

MINUTES OF THE
MAUI COUNTY CHARTER COMMISSION

DATE: September 8, 1966

PLACE: Board Chambers, Wailuku, Maui, Hawaii

CALL TO ORDER: 7:32 P.M.

PRESIDING: Douglas Sodetani, Chairman

MEMBERS PRESENT: Douglas Sodetani, Chairman
Emil Balthazar
William F. Crockett, Vice Chairman
Edward L. Cluney
Shiro Hokama
Harry Kobayashi
George Kondo
Paul Pladera
Keith Tester
James Ushijima
Charles C. Young, Research Assistant

MEMBERS EXCUSED: Nadao Honda

OTHERS PRESENT: Kase Higa, County Attorney
Jack Stephens, Maui News Reporter
Robert Johnson, Honolulu Advertiser
Tom Mizoguchi

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ROLL CALL:

There were 10 members present and 1 excused at the regular meeting of the Maui County Charter Commission on September 8, 1966.

MINUTES:

The minutes of the previous meeting held on August 23, 1966, were distributed to the members and approval of said minutes was deferred until the next meeting.

It was moved by Paul Pladera, seconded by James Ushijima, that the minutes of May 19, 26, June 9, and the minutes of the seminars held on June 27 and June 30, and the minutes of the public hearings held on July 10, 11, 12, 21, 22, 28, 29, August 1 and 2, 1966, be accepted as circulated. Motion was carried.

COMMUNICATIONS:

The following communications were received since our last meeting:

1. Letter of acknowledgment from the County Clerk re receipt of Interim Report by the Maui County Charter Commission to the Board of Supervisors;

2. Letter of transmittal dated August 23, 1966, from Deputy County Clerk Boniface Espinda, enclosing copies of Committee Report Nos. 136 and 137, which were adopted by the Board of Supervisors, and which recommends as follows:
 - a. Additional appropriation to cover payment of Charter Commission claims;
 - b. Appropriation of \$18,500 to this Commission for salaries and current expenses to December 31, 1966;
3. Copy of letter dated August 31, 1966, from County Attorney Kase Higa, re the role of County Hospital Management Committees under Act 97, SLH 1965.
4. Copy of letter dated September 2, 1966, from Acting Attorney General Kenneth K. Saruwatari, re reply to Mr. Higa's inquiry.

LITERATURE:

The following were distributed to the members of the Charter Commission:

1. Revised mailing list of the Charter Commission as compiled by Research Assistant Charles C. Young.
2. Opinion of the Supreme Court, re the outcome of a special election held on August 13, 1966, on a proposed charter for the County of Hawaii.

OLD BUSINESS:

Chairman Sodetani informed the members that the public hearings on Lanai and Molokai will be held on Thursday and Friday, September 15 and 16, at the Lanai High & Elementary School Cafetorium and at the Molokai Community Center, respectively. The hotel and plane reservations will be made for those attending said hearings.

~~Mr. Crockett questioned the validity of Mr. Ching's Memorandum, re the role of county hospital managing committees under Act 97, SLH 1965. Mr. Crockett asked whether a provision should be made in the charter regarding hospitals.~~ *delete*

Mr. Higa suggested no provision be made in the charter regarding hospitals. Whether we should incorporate provisions pertaining to hospitals in the charter is our decision, he added.

Mr. Crockett, after reading a portion of the Opinion of the Supreme Court, suggested that our Charter Commission take steps now to get the Legislature to change the enabling act at the next session to avoid running into the same problem as the Hawaii County Charter Commission.

Mr. Higa commented that it was a good idea. He said the Charter Commission has the say as to the form of the ballot and that the preparing of the charter should be left to the jurisdiction of the Charter Commission. He suggested certain types

of ballot be considered. He added that he was sure the law could be amended in regards to the form of the ballot. Mr. Crockett remarked it was very important.

Mr. Balthazar commented that the general law itself on the formation of the make-up of the ballot gives power to the County Clerk to approve only as to the form and ^{intent} intent. The County Clerk has the final say. He added that it was probably important for us to take a different avenue this time.

Chairman Sodetani suggested that the members review the Opinion of the Supreme Court as circulated before discussing it further.

Mr. Kobayashi suggested having one of our legislators introduce a bill clarifying this once and for all. Mr. Higa remarked it was not impractical to ask the Legislature to do that. Chairman Sodetani suggested having this situation remedied in the 1967 Legislature.

ORDINANCES AND RESOLUTIONS:

Under Section 4-2, item 3, Mr. Tester asked whether said paragraph was necessary. He felt there was no necessary reason for having said paragraph. Mr. Higa replied the provision was put in for purposes of clarification. Mr. Tester contended it was unnecessary.

Mr. Higa commented he wouldn't say it is unnecessary. He said we would have references to resolutions. Mr. Higa referred to page 11 on Charter Amendment or Revision. He said you'll find out that if you want emergency amendments to the charter, you'll have to have a vote of six or more members of the council.

Mr. Tester contended you don't know if it's going to be six members. He added you are providing for that before you know how many councilmen you're going to have. He felt it was unnecessary because they are providing for the adoption by one reading only. He said actually this provision is covered in item 1.

Mr. Hokama said he doesn't think it's necessary to have three readings to pass resolutions commending people for things they did, or things of that nature. He added that there were no provisions stating that any resolution that is introduced must go through two readings. Mr. Tester remarked it doesn't specify that.

Mr. Crockett wondered why the last Commission had five or more members for those resolutions. Mr. Higa replied five would be the majority of nine. Mr. Crockett observed there were no requirements for five or more members for ordinances. Mr. Higa said correction should be made in regards to the ordinance part.

Under Section 4-2, item 7, Mr. Tester said the same question would apply. He asked why a provision should be made for a vote of six or more. Mr. Higa replied that is an emergency.

Mr. Pladera raised the question of whether a terminology instead of five could be used--maybe two thirds of the member-

ship of the councilmen to avoid any change in the future whereby we might have 11 members. He observed other charters went into the fraction of the full membership. Mr. Higa thought it better to be specific.

Gathering the points on that particular section, Mr. Crockett asked Mr. Higa what his recommendation was. Mr. Higa said as far as being specific on the number of votes, he recommends it to be specific. He added we should stick to that. This is a matter of form and we can always change.

On motion by Mr. Crockett, seconded by Harry Kobayashi, the County Attorney's recommendation to retain this section was accepted. Motion was carried.

Section 4-2, Paragraph 6:

Mr. Tester referred to item 6 under Section 4-2. He questioned whether it was customary to advertise once only. He always thought it was twice. Mr. Higa said that is after passage. Mr. Tester remarked he thought it was twice even after passage. Mr. Higa replied prior to passage, you have to have it printed. After it's passed, notice is placed saying certain ordinance has been passed. I think that is sufficient. Honolulu does the same thing, only it has to be passed on three readings.

Section 4-2, Paragraph 5:

Mr. Crockett questioned whether paragraph 5 of Section 4-2 should not read all bills. He said if you interpret the different categories in a pretty general way, you might as well say all bills. Mr. Higa suggested to include all bills. On motion by Mr. Crockett, seconded by Emil Balthazar, Paragraph 5 of Section 4-2 was amended to read all bills, deleting categories (a), (b), and (c). Motion was carried.

Section 4-2, Paragraph 4:

Mr. Kobayashi raised the question of whether Section 4-2, paragraph 4 should be the majority of the council members. Mr. Crockett personally felt three members calling for a public hearing was a good idea. Mr. Higa recalled a compromise was made on said paragraph by the last Charter Commission.

Mr. Kobayashi contended public hearings are outmoded. People are not interested in public hearings and if they are, they would go directly to the Board to make their presentation.

Chairman Sodegami said it actually gives the right to the minority to express their feeling. I think the demand of public hearing is a legitimate request. Mr. Hokama added it's an opportunity given to the people to present their views. If the people don't show up, they have only themselves to blame. Mr. Pladera contended that it should be left to the majority whether action should be delayed or carried out.

Mr. Ushijima said public hearings are rights for the people regardless if you use those rights. These are rights that are provided in the document and should be provided in our charter. Whether these rights are used or not is not the point.

Mr. Kobayashi suggested a change in having the majority instead of three members on whether the bill is going to be read orally and/or a public hearing should be held.

It was pointed out by Mr. Crockett that in the Model Charter it was mandatory to have a public hearing on every bill. He felt we should have a right relative to one-third of the total membership of the council.

On motion by Mr. Balthazar, seconded by Mr. Crockett, Section 4-2, Paragraph 4 was left as is. Motion carried. (8 ayes, 2 noes--Harry Kobayashi and Paul Pladera).

Section 4-2, Paragraph 7:

Mr. Crockett observed in the Model County Charter that there was a time limitation on all emergency bills. Mr. Pladera agreed it was necessary. Mr. Crockett wondered if sixty days was too short.

On motion by Mr. Crockett, seconded by Paul Pladera, a provision was incorporated to put a time limitation of ninety days on all emergency bills and that all emergency bills will automatically expire on the 91st day after passage. Motion was carried.

A question was raised by Mr. Crockett regarding a bill that is passed by the council shortly before the expiration of the term of office of said council. He asked whether the new board can take action on a bill that is sent back by the mayor at the time the particular board is going out of office. To avoid arguments on this at a later date, Mr. Crockett suggested we incorporate a provision to the effect that any bills or resolutions enacted, and this would not only cover those submitted to the mayor, but anything pending at the expiration of office, would have to be re-introduced, and this would include bills introduced by the council--all this action would be terminated at the end of their office.

Mr. Higa pointed out that the opinion in the past was the Board of Supervisors was a continuous body. For example, he said this is election year. The new board taking office on January 2 can take action on a bill that is introduced during the last week of December. Mr. Crockett said if that is the understanding now and is agreeable by the members, a specific provision should be incorporated. Mr. Higa said there should be a separate section under Section 4-2 pertaining generally to what effect the change in membership would mean. He added that he would work it out.

Section 4-3, Paragraph 1:

Mr. Crockett suggested eliminating the words "having the effect of law" in paragraph 1 of Section 4-3. He asked what resolutions have the effect of law and what resolutions don't have the effect of law.

After some discussion on said paragraph, Mr. Higa suggested the question be deferred until the section on Charter Amendment or Revision is taken up. Mr. Tester asked Mr. Higa what his objection was to deleting "having the effect of law." Mr. Higa said because the other resolutions by statute have the effect of law.

Mr. Pladera asked for interpretation on the last sentence of Section 4-3, paragraph 1, "If the bill or resolution fails to receive the vote of at least six members of the council, it shall be deemed finally lost." Mr. Higa said in the event that particular bill is lost, it doesn't mean you can't introduce a similar bill. He said the words "it shall be deemed lost" should be sufficient. Mr. Balthazar suggested the rewriting of the language should be left to the County Attorney. We should not hagger over words.

Under Section 4-2, paragraph 6, Mr. Pladera asked whether it would be wise to specify an English speaking language. Mr. Higa replied you are being discriminatory. Mr. Pladera said we should specify the type of paper we should carry those things. Mr. Higa said what will control will be unanimous.

Section 4-1:

Mr. Kondo asked for clarification on the last sentence of Section 4-1. Mr. Higa replied that it was the usual terminology. The Model County Charter uses it. It's a matter of setting forth or identifying what the ordinance is. You cannot start off an ordinance without this clause.

Other Business:

Chairman Sodetani informed the members that the Kula Elementary School PTA are having their first meeting on October 3, and we have been requested by Tom Mizoguchi to have some of the members of the Charter Commission present at said meeting to explain the charter. Chairman Sodetani appointed William Crockett and Emil Balthazar to represent the Commission.

Chairman Sodetani also informed the members that Article IX, Financial Procedures, will be discussed at our next meeting on September 22.

There being no further business, the meeting was adjourned at 9:30 P.M. on motion of Shiro Hokama, seconded by Emil Balthazar.

Respectfully submitted,

Ayako Ishikawa

Ayako Ishikawa, Secretary

MAUI COUNTY CHARTER COMMISSION

Wailuku, Maui, Hawaii

September 8, 1966

A G E N D A

1. Roll Call
2. Minutes of prior meetings
3. Communications:
 - a. Letter of acknowledgment from the County Clerk re receipt of Interim Report by the Maui County Charter Commission to the Board of Supervisors;
 - b. Letter of transmittal dated August 23, 1966, from Deputy County Clerk Boniface Espinda, enclosing copies of Committee Report Nos. 136 and 137, which were adopted by the Board of Supervisors and which recommends as follows:
 1. Additional appropriation to cover payment of Charter Commission claims.
 2. Appropriation of \$18,500 to this Commission for salaries and current expenses to December 31, 1966.
 - c. Copy of letter dated August 31, 1966, from County Attorney Kase Higa addressed to Attorney General Bert Kobayashi. (Copy of letter circulated to members)
 - d. Copy of letter dated September 2, 1966, from Acting Attorney General Kenneth K. Saruwatari addressed to County Attorney Kase Higa, re reply to Mr. Higa's inquiry. (Copy of letter circulated to members)
4. Literature:
 - a. Revised mailing list of Charter Commission from Charles C. Young.
5. Old Business
6. New Business
 - a. Ordinances and Resolution