

HAWAII COUNTY CHARTER COMMISSION

101 Aupuni Street, Suite 235
Hilo Lagoon Centre
Hilo, Hawaii 96720
(808) 961-0177

91-27



MEMORANDUM

TO: Members of the Hawaii County
Charter Commission

FROM: Robert E. Bethea, Chairperson *REB*

DATE: September 11, 1989

RE: Issues Checklist

Attached is a checklist of issues which Chris Yuen prepared and I have reviewed. This list is not meant to be all-inclusive. However, it represents our recollection of the issues that have been raised about the Charter during testimony by various individuals and/or organizations.

I would like to use this list as a guide to further discussion if time is available after the close of the public hearings. In other words, following the close of the public hearing we would convene a regular meeting of the Commission so that we can discuss this checklist. Our first objective should be to expand the list to cover any items that Chris and I may have forgotten, or to add issues which Commission members want the Commission to consider.

Obviously, no conclusions will be reached until the close of the public hearings. I do think that we can use any excess time following the public hearings profitably, at least with respect to organizing further efforts by the Commission.

REB:ew
Enc.
cc: Christopher Yuen, Esq.
Ms. Marie Jacobs

Robert E. Bethea,
Chairperson
Erwood Greenwell
Co-Chairperson

Members:
Pamela F. Cushnie
Francine Duncan
David Fuertes
James O. Juvik
H. Peter L'Orange
Aileen Lum
Steven T. Nishikawa
Akira T. Omonaka
Patricia M. Poppe

Executive Secretary:
R. Marie Jacobs

CHECKLIST 9/7/89

I. General Revision

--Replace present Mayor-Council form of organization with a Council-Manager system. The elected Council would appoint a city manager, who would exercise most of the administrative functions which are presently held by the Mayor and Managing Director. A number of variations upon this basic theme have been proposed. (Hale, Greenwell, Smith, West Hawaii Committee.)

II. Specific Suggested Changes

§3-2. County Council.

--At-large elections only, with no district residency requirements. (Matayoshi.)

--Nine single-member districts. (West Hawaii Committee, Kona Republican Women.)

--District elections in the primary election, at-large (with district residency requirements) in the general. (Puna Community Council.)

--Elect Council every two years, instead of every four years. (Spangler.)

§3-3. Qualifications of Council.

--Require resignation when district representative ceases to be a district resident. (Spangler.)

§3-4. Compensation; Salary Commission.

--Have salary commission set the salary of the Mayor and Prosecuting Attorney, instead of setting only the salary of the Council. (Boranian.)

§3-16. General Plan.

--Include a detailed procedure for amending the General Plan. (Puna Community Council.)

--Do not allow the Planning Director to propose amendments to the General Plan during the comprehensive review. (Broussard.)

--Delete provision that Planning Director can propose amendments to General Plan. (Kim.)

--Include a statement of purpose for the General Plan. (Puna Community Council.)

§4-3. Appointment by Mayor.

--One implication of this section is that if a new agency is established by ordinance, the Mayor must appoint the director of the agency. There is no provision for confirmation by the Council. Should it be provided that the ordinance establishing the agency may require that there be confirmation?

§4-5(a). Agency Heads.

--Under this clause of the present Charter, there are no deputy director positions unless the Council creates such a position, and appropriates money for it. It has been suggested that certain deputy positions (Finance, Managing Director) should be mandated by the Charter. (Labrenz.)

Articles V-VI, generally.

--Eliminate the division between the "staff" agencies (Planning, Corporation Counsel, R & D, Finance) which the Charter puts under the direct supervision of the Mayor, as opposed to the agencies under the supervision of the Managing Director (Parks, Public Works, Fire). Give the Mayor discretion to specify the responsibilities of the Managing Director. (Ibarra, Labrenz.)

§5-1.3. Compensation.

--Have the Salary Commission set the salary of the Mayor (see §3-4). (Boranian.)

§5-1.4. Powers, Duties, and Functions.

--Remove division between departments supervised by Mayor and those supervised by Managing Director.

--Add a clause giving the Mayor the power to appoint a Data Processing Steering Committee. (Mizuno.)

§5-1.4(b).

--To be consistent with State law, this section should state that the positions in the Mayor's office are classified as exempt positions, not that they are exempt from civil service laws. (Luke.)

§5-1.5. Vacancy in Office.

--Specify that the successor is to be elected at the next election. (Bethea.)

§5-2.5. Special Counsel.

--Provide that any special counsel be subordinate to the corporation counsel. (Miyamoto.)

--Specify a procedure for the authorization and selection of independent counsel: i.e., counsel retained because corporation counsel is in a conflict of interest, or in the case of disputes between branches of government. (Bethea.)

§5-2.6. Term of Office of Corporation Counsel.

--Make term of corporation counsel the same as other department heads: new corporation counsel takes office upon appointment by the Mayor; old corporation counsel does not hold over. (Miyamoto) Under the present Charter, the old corporation counsel continues to serve after the new mayor takes office, for a maximum of three months, until the successor corporation counsel has been confirmed by the Council.

§5-2.6. Service of Process.

--Specify that service of process upon the County may be made upon the corporation counsel or any deputy. (Miyamoto.)

§5-3.2. Finance Director.

--Specify that there shall be a deputy finance director. (Labrenz, Mizuno.)

§5-4.3. Planning Commission.

--Make Planning Commission a purely advisory body. (Hale.) Under present law, the Planning Commission is advisory with respect to general plan amendments and rezonings. It has actual power to decide coastal zone management area permits, geothermal resource permits, and special use permits in the agricultural district.

--Eliminate §5-4.3(e). Under State law (HRS §205-4(e)(1)), the Planning Department, not Planning Commission, makes the recommendations to the Land Use Commission. (Kanuha.)

--Eliminate §5-4.3(f). Planning Director does not determine rezoning; director only makes a recommendation. (Kanuha.)

--Change the reference to "granting" in §5-4.3(h) to "action on": the Planning Commission makes recommendations on, but does not grant, rezoning applications. (Kanuha.)

--Split Planning Department and Commission into separate Planning Department and Zoning Department, and Planning Commission and Zoning Commission. (West Hawaii Committee.)

--Include provisions for hearings to be conducted by a moderator. (Puna Community Council.)

§5-5.1. Research and Development.

--Eliminate Department of Research and Development. (West Hawaii Committee.)

--Change title to Department of Economic Development.

§5-6.3. Board of Appeals.

--Place administration of Board of Appeals under another department (Corporation Counsel?) instead of the Planning Department because the Board hears appeals from the actions of the Planning Department. (Kanuha.)

§6-1.1. Managing Director.

--Specify that there must be a deputy managing director. (Labrenz.)

--Appoint Managing Director for six-year period. (Silva.)

§6-4.1. Fire Department.

--Place under the control of a commission, rather than a direct appointment of the fire chief by the Mayor.

§7-1.6. Civil Service.

--Change Civil Service Commission from seven to five members to conform to State law. Reference to geographical areas would also need to be modified or eliminated because there is reference to six geographical areas. (Luke.)

§7-2. Police Department.

- Rewrite section on Police Department generally to specify principles and functions of department. (Vierra.)
- Require statement of reasons for Commission to remove chief. (Vierra.)
- Require police experience for police chief. (Vierra.)
- Rewrite section on Police Commission to allow Commission to investigate police misconduct and to generally supervise department. (Choi, Vierra.)
- Forbid members of the Police Department from engaging in political activities except for voting. (Vierra.)

Article 8. Water Commission.

- Delete provision that Water Commission comes under "general supervision" of Mayor. (Sewake.)
- Specify that Water Commission has power to set water rates. (Bethea.)
- Require greater coordination between Water and Planning. (Carpenter.)

Article 9. Prosecuting Attorney.

- Allow prosecuting attorney to send budget to Council directly, rather than through the Mayor. (Ono.)
- Nonpartisan election for prosecuting attorney. (Ono.)

Article 10. Fiscal Procedures.

- Change fiscal year so that it begins later than the State fiscal year (July 1- June 30).
- Submit the Mayor's proposed operating and capital budgets to the Council by March 1 of each fiscal year, rather than by May 1, or 10 working days after the close of the legislative session. (County Council.)
- Limit the Mayor's power to transfer funds between funds within a department (without Council approval) to a specified percentage of the fund amount, or to a specified dollar limit. (Kokubun, Yamashiro.)

--Require the Mayor to expend amounts appropriated for specified purposes in the budget. (Yamashiro.)

--Clarify that the Mayor has the power to transfer funds between accounts within a department without Council approval. (Mizuno.)

--Adopt a budget on a biennial basis.

--Clarify time limits for Mayor's veto of budget and effect of veto. (Kokubun.)

--Increase limit on purchases that may be made without advertising by increasing limit to \$10,000, or any amount which might be specified by State law. (Mizuno.)

--Require that budget notices be published in all newspapers of general circulation in the County. §10-4. (West Hawaii Committee.)

--Require an audit upon the death, resignation, or removal of the Finance Director. §10-13. (West Hawaii Committee.)

--Establish Data Processing Steering Committee. (Mizuno.)

--Specify that the Standardization Committee has responsibility for the determination that certain items may be procured without advertising in §10-14(c)(4). (Mizuno.)

--Reduce cost of obtaining copies of the budget, and specify that budget hearings shall be conducted by a moderator. (Puna Community Council.)

Article 11. Initiative and Referendum.

--Re-instate limitation previously contained in Charter §11-2 on initiative powers re budgets, financial matters, and taxing powers. (Carpenter.)

--Forbid use of initiative/referendum for zoning. (Matayoshi.)

--Limit time in which signatures on initiative/referendum petitions are valid. (West Hawaii Committee.)

--Reduce signature requirements on initiative/referendum petitions to 10%. (League of Women Voters.)

--Increase petition requirement to 20% of qualified registered voters. (West Hawaii Committee.)

--Eliminate requirement of affidavit of circulator. (League of Women Voters.)

--Clarify that a "qualified" voter is a registered voter; and for signatures to be valid, voter must be registered at time of signature.

--Allow signatory to specify either residence address or post office address. (Puna Community Council.)

--Improve intelligibility of items placed on the ballot. (Puna Community Council, West Hawaii Committee, League of Women Voters.)

--Establish a 60-day time limit for use of referendum to repeal zoning ordinance; do not allow use of initiative for zoning. (Puna Community Council.)

--If an initiative or referendum would require public funding, require the proposal to contain specific provisions for such funding. (Puna Community Council.)

--Allow those submitting a ballot measure to choose the effect of a "yes" or "no" vote.

§12-1.7. Recall.

--Clarify that "qualified to vote" means the number actually taking out ballots at a recall election.

§13-1. Definitions.

--Include definitions of "encumbered," "moderator," "initiative," and "referendum." (Puna Community Council.)

§13-4(i). Boards and Commissions.

--Determine whether it is necessary to have majority vote of entire membership to which board is entitled, or only majority vote of members presently appointed to board, to make action valid. (Kanuha.)

--Allow terms of board members to be extended for 90 days if there is a vacancy. (Bibb.)

--Allow board members appointed for a "short" term to be re-appointed for a full term. (Carpenter.)

--Clarify that boards and commissions generally are not to interfere in administration of the department.

§13-7. Rules and Regulations.

--Delete requirement for Council approval because of conflict with State law. (Carpenter) Under State law, County rules and regulations become final after approval from the Mayor. Charter presently requires Council approval. The practice in the County has been to not require Council approval because of a corporation counsel opinion that State law is controlling.

§13-8. Term of Office.

--Clarify that department heads take office upon appointment by the Mayor, if they have the appropriate qualifications, and continue to serve unless they are rejected by the Council in the confirmation process. (Carpenter.)

§13-13. Contracts.

--Allow Council to contract for consultant services independently of the administration. (County Council.)

--Require all contracts for professional services in excess of \$1000 to be done by formal contract. (Mizuno.)

§14-5. Board of Ethics.

--Increase membership from five to nine and have geographical requirements. (West Hawaii Committee.)

§15-.1 Initiation of Charter Amendments.

--Reduce number of voters necessary to initiate Charter amendment from 20% to 7%, with at least 1% from each district. (Puna Community Council.)

§15-3. Charter Revisions.

--Require charter review more often than once every ten years. (Spangler.)

§16-10. Hawaii Redevelopment Agency.

--Provide a more concrete description of the status of the HRA. (Carpenter.)

General Recommendations.

--County elections should be nonpartisan. (Boranian.)

--Eliminate gender-specific language in the Charter. (County Council, Hale, Labrenz, AAUW, League of Women voters, Puna Community Council.)

--Have gender parity on appointed boards and commissions, either through "strive toward" language (Labrenz), or mandatory language. (AAUW.)

--Require that boards and commissions reflect community characteristics. (Juvik.)

--Establish a County energy agency with broad authority over the production and distribution of electrical energy. (Puna Community Council.)

--Define residency as it applies to various Charter provisions. (Spangler.)

--Require that full-time employees establish a primary residence in the County within ninety days of hire. (West Hawaii Committee.)

--Require removal of all elected officials or board members with residency requirements who cease to be residents. (West Hawaii Committee.)

--Establish a fixed line that would be the baseline for Council apportionment and reapportionment. (West Hawaii Committee.)

--Establish a policy on County employees seeking/holding County elective office. (Board of Ethics.)

--Establish neighborhood boards. (Hale.)

--Elect Charter review commissioners. (Brilliant.)

--Establish public financing of County elections. (Smith.)

--Establish a new county agency to coordinate acquisition of computers and other office technology. (Mizuno.)

--Include an organizational chart. (Carpenter.)

--Require a publicly-funded mailing before elections which explains ballot issues. (League of Women Voters.)