

The 15th meeting of the Maui County Charter Commission was held at the Cameron Center on May 19, 1975 at 2:30 p.m.

Commissioners present: Msgr. Kekumano, Lloyd Sodetani, Joe Souki, Ralph Murakami, Hideo Abe, Catalino Agliam, Allan Sparks, Edwina Bright. Absent: Stephen Petro, and Margaret Cameron. Staff: Paul Mancini, Attorney, Leonora Balido, Secretary. Guest Speakers: Planning Director Howard Nakamura, and Personnel Director James Izumi. Press: Mr. Slocum and Mr. Tanji.

A quorum present the Chairman called the meeting to order at 2:30 p.m.

Committee Reports: The Chairman called for committee reports.

County Government: Mr. Souki distributed the last of four reports prepared by the Committee on County Government. He stated that the Committee was planning trips to Kauai, Hawaii, and Oahu in order to further its study on the comparative aspects of County Government. Tentative the Kauai trip was scheduled for June 3rd and June 4th, while the Hawaii trip was scheduled for June 12th and June 13th.

Electoral Systems: Mr. Sparks, chairman for the committee on electoral systems, indicated that his committee had met on and attempted to establish criteria upon which to develop a number of scenerios on representational methods for Commissions consideration. He also stated that the committee had decided not to pursue public hearings at this time on the issue of electoral systems but was attempting to develop a systematic method of interviewing community residents to develop a comprehensive view of community attitudes on the issue. Mr. Sparks announced that the next meeting of his committee would be held on May 27th- Mr. Allan Barr is to be guest speaker at this meeting.

Msgr. Kekumano asked if there were any new business, there being no new business, Msgr. Kekumano introduced Mr. Nakamura, Director of Planning for the County of Maui.

Mr. Howard Nakamura: Director of Planning

Mr. Nakamura stated that he had made a presentation to the Charter review committee regarding his opinions on Charter amendment and although his views are now essentially as they were at that time, he has developed some different perspectives on a number of issues.

General Plan: He stated that the Charter Commission should seek to include a provision in the Charter identifying the elements, adoption and amendments of the general plan. Mr. Nakamura stated that the existing Charter provisions refers to the general plan but the Charter does not define what it is. He stated that the general plan should be policy oriented--it should be an articulation of public policy; concern for specific uses of land

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should be considered in the zoning process, rather than the general plan process. He stressed that the general plan should be oriented towards goals and objectives and methods by which these would be carried out. For the first time in the County's Open Space and Outdoor Recreation Plan, there has been an attempt to provide for a policy oriented plan. He restated that the Charter Commission should give serious consideration to establishing the elements of the plan in that this would be of assistance to the Planning Department in proceeding with their work. It would be preferable to have a general plan directed to goals and objectives in lieu of a map outlining a general plan.

The Planning Commission: The Planning Commission should be primarily responsible for considering and recommending to the Mayor and Council in areas of policy implication. This would essentially take place in the preparation and updating of the general plan.

Responsibilities for establishing public policy should be in elected officials instead of appointed officials. Independent Boards and Commissions, not directly accountable to elected officials, may not be desirable, in order for consistent policy directions to be maintained by all departments.

Land Use and Codes Administration of the Department of Public Works:

Mr. Nakamura stated that the present structure of the Planning Department as identified in the Charter provides for too much emphasis on ministerial functions. To get away from this some of these functions were assigned to Public Works-the new division of Land Use and Codes Administration. Mr. Nakamura stated that some member of the Council questioned the legality of the assignment. He stated that there was a Charter provision authorizing such transfers for the sake of efficiency.

Mr. Nakamura suggested that the Charter Commission review the function of the Land Use and Codes Administration Division of Public Works and consider establishing it as a new department. This department would then deal with all aspects of physical development. The present Board of Adjustments and Appeals would then also consider all types of development permits and variances.

Office of Planning: Mr. Nakamura asked the Commission to consider that Planning become an office, rather than a department. Its use as office planning would be directly responsible to the Mayor. This would expedite the implementation process dealing with policies established by the elected officials, since this implementation would require much coordination between different departments. In this situation, the Planning Commission would provide review of any proposals developed by staff prior to transmittal to the Mayor and Council.

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Mr. Nakamura said you cannot separate the planning process from the political process since the public looks to the elected officials as their government. If you isolate the planning process from the political process, there would be many problems. He said the present administration is a strong one because of the Mayor's personal abilities, but the system can use some improvisation to make it policy oriented. Currently the Mayor tends to pull all of these things together but the system doesn't help him.

Specific Responsibilities for Department Heads: Mr. Nakamura indicated that consideration should be given to having more flexibility in specific responsibilities of various department heads. He stated that this would permit the chief executive to have greater latitude in the assignment to responsibilities. Mr. Nakamura contrasted those Charter provisions where department head responsibilities were broad in scope and those which were quite specific.

Questions from Commission: Monsignor Kekumano asked that if there should be a structuring of the Planning Department to have a closer relationship with the Mayor's office, where then does the Commission fit in; as an advisory body, etc? Mr. Nakamura said that the Commission should continue to be an advisory body but there should be a re-orientation of the present duties of the Commission where it can be policy oriented. Mr. Nakamura said that the Board of Appeals under the Planning Department in the present Charter would then be part of the Land Use and Code section and have responsibilities for specific approval of developing plans. In that respect the name would be changed to reflect its status.

Mr. Souki asked if there wasn't any inconsistency in suggesting that the Planning Commission become more policy oriented and at the same time advisory? In answer to Mr. Souki's question, Mr. Nakamura said that the Commissioners responsibility would be in making recommendations relative to policy. The administrative responsibility that presently exist in the Commission would be allocated to the Board of Adjustments and Appeals under a different name. He said that each Planning Commission throughout the State functions differently. The Planning Commission that exercises the most authority and carries out the most duties is that of the island of Kauai. Except in Kauai, planning does not adopt general plans, this is done by the Council. There is no Board of Adjustments and Appeals. The Planning Commission makes all decisions relative to variances. Any appeal from the Planning Commission goes to the Judiciary.

Mr. Mancini asked Mr. Nakamura to indicate what Charter provisions would have to be deleted to reflect the present state of affairs. Mr. Nakamura made reference to Chapter 6, Sec. 8, 6.2, Subsection 3 Re: Subdivisions and zoning (zoning which does not effect the general plan) and Sec. 8.6.3-subsections 7 and 8 which would be transferred to Public Works and possibly subsection 4.

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Msgr. Kekumano thanked Mr. Nakamura for his time and efforts in presenting his opinions to the Commission. Mr. Nakamura indicated that he would be available in the future to respond to any inquiries by the Commission.

Personnel Services: Mr. James Izumi

Msgr. Kekumano welcomed Mr. Izumi and asked him to proceed with his comments on Charter recommendations.

Mr. Izumi distributed an outline of his presentation. The outline identified three areas (statutory references; organization and functions of the department of Personnel Services; other provisions) and provided explanations within each area.

Mr. Izumi read through his outline and identified various problem areas within the Charter which confronted the department of personnel services.

Council Powers: Mr. Izumi made reference to Article 3 Sec. 3-7.6-power of the County Council: "To appoint and fix the salaries of such employees as may be necessary". He suggested that the Commission give consideration to whether the Council should have complete authority over positions and employees in the legislative branch of government and thus have no executive influence upon such positions.

Facsimile Signatures: Article 13 Sec. 13-4

Mr. Izumi suggested an expansion to facsimile signatures to include certification of payrolls.

Rules and Regulations: Article 13 Sec. 13-10

Mr. Izumi developed an extensive explanation of the inconsistencies in Article 13 Sec. 13-10 and Article 8 Sec. 8.7.2.1.

Article 8 Sec. 8.7.2.1-The Civil Service Commission shall adopt rules and regulations having the force and effect of law to carry out the provisions of the Civil Service laws of the State.

Article 13 Sec. 13-10-All rules and regulations having the force and effect of law adopted by any Board, Commission, or administrative head of a department must first be approved by the Council and the Mayor prior to going into effect, provided that service rates or fees, license fees and other charges established by Boards and Commissions need not be so approved.

The Director of the Department of Personnel Services suggested that the Charter Commission consider granting the Civil Service Commission authority to promulgate rules and regulations dealing with employees under civil service. Mr. Izumi questioned whether it was the original intent of the Charter to require the civil service Commission to place its rules and regulations before the Mayor and Council in implementing State law.

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Positions Under Civil Service. Article 8 Sec 8-7.4.1

Mr. Izumi made reference to Article 8 Sec. 8-7.4.1

All positions in the County, except as may be exempted by law, and except for the administrative heads of a department and his first deputy shall be under civil service....

The question posed was whether the term law referred to the State civil service law or whether it applied to any County ordinance enacted for the purpose of exemption. Mr. Izumi stressed the need for clarification of the term "law" as it influences the authority to exempt positions from civil service.

Questions and Questions

Civil Service Commission and The Board of Appeals

Mr. Souki presented the issue as to whether there may be an overlapping of obligations within the Charter as it applies to the Code of Ethics. He indicated that both the Civil Service Commission and the Board of Appeals are given responsibilities in administering the Code of Ethics.

Article 10 Sec. 10-1.2: Civil Service Commission responsibility to implement and provide for exceptions to conflict of interest provisions in Sec. 10-1.1. Sec. 10-1.9 Civil Service Commission responsibility to prescribe rules and regulations for disclosure of private financial interests.

Article 8 Sec. 8-13.2.3: Board of Appeals responsibility to hear complaints that allege violations of the Code of Ethics.

Mr. Izumi acknowledged a certain inconsistency in the provisions but stressed the need for enforcement authority. He indicated that the power to make recommendations was not the power to enforce and that the Charter should provide the power to enforce where it identifies there responsibilities.

Department of Personnel Services-as it applies to the Office of the Mayor

Mr. Mancini stated that in recent years some schools of thought on public administration have criticized the use of the Civil Service Commission to Head Personnel Recruitment. They argue that the Commission competes with the Mayor for control over government employees. The resultant conflict is considered harmful to administration and to morale. They argue further that personnel control is inherently a function of management and should be handled as part of the Mayor's office. Mr. Mancini asked for Mr. Izumi's opinion in the area.

Mr. Izumi described the history of Civil Service and the Civil Service Commission. He explained that these were a reaction against the old spoils system and developed into their present structure over a long period of time. Many jurisdictions are still in the earlier

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phases of development. Mr. Izumi explained alternative methods of administering personnel services and stated certain managerial functions are assigned to the Department of Finance. He referred to his outline in explaining the functioning of his department.

Council Exemptions

Mgr. Kekumano, asked Mr. Izumi if he thought the County Council and its employees should be exempt from civil service regulations and requirements? Mr. Izumi replied that, the section in the (State) law that makes certain exemptions in the County of Maui is obsolete, and has not been amended to reflect some of the changes that have come about. The language has not been changed; it still makes reference to the chairman of the Board of Supervisors. There is no reference to the Council, because in the Chapter on the Civil Service Commission, we still administer State law. We don't have specific authority to prescribe rules and regulations. A recent amendment to the (Honolulu) City Charter specifically provides for the Council to set up its own staff. He stated that he believed our Charter should provide the legislative branch with complete control over its own positions. Presently positions with the Council all subject to approval by the Mayor. Only the Mayor has authority to create positions. He thought a further question arose as to the coverage of the Collective Bargaining Law. The employees of the State Legislature are exempt from collective bargaining. Only the employees of the executive and judicial branches are covered. Employees of the Council are excluded from collective bargaining.

Control over Positions:

In response to a number of questions on the issue, Mr. Izumi explained that there were two aspects in developing a position in government service. He recalled a controversy with the Charter of the City and County of Honolulu as to who had the power to create positions in the Council. This was clarified in the 1973 Charter amendment giving the Honolulu Council the control over its own positions. Mr. Izumi explained the ability to fund as a legislative prerogative whereas the ability to create is an executive prerogative.

Exempt positions:

Mr. Souki asked why exempt positions necessitated an sr rating. Mr. Izumi explained the different types of exempt positions. He stated that positions are exempt from civil service but not from the classification plan. This is State law.

Article 8 Sec. 8-7.4.2

Mr. Sparks asks why all exempt position do not have the ability to revert to a former civil service classifications as provided for deputy director under Article 8 Sec. 8-7 4.2. Mr. Izumi stated he did not know the logic behind the provision but that seemed to be a rationale to extend the provision.

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Deputy Directors

Msgr. Kekumano asked that if there was a department without a deputy, how would the director be replaced during vacation?

Mr. Izumi indicated that he did not feel that the director could assign his responsibilities to another position. Work requiring the approval of the director would have to await his return.

There being no further question, Msgr. Kekumano thanked Mr. Izumi for his time and effort.

There being no further business before the Commission, the meeting was adjourned at 4:30 p.m.

Next meeting will be on June 2, 1975, at 2:30 p.m.

Respectfully submitted,

Leonora Balidoy, Secretary