area.

Mr. Souki stated that he was mildly disappointed that the Chamber was not able to provide any specific recommendations.

Mrs. Cooper indicated that she felt that this was premature at this time. She commented that with further information and recommendations from the Commission, specific opinion would be forthcoming.

Mr. Mancini related the problem encountered by the Kauai Charter Commission when that Commission placed options on the ballot. He stated that this confused the public and many felt the Commission shirked its responsibility by such a move. He questioned whether the Maui Commission might expect similar results.

Mrs. Cooper responded in the negative. She believed the public would perceive options as a reasonable procedure by the Commission.

Monsignor. Kekumano asked if the Chamber had an opinion as to what the public wanted changed.

Mrs. Cooper stated that there was no way to test the sensitivity of Chamber members at present. She suggested that a survey of Chamber members be taken to reflect their opinions. As a further notation she stated that all sensitive issues should go on the ballot.

In response to another question on the business sector's opinion concerning governmental affairs, Mrs. Cooper reiterated that she could not speak out for the Chamber because of the lack of consensus on the part of its members.

Mr. Mancini responded that the Chamber often takes positions on public issues without polling its members. He questioned why the Board of Directors treated this issue differently. Why not use the Board as a sounding block of the business community.

Mrs. Cooper stated that this was possible and that it could be pursued.

Mrs. Cameron asked if the Chamber could study the Charter provisions concerning Finance, Personnel Services, and Planning. Recommendations in these areas seemed appropriate for the Chamber.

Mrs. Cooper stated that the Chamber could rewrite the Charter for the Commission. She further commented that she would take these issues into consideration and act upon them.

Mrs. Bright asked Mrs. Cooper to focus upon the issue of management. What would be the best form of government for the County of Maui.

Monsignor Kekumano requested that the Chamber review the Code of Ethics with the intent of rectifying any problems that might exist in this area.

Mrs. Cooper responded that she would take all of these suggestions into consideration and return to the Commission with specific suggestions in the Charter.

Monsignor Kekumano thanked Mrs. Cooper for her efforts.

Mrs. Cameron requested that Mr. Paul Devins be asked to address the Commission on the issue of Charter amendment.

Mr. Mancini indicated that he would approach Mr. Devins to speak to the Commission on August 18, 1975.

Mr. Souki suggested additional Commission meeting to deliberate on the final recommendations for public hearings.

Mr. Sodetani suggested that the Commission come to some determination as to the compensation for Mr. Mancini.

Mr. Mancini recommended that this be delayed until he could forecast the demand on his time during the next few months.

Monsignor Kekumano asked Mr. Sodetani to confer with Mr. Mancini in the issue.

There being no further business before the Commission, the meeting adjourned at 3:30 p.m.

Next Commission meeting will be August 4, 1975, 4:00 p.m with the Board of Water Supply Chairman and his consultant and also the Chairman of the Police Commission.

Respectfully submitted,
Leonora Balidoy, Secretary