

MINUTES OF THE  
MAUI COUNTY CHARTER COMMISSION

DATE: June 2, 1975  
PLACE: Cameron Center, Conference Room, Wailuku, Maui, Hawaii  
CALL TO ORDER: 2:40 p.m.  
PRESIDING: Monsignor Charles Kekumano, Chairman  
MEMBERS PRESENT: Monsignor Charles Kekumano, Chairman  
Stephen Petro  
Catalino Agliam  
Ralph Murakami  
Allan Sparks  
Hideo Abe  
Joseph Souki  
Lloyd Sodetani  
Margaret Cameron  
Paul R. Mancini, Commission Attorney  
MEMBERS EXCUSED: Edwina Bright  
OTHERS PRESENT: Abraham Aiona, Police Chief  
Winston Miyahira, Liquor Director  
David Slocum, Press

Minutes

The minutes of the Charter Commission meeting of May 27, 1975 were distributed and by motion duly made and seconded said minutes were approved.

Committee Reports

Mr. Sparks indicated that the committee on electoral systems had met with Mr. Allan Barr on May 20, 1975. The meeting was described as a "brainstorming" session.

Ms. Cameron stated that the issue of districting was an extremely difficult concept to grasp. She described the various alternatives discussed by the committee.

Mr. Mancini commented on the committee's meeting and stated that he plans to provide summary reports of each of the committee meetings to the Commission. He stated that in the discussion with Mr. Barr, it was apparent that in order to provide single member districts it would be necessary to merge Lanai and Molokai as one district. This would effectively exclude Lanai from representation. The committee found it difficult to readily accept this premise.

Mr. Mancini reviewed various items discussed in the committee meeting and announced that Councilman Ansai would appear before the committee at its June 10, 1975 meeting.

County Government

Mr. Souki related that the committee on County Government held two meetings on May 29, 1975.

Board of Appeals: Mr. Omori, Mr. Ueki, Mr. Kobayashi

The Board of Appeals met with the committee for a luncheon meeting at Naokee's Restaurant on May 29, 1975. Mr. Souki stated that the members of the Board of Appeals were unanimous in their feelings as to abolishing the Board. They felt that the Board possessed no real powers and was providing no function to the Community. Their power of investigation is not effective since their findings can only be recommendations and they are prohibited from reviewing matters which have other administrative remedies. The Board of Appeals was added to the Maui Charter prior to the establishment of the State Office of the Ombudsman and prior to establishing the various union remedies that are now available. Currently there exists

### Board of Appeals

an overlapping in the responsibilities of the Board of Appeals and the State Office of Ombudsman. When asked if they would prefer added powers to effectuate their mandate rather than abolishing the Board, the members unanimously favored an abolishment.

### Planning Commission: Mr. Zuke Matsui

### Board of Adjustment and Appeals: Mr. Young Whee Chun

The committee met with Mr. Zuke Matsui, Chairman of the Planning Commission and Mr. Young Whee Chun, Chairman of the Board of Adjustment and Appeals at 4:00 p.m. on May 29, 1975 at the Commission office.

Mr. Souki stated that Mr. Matsui had expressed his opinion that the Planning Commission served an important function for the public and should be retained. Mr. Matsui further related at the committee meeting that the Planning department should administer Subdivision ordinance and the Housing code rather than Public Works. Mr. Souki also stated that Mr. Matsui took exception to Mr. Nakamura's concept that the Planning Director should be appointed by the Mayor.

Mr. Young Whee Chun supported Mr. Matsui's views with regard to the Planning Commission and the administration of the Subdivision ordinance and the Housing code.

### Department of Police: Chief Abraham Aiona

Chief Aiona began his presentation to the Commission by reading portions of the National Advisory Commission on Police Standards and Goals.

Mr. Aiona read the report to the Commissioners relating how the police as public servants serve the public. The public expects a multitude of services from the police but do not support their role as such. They are often ridiculed and criticized and yet they are not separated from the people. They draw their authority from the will and consent of the people and recruit their officers from them. The police are an instrument of the people to achieve and maintain order. Their efforts are found on principles of public service and ultimate responsibilities are to the public. To a police officer, public service is more than a vague concept. When the people need help, it is to a police officer to whom they turn. He responds immediately without first ascertaining the status of the person in need.

### Limits of Authority

Limitations are strictly described by law; there can be no situation that justifies extra legal police practices. Formal limits of police authority are found in the United States Constitution, State Constitution and in Statutes and Ordinances defining specific powers. These formal limits are derived from the fundamental basis of police authority - from the consent of the people themselves. The basic political system is found on the belief that certain rights are inalienable and that the government may not deny these rights. Consistent with constitutional guarantees, the police exercise their authority. The acceptance of police authority by the public depends largely on the belief that it exercise is reasonable.

### Reference to the Charter

Mr. Aiona recalled when he was appointed Police Chief of Maui County in 1969, the Charter was in effect for only a few months. Mr. Aiona stated that the commission form of government for police administration is the best system at the present time.

### Reference to the Charter

Otherwise, Mr. Aiona stated that this form of government provides a continuity in office and being that it is an autonomous type of operation, the police chief reports directly to the Commission. If you allow for continuity of the chief of police, it helps to provide and plan for short as well as long range goals; whereas if you have a man change every two years as does the government, you probably run into chaos. Mr. Aiona specified that since he had been in the department for 6 years, he had seen other departments of the County having several directors within a short period of time, such as the Parks and Recreation department and Public Works department. This hurts each department Mr. Aiona said and that this shouldn't happen to the Police Department and hope it will not happen.

### Charter Commission Report 1966-1967

Mr. Aiona read a statement from the report dated on February 6, 1967 and stated that the Police Commission and the Board of Water Supply were responsible for the management of police and water supply for the County. These Commissions were responsible for the administration of two of the largest and most important departments of the County. The people wish to retain the principle Administrative Commission, the Police Commission and the Board of Water Supply. Mr. Aiona said that the proposed Charter makes little changes of the structure and authority of these Commissions.

### Article 13-Section 13-2, Boards and Commissions

Mr. Aiona quoted from the Charter "Except for purposes of inquiry, no board or commission, nor its membership shall interfere in any way with the administrative affairs of the department." Mr. Aiona proposed that this provision be removed from the Charter, so that the administrative head or department head knows that he is the only person to supervise his department and is responsible for the administrative affairs of that department.

### Chapter 9-Section 8-9.3-Chief of Police

Mr. Aiona quoted from the Charter with a slight alteration of the provision "the chief of police shall be appointed by the Commission and may be removed for cause by the police commission only after being given the written statement of the charges against him and a hearing before the Commission." Mr. Aiona said that the addition of "for cause" and "notice and hearing" are good provisions. He recalled the length of services he put into the Honolulu Police Department then, losing his civil service position and going into a position without any tenure. He stated that if any person should be removed from a position, there must be a substantial (reason as a cause of removal.) The present Charter calls for appointment and removal but does not give any specifications of why and how to carry out this provision. Mr. Aiona stated that the people on the commission are not there for pleasure but to work for the best interest of the department.

### Chapter 9 Section 8.9.3-4, Section 8.9.3-5

Mr. Aiona suggested that the Charter Commission delete portions of Sections 8.9.3-4 and 8.9.3-5 of Chapter 9:

8.9.3.4-...train, equip, maintain and supervise the force of police officers and employees pursuant to the rules of the police commission.

8.9.3.5-...take charge of and keep the County jail and all prisoners committed thereto.

Chapter 9 Section 8.9.3-4, Section 8.9.3-5

The Chief related that "pursuant to the rules of the police commission" is no longer applicable, due to the union contracts. Section 8.9.3-5 is obsolete due to the State administering the jails as of July 16, 1973.

Chief of Police

Regulatory Functions-License-Vehicle Inspection

Chief Aiona said that this function should not be within the Police Department's responsibilities. A State agency could be created for this purpose or possibly the Department of Finance could take it. Chief Aiona stated that this distracts from the primary responsibilities of the police; the preservation of public peace.

Minimum Requirements of a Deputy Chief

Chief Aiona said that a minimum requirement of a deputy chief was suggested at a Charter review meeting in April 1974. Chief Aiona felt very strongly that the deputy chief of police should meet a minimum requirement, should the chief of police be suddenly called away or removed from office with cause; the deputy would be appointed chief of police. He must have the same background, training, and a minimum of five years of police experience. He must meet all these requirements of a chief.

Chief Aiona pointed out that should the deputy lose his position; under civil service rules he may return to his former position provided he gives notice within two years. Chief Aiona stated that it is important to retain this provision in the Charter.

Ms. Cameron asked if there was any case of someone who wanted to return to their former position? Chief Aiona said that within his six years in the department, he could not recall any.

Mr. Sparks asked why do only deputy positions have this ability? And why wait two years? Chief Aiona had no comment on the first but said on the two year period, that it probably is an adjustment period for that particular position.

Termination of the Police Chief

Deputy Chief

Chief Aiona questioned that if for any reason the chief is terminated and the deputy chief is the appointed chief, should the deputy become the new chief of police? Chief Aiona stated that the fact the deputy chief is appointed by the chief; need not be confirmed by the police commission or anybody else, does not mean that he will be the new chief. Chief Aiona feels that if the chief of police appoints the deputy and the chief of police for any reason is terminated, the deputy should also be relieved of his duties. Chief Aiona suggested this as an amendment in the Charter.

Dog Warden

Chief Aiona gave his opinion that the dog warden function is unrelated to police activity and should be handed over to one of the departments, namely the Public Works or the County should have a contract with some related agency such as the Humane Society. Chief Aiona recommended that the dog warden function be removed from the functions of the police department. However, this is not within the province of the Charter.

## Complaint Against Police

Chief Aiona said that complaints against the police made by the public should not be administered by citizen review boards. Chief Aiona recommended an independent staff made up of employees of the police commission for such investigations. Chief Aiona said that this procedure will preclude charges of whitewashing that are sometimes cast against the Department. Citizens complaints against the police are handled at the present time within the Department and are in compliance with an agreement of the State of Hawaii organization of police officers.

Monsignor Kekumano noted the Honolulu arrangement, where the police commission has its own investigative staff who provide reports to the commission.

Mr. Souki questioned the role of the police commission in police administration?

Chief Aiona stated that the commission acted as a buffer between the public and the police department. Their role was a necessary one in setting policy and in keeping the police at an arms length relationship from politics.

After a lengthy discussion on police administration, Monsignor Kekumano thanked Chief Aiona for his efforts and ask Mr. Winston Miyahira to address himself to the Commission.

Mr. Winston Miyahira

Director of Liquor Control

Mr. Miyahira distributed an outline which related the various functions of the Department of Liquor Control. (see attached outline.)

Mr. Miyahira provided background information on the purposes and functions of liquor control. He stated that the primary function of the commission was licensing--locality, type and manner.

The Liquor Control Adjudication Board was established in 1969 as a result of the new Charter. This board acts like a jury. It maintains a staff which acts as a prosecutor. The board hears and determines all complaints regarding violations of the Liquor Control law. It assesses penalties, fines and also suspends and revokes licenses.

The Director of the Department of Liquor Control is appointed by the commission and must have experience and training in law enforcement.

## Charter Amendment Recommendations

### Increase Size of Adjudication Board

Mr. Miyahira recommended to the Commission that it consider increasing the size of the Liquor Control Adjudication Board from three to five. He stated that it was often difficult to maintain a quorum and a majority of two even though constituting a quorum seemed inadequate for the conduct of business.

Ms. Cameron asked whether alternates for Board members would suffice rather than increasing the size of the Board.

Mr. Miyahira responded that alternates may function well but quality would suffer due to the lack of continuity.

### Compensation for Adjudication Board.

Mr. Miyahira indicated that it was his opinion that the Liquor Control Adjudication Board has difficult and frustrating responsibilities in administering the liquor

Compensation for Adjudication Board

laws and some type of compensation would foster their motivation with their tasks.

Deputy Director

Mr. Miyahira stated that it was his opinion that the Liquor Control Commission should have a deputy director. He indicated that this was recommended to the administration but the Commission on the Reorganization of the Executive Branch didn't concur with the recommendation.

Director Qualification

Mr. Souki asked whether it was necessary to maintain law enforcement training and experience as qualifications for the Director of the Department of Liquor Control?

Mr. Miyahira stated that he didn't feel that this was necessary but was probably helpful in providing the necessary direction for the department.

Fiscal Matters

Monsignor Kekumano asked whether the commission prepared and presented the operating budget to the Council?

Mr. Miyahira stated that the commission was obligated to prepare and present the budget but that he performed these functions.

After an involved discussion of the administration of the Department of Liquor Control, Monsignor Kekumano thanked Mr. Miyahira for his presentations.

There being no further business before the Commission, the meeting was adjourned at 4:35 p.m.

The next Commission meeting will be on June 10, 1975, Tuesday with Mr. Masao Muracka, Director of Finance and Attorney Arthur Ueoka as guest speakers.

Respectfully submitted,

Leonora Balido, Secretary

CHARTER - COUNTY OF MAUI

Chapter 10, Department of Liquor Control

The organizational structure of the Department of Liquor Control under the Maui County Charter provides, in the overall, a system that enables an effective and fair administration of liquor control.

This "system" provides for three distinct areas of operations of the department, namely:

1. Liquor Control Commission.
  - a. Appointment and removal of the Director.
  - b. Licensing.
  - c. Rule and Policy-making.
  - d. Fiscal.
  
2. Liquor Control Adjudication Board.
  - a. Hear and determine complaints.
  - b. Impose fines and punishment.
  
3. Director of the Dept. of Liquor Control.
  - a. Administrative head of the department.  
(Personnel, fiscal, etc.)
  - b. Provide support services to the Liquor Control Commission and the Liquor Control Adjudication Board.
  - c. Enforcement (Plan and direct enforcement program).
  - d. Prosecution (Final decision-making for reporting cases for prosecution to the prosecuting officer).

PURPOSE OF LIQUOR CONTROL:

While there is no specific provision within our Hawaii Revised Statutes spelling out the purpose of liquor control in Hawaii, the various sections under Chapter 281 of the Hawaii Revised Statutes make it clear that the Legislature intended to place the liquor businesses under strict regulatory provisions for the conduct of such businesses by qualified persons under suitable conditions and in a reputable way. Our system essentially does conform with the generally accepted philosophy of protecting the health, welfare, safety, peace and morals of the people through the conduct of liquor businesses in a manner that would foster respect and obedience to the law.

## PROS AND CONS OF THE PRESENT SYSTEM

### PROS:

1. With the designation of the Director (instead of the Commission as it was prior to 1969) as head of the department, the lines of operations and accountability are clear. The results in terms of efficiency, morale, productivity have been quite significant.
2. The delegation of the adjudicatory function to an Adjudication Board has eliminated the once-questionable dual function of the Commission which preferred charges as well as adjudicated the case against the licensee.
3. The Director's decision-making responsibility on alleged violations (based on investigative reports) for referral to the prosecutor, has given the field officers greater stature and a more meaningful role as investigators.

### CONS:

1. Compensation or fee for Commissioners and Board members:  
The tasks assigned to the Liquor Control Commissioners and the Liquor Control Adjudication Board members, on the main, involve decisions that affect the "life-blood" of the applicants for liquor licenses as well as of those licensees already in the business. To vote adversely to any application, or to punish any licensee for any wrong doing therefore becomes an extremely difficult, unpleasant and a thankless assignment.

Some form of remuneration seems to be in order. Sec. 281-11, HRS, provides that in any county having a population of more than one-hundred thousand, compensation of \$35 per day for the chairman and \$25 per day for each member plus reasonable expenses provided the chairman shall not receive more than \$350 per month and each member shall not receive more than \$250 each per month for Commissioners. (Also, those who serve as jurors in the courts are paid \$20 per day plus travel.)

2. Sec. 8--10.3 provides for a three (3) member Liquor Control Adjudication Board.

It has been our experience within the last five (5) years that the limited number of membership to the Board renders it difficult to arrange for hearings before the said Board. With decisions that have far-reaching effect on the livelihood of the licensees it would also seem that justice can be more fairly rendered with more persons participating in the decision-making process of the Board.

It is therefore recommended that the membership to the LCAB be increased from three (3) to five (5) members.

3. There appears to be some question as to the propriety of having a representative of the County Attorney's Office serve as legal adviser as well as prosecuting officer for our Adjudication Board. While it may not be a perfect arrangement, and since the members of the Adjudication Board are not bound by law to follow the advice of the legal adviser, the present arrangement for legal services by the County Attorney's Office to the Liquor Control Adjudication Board appears to meet and satisfy our needs.

If the office of elected public prosecutor is established, any question of "impropriety" as mentioned above will be eliminated without any doubt.

June 2, 1975