

MAUI COUNTY CHARTER COMMISSION

Wailuku, Maui, Hawaii

PUBLIC HEARING

DATE: March 30, 1964

PLACE: Kam III School Cafetorium, Lahaina, Maui

CALL TO ORDER: 7:15 P.M.

PRESIDING: Masaru Yokouchi, Chairman

MEMBERS PRESENT: Masaru Yokouchi, Chairman
Emil Balthazar
C. H. Burnett, Jr.
Richard Caldito
William F. Crockett, Vice-Chairman
Shiro Hokama
Nadao Honda
Harry Kobayashi
Keith Tester
Thomas Yagi
Charles C. Young, Research Assistant

MEMBER EXCUSED: Cornwell Friel

OTHERS PRESENT: Kase Higa, County Attorney
Mrs. Jay Van Zwahlenburg
Jean R. Lane, Chief of Police
Alan Freeland
Fred Cheatham
The Reverend Hollis Maxon
Bob Montgomery
Al Masuda
Louis van der Linden
Bob Hartman
James Tagawa
Harold Hall, Sr.
Robert Johnson, Advertiser Reporter
Jack Stephens, Maui News Reporter

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The Chair opened the hearing by calling upon Commissioner Keith Tester to introduce the commissioners and staff to the audience. The Chair then called upon Mr. Higa to explain the act creating the Charter Commission and its purpose.

Mr. Higa explained the various steps which must be taken by the Commission prior to submitting the proposed charter to the electorate. If approved by the electorate, said charter will be submitted to the State Legislature at its general session in 1965. If the Legislature ratifies the charter, it will go into effect in January, 1967.

The Chair stated that the purpose of this hearing is to get the public's opinion on the proposed draft of the charter which the Commission has prepared.

The Chair then explained the provisions of the proposed strong mayor-council form of government as compared with the present Maui County government.

- Mr. Alan Freeland: On the appointing powers of the mayor, is there any confirmation by the council?
- Mr. Tester: It should be pointed out that the department heads are appointed by the mayor without confirmation.
- Mr. Yokouchi: The Manager of the Water Board is appointed by the Board of Water Supply and not by the mayor. The Administrators of the Maui Community Hospitals and the Kula Sanatorium will be appointed by the Board of Trustees. The Executive Secretary of the Liquor Commission will be appointed by the Commission. The Chief of Police, however, will be appointed by the Mayor.
- Mr. Fred Cheatham: Who acts in the absence of the Mayor?
- Mr. Yokouchi: He appoints any person to act in his behalf.
- Mr. Cheatham: You introduced Mr. Tester as a member from the West Maui District. Did you give any consideration to district representation on the council other than Lanai and Molokai as was apparently done on the Charter Commission from your introduction?
- Mr. Yokouchi: That was only my way of introducing Mr. Tester.
- Mr. Tester: In our deliberations on the charter we discussed district representation, but it was felt that, after all, the council members were elected at large and are serving the whole county. As a matter of fact, even those from Molokai and Lanai were elected at large. Therefore, it was felt that they should be serving the whole county. Suppose they have district representation, how would they separate the districts?--by judicial population? Central Maui would need several more than Hana.
- Rev. Hollis Maxon: The Chairman of the Council will conduct meetings. The Mayor will not sit in?
- Mr. Yokouchi: He may sit in, but he has no vote. He is not the presiding officer. The Council will choose their presiding officer.
- Mr. Cheatham: The four-year terms--would they expire concurrently with the mayor's?
- Mr. Yokouchi: Yes, as it is now.

Mr. Burnett: As far as I am concerned, I am personally opposed to four-year terms. I definitely feel that two years is better than four.

Mr. Bob Montgomery: According to this particular program, the Council has no recourse over the veto of the Mayor.

Mr. Yokouchi: They can, by two-thirds vote of the Council, override the veto.

Mr. Al Masuda: I would like to know why the County Clerk is appointed by the Chairman of the Council instead of by the Mayor.

Mr. Yokouchi: The duties of the Clerk are more in line with the Council's program. Basically, the duties of the Clerk's Office are administrative so we felt it should be an appointive office.

Mr. Masuda: I notice there are several appointments by the Mayor. Was any consideration given to confirmation of appointments made by the Mayor?

I don't see why the appointment of the Fire Chief and Police Chief should be left to the Mayor entirely. They would like to carry out their promises to the people and they will need the help of the administration that will go along with their thinking. You might say these are service organizations for the people and has nothing to do with the political aspect of the administration.

Mr. Crockett: Is the Fire Department a service organization?

Mr. Masuda: I think there are some positions that shouldn't be left to the mayor entirely.

Mr. Crockett: I would like to know what your line is.

Mr. Masuda: In the case of the Police Chief or Fire Chief I don't see where politics should come into the picture. This is a matter of qualifications.

Rev. Maxon: I see where the Police Chief may be removed for cause. Why don't you give the same to the other department heads?

Mr. Crockett: Where do you draw the line?

Rev. Maxon: You should give the same protection to every other department.

Mr. Crockett: This should be regarded as a proposed charter; a number of provisions contained herein are the results of the compliance on the part of the commissioners. If you are thinking in terms of different types of department heads, I would like to have a reason why. I think the reason why I voted in favor of many of the department heads removable by the Mayor without confirmation by the Council is because my concept of the charter is that the Mayor will be responsible for the administration of the county government, and since

he is responsible for the county government, it is absolutely necessary that he has free rein to pick his subordinates insofar as he has the discretionary authority. We should organize government on a more businesslike basis, and I think this provision we have--to have the Mayor select his subordinates without the requirement of political compliances--will make for it in a more businesslike fashion. This is one example of what I think will make for more businesslike form of government. It may be that other areas have not tried to make government businesslike.

Mrs. Jay Van Zwalenburg: Do you have any idea of what the trend is on the mainland--how many municipal or county setups have the power to appoint without confirmation?

Mr. Yokouchi: At the end of the First World War, there was a great change. Previous to that, there was a strong commission form of government. After the First World War we had the council-manager form of government. Basically, in this form of government the manager himself runs the departments. After the Second World War the strong mayor form of government came into existence.

The more confirmation there is, it weakens the position of the Mayor. Presently, we have the weak mayor form of government.

Mr. Balthazar: You can't "pass the buck" in the strong mayor form of government.

Mr. Yokouchi: You must look at the other side. You are giving this man a lot of responsibility which he cannot shirk.

Mr. Tester: As long as the purpose is concerned, the Mayor is given power. I just don't think you can have this if he doesn't do the right thing.

Mr. Masuda: How will the public's interest be heard if these department heads are not confirmed by the council?

Mr. Crockett: We have looked at the other side of the coin. We felt it would make for a more efficient government. The mayor has authority. Exactly how can the mayor use his authority if his appointments are subject to confirmation by the council?

Mr. Bob Montgomery: I question the details in the two departments taking up the qualifications of the engineer.

Mr. Yokouchi: One of the requirements of the Department of Public Works is that he be an engineer. Basically, the Board of Water Supply has its own source of revenue so it has a certain amount of autonomy. We felt we should leave it to the Board of Water Supply as to whom they wish to hire. There is an engineering staff in the Board of Water Supply so we felt that the manager need not be an engineer, but he could be an engineer.

- Mr. Yagi: The County Engineer must be an engineer, but we could have an administrator and an engineering division in the Department of Public Works. As it is now, administration is a big job--a job which requires training. You cannot have two professional positions at one time.
- Mr. Masuda: What is the reason for letting the Mayor, instead of the Police Commission, appoint the Police Chief?
- Mr. Yokouchi: The basic idea is, again, the responsibility is placed in an elected officer. The reason why we did not choose the council-manager form of government is that we felt that the manager could be channeled by nine members of the council because the appointing authority is another body. We felt that for responsiveness we would like to have an efficient office handled by the person elected by the people. If anything happened, we would like to place the responsibility on an elected officer--not a staff member.
- Mr. Masuda: A good manager knows he cannot run the organization by himself. As far as the argument for efficiency, it is good to have department heads without confirmation; however, I don't think the Mayor should have a hand in the appointment of the Police Chief entirely. What is the purpose of the Police Commission?
- Mr. Crockett: My concept of the Police Commission is that they are trying to work as an advisory commission.
- Mr. Masuda: In other words, they have no control over the department other than to advise the Mayor?
- Mr. Yokouchi: As far as this commission's position is concerned, the Police Commission is responsible for the rules and regulations of the commission. Our intention is that it will be a governing body, with only one power removed--that is, the power to appoint the Chief of Police.
- Mr. van der Linden: I certainly feel that if it is your intention to have the Police Commission be the governing body, then the Police Commission should appoint the Chief of Police.
- Mr. Yagi: At the present time the Police Commission has the power to appoint the Police Chief; the Police Commission has the power to remove the Police Chief. The Chief of Police has no security; three commissioners may remove the Police Chief. Under the setup we have proposed, we are trying to protect the Chief of Police for four years, running concurrently with the mayor's term. The Police Commission is advisory; they set policies and rules and regulations. At the present time they have the right to hear appeals. We feel that this shouldn't be; the Civil Service Commission should hear such appeals of police officers.

Mr. Yaai: I would like to see the Chief of Police be a cabinet member simply because, where safety and health is concerned, the Mayor is responsible for the people of Maui. The Mayor directs an order, the Chief of Police follows.

Rev. Maxon: It seems to me that you are taking away all the powers of the Police Commission. They won't have to set up policies. Why have the Police Commission?

Mr. Crockett: I feel that the Police Commission is advisory. The approach of the other commission members is that the policy-making powers would still be held by the Police Commission.

Mr. Yokouchi: In the State government, the Board of Land and Natural Resources is appointed by the Governor and confirmed by the Senate. The Director who used to be appointed by the Board is presently appointed by the Governor. However, the policy-making body is still the Board and we haven't heard of any major turmoil in this department.

Beginning January 1, 1965 the County will assume the responsibility of the Liquor Commission. The Chairman and Board will appoint the Commission. Under the charter, the commission will be appointed by the Mayor. The Liquor Commission is a quasi-judicial body which regulates laws; also it is a revenue producing body. One of the main reasons why we are separating this department is that it is a part-time judicial body. They hear appeals. This commission acts as a jury to see whether any establishment has broken any liquor laws.

Mrs. Van Zwalenburg: How about electing the Police Chief?

Mr. Yokouchi: It is an administrative function. It is not a legislative body.

(Mr. Crockett requested a show of hands of those who favor the Police Department under the present setup, that is, from January, 1965 the Mayor with the confirmation of the Board will appoint the Police Commission, which in turn will appoint the Chief of Police; and of those who favor the change as proposed in the tentative draft of the charter. There were 19 persons who favored the Police Department under the present setup and 9 who favored the recommendation in the proposed charter.)

Mr. Yokouchi: This charter is supposed to be forever. I don't think we should try to be too emotional for the people who are in office today.

Mr. Freeland: In some instances the Mayor's appointments are confirmed by the council and in other cases, they are not.

Mr. Yokouchi: The Liquor Commission is one of the bodies confirmed. This is a revenue producing body covered by general law.

Mr. Crockett: I think we have the perfect right, under the enabling act, to change the internal organization of the county.

As far as the Liquor Commission is concerned, I think it is reasonable to subject the commissioners to confirmation after the appointment has been made by the Mayor. The Liquor Commission hears appeals and acts as a court. They are not simply acting as an administration.

Mr. Cheatham: With regards to the Urban Redevelopment and Urban Renewal Agencies, instead of including such a provision in this charter, could it not be established, when and if needed, by initiative or referendum?

Mr. Yokouchi: One of the arguments for the creation of the Urban Redevelopment and Urban Renewal Agencies is that in most towns it has been one of the most unpopular agencies. We felt that even to have the Board's approval, it might be difficult.

Mr. Cheatham: I feel that the charter can be amended, and if we feel we need a new department, let us amend it.

Mr. Burnett: That is what can be done.

Mr. Cheatham: With such a provision in the charter, the door is open to fill the chair.

Mr. Balthazar: Federal funds are involved in the Urban Redevelopment and Urban Renewal Agencies. Because of the difficulty in setting up these federal agencies, we might then not avail ourselves to these federal funds.

Mr. Masuda: Couldn't it be created as the need arose?

Mr. Yokouchi: We feel that this is a very difficult agency to create. We want to leave it up to the elected party at that time when the need arises, and yet we want to make the creation of this agency easy because many times it has been very difficult to create such an agency. Take Wailuku--this is an area for redevelopment. I think if you leave it up to the people involved, they would like to have new buildings, but not at their expenses.

Mr. Yagi: Under the proposed charter any revision or amendment to the charter must go before the legislature, and if the legislature fails to ratify the amendment or reject it, I think the people may lose out the federal funds.

The Chair called upon Commissioner William F. Crockett to explain the provisions of the Board of Appeals.

Mr. Crockett: The Board of Appeals is a procedure which was set up in the charter to control arbitrary control in the government. The authority of the Board of Appeals is limited.

Mr. Crockett: There are very often situations--for instance, you want a permit to make improvements in your home. There is no reason why you shouldn't receive the permit. For some reason the employee says you cannot have a permit. Under the present system there is no way to settle a dispute short of going to court. The Board of Appeals will entitle you and the person who denied you the right of having a permit to have some sort of check on the executive branch of the government.

The Board of Appeals is simply set up to handle disputes between the public and the individual who denies this person the right of a permit. After the dispute is decided, the Board will make recommendations to the Mayor. The final authority will be the Mayor.

Rev. Maxon: Is the Board of Appeals a complaint department?

Mr. Crockett: It is like a complaint department. It has also the power to hear the complaint.

Mr. Cheatham: Does the initiative procedures apply to fiscal matters--capital improvements?

Mr. Balthazar: No, we are specifically exempted from going into fiscal matters.

Mr. Cheatham: Why do you exempt bond issues? Might it not be better to have bond issues referred to the public?

Mr. Yokouchi: Oregon couldn't get capital improvement program because the public always voted down bond issues. They are running on a real austere budget.

Mr. Cheatham: Some are not--school structures.

Mr. Yokouchi: In the State Legislature referendum has been turned down on bond issues by the public in the last three years.

Mr. Balthazar: When your road was changed some years ago, can you imagine what would have happened if it was turned down?

Mr. Cheatham: What I am concerned about is what we are going to show in the bond issues. What has the county to show?

Mr. Balthazar: That should be asked of the Board of Supervisors--not of this commission.

Mr. Cheatham: Is there anything this commission might do to encourage the use of local improvements, whereby the use of each property is placed in trust to pay off these bonds?

Mr. Crockett: I talked with Kase about it. He felt that it would be simply sufficient if we carried on the existing law. We are dealing with the framework of the government and not the actual laws that are in operation.

Mr. Harold Hall, Sr.: With regard to the Police Department, how does the Honolulu charter handle the appointment of the Chief of Police?

Mr. Yokouchi: The Police Department is covered by general law--the Commission is appointed by the Governor and confirmed by the Senate. In 1965 that function will be turned over to the County; the Mayor, with the approval of the Council, will appoint the Commission who in turn will appoint the Chief of Police.

The hearing ended at 9:45 P.M.

Respectfully submitted,

Harriette E. Miyamoto

HARRIETTE E. MIYAMOTO
Secretary