

To: Josh Stone, Chair, Maui County Charter Commission, and Members

From: Sally Raisbeck

427 Liholiho St Wailuku HI 96793 808-244-9604 sallyraisbeck@earthlink.net

Date: May 28, 2011

**Subject: CHAIR SHOULD VOTE REGULARLY, NOT JUST ON TIES**

**Suggestion: Add a rule to your Draft Rules, saying explicitly that "the Chair votes also".**

The rule in Robert's Rules of Order that a chair only votes to break a tie is appropriate for a large, legislative-type body, such as the U.S. Congress, with over 400 members.

It is not appropriate in a small, eleven-member group such as the Charter Commission.

There may be occasions when enough members are absent that such a rule would affect the ability of the group to take action.

For example, if a quorum of 6 were present, and all were in favor of a measure, if the chair were not able to vote, there would not be 6 votes to take action.

**On the Maui Charter Archive, [www.mauicharterarchive.org](http://www.mauicharterarchive.org), in the minutes from June 28, 1963, the rules explicitly say that the chair votes.**

**Sec 5 - VOTING. The Chairman votes also and no member shall refrain from voting unless excused by the Chairman.**

**Sec 6 - ORDER OF BUSINESS,, (Self-explanatory). This may be altered by the Chairman with the consent of the commission.**

**Sec 7 - MINUTES. Verbatim minutes are not required, unless ordered. Public hearings may be tape recorded.**

It was enjoyable reading the minutes from 1963. Pundy Yokouchi was chair, and the members from Lanai and Molokai were given a per diem of \$15 so they could stay overnight on Maui.

At that time they also used summary minutes, not verbatim. They are preferable to verbatim, as long as they are well-done. Much shorter, easier to read.

file: 110528 chair should vote

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RECEIVED  
CORPORATION COUNSEL  
2011 JUN -2 AM 9: 25

To: Josh Stone, Chair, Maui County Charter Commission, and Members

From: Sally Raisbeck

427 Liholiho St Wailuku Hi 96793 808-244-9604 sallyraisbeck@earthlink.net

Date: May 29, 2011

**Subject: COMMISSION NEEDS AN OUTSIDE ATTORNEY; CORP  
COUNSEL'S OFFICE HAS A CONFLICT**

**Suggestion: The Commission should hire an outside, independent attorney,  
with constitutional expertise, as their attorney and analyst.**

The Mayor has a lot of power, and would like more; the Council has a lot of power, and would like more.

You have the possibility of proposing amendments that can change the balance of power between the Council and the Mayor.

Attorneys are not supposed to represent clients that have a conflict of interest. Any attorney from the Corporation Counsel's office has a conflict of interest. They represent the Council and they represent the Mayor. In the past, when those two entities conflict, the Council (which has the money) has hired outside legal representation.

Depending on what proposals you entertain, you may have a conflict with the Mayor. For example, you could propose to scrap a Mayor/Council government and replace it with a Council/County Manager form of government.

Or, more likely, you could have a conflict with the Council. You could propose "one-man-one-vote" for district voting. Or you could remove the power of the Council to propose charter amendments.

You might propose conditions for initiative and recall that would make them an actual possibility. This would probably bring you into conflict with both Mayor and Council.

An elected body (such as the Council) should not be in control of how they themselves are elected and how long they serve. You can ask the voters to determine how both council and Mayor are elected, how long they serve, and how much power each of them has relative to the other.

I believe that the Corporation Counsel's office, in trying to serve the Mayor, the Council, and you, is trying to serve clients with a severe conflict of interest.

**The Commission should hire an outside, independent attorney, with  
constitutional expertise, as their attorney and analyst.**

file: 110529 outside attorney

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To the Editor of the Maui News:

## CHARTER AMENDMENTS, ANYONE?

The first Charter Commission public meeting is Tuesday, June 8, at 6 :30, at the Upcountry Community Center.

I believe in "one man, one vote". I want my Council member elected by the residents of my district.

Many people would like to see district voting for the Council, where each district elects its own representative. By federal law, the districts have to be approximately equal population, i.e. "one man, one vote".

Under the present system, every council member is elected "at large", or by the whole county. But each member has to be from a certain residency area. Hana, Lanai, and Molokai are each residency areas, and each has one council member elected by the whole county.

The residency areas are wildly unequal in population: Hana about 3,000, Lanai about 3,000, Molokai 7500. The other six all together come to 141,500, or an average 23,600 residents per residency area.

As a resident of one of the larger residency areas, I think it is unfair that Hana, Lanai, and Molokai residents have together THREE Council members representing a total population about 14,000 residents, while my district, with about 24,000 residents, only has ONE.

That's not fair.

The Commission will have public meetings in June and July all over the county, to receive suggestions about what changes in government structure voters want to see. The voters will decide in November 2012.

The first public meeting is in Pukalani, Tuesday, June 8, 6:30 p.m..

Tell the Charter Commission you want district voting.

Sally Raisbeck  
427 Liholiho Street, Wailuku HI 96793 808-244-9604

file: 110530 district voting

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**From:** Sally Raisbeck <sallyraisbeck@earthlink.net>  
**To:** <LETTERS@MAUINEWS.COM>, <charter.commission@co.maui.hi.us>  
**Date:** 5/30/2011 4:40 PM  
**Subject:** [Possible SPAM] Error in previous email

My previous email, DISTRICT VOTING, ANYONE? contained an error. The correct date is June 8, but that date is Wednesday, not Tuesday.

I am sorry for the error.

Sally Raisbeck  
427 Liholiho St, Wailuku Hi 96793 808-244-9604

**Charter Commission - [Possible SPAM] A few Changes to the Charter I would like to see.**

**From:** "tairak001@hawaii.rr.com" <tairak001@hawaii.rr.com>  
**To:** "Charter Commission" <charter.commission@co.maui.hi.us>  
**Date:** 6/5/2011 5:05 PM  
**Subject:** [Possible SPAM] A few Changes to the Charter I would like to see.

Members of the Charter Commission;

First let me congratulate all of you in volunteering to serve on this most difficult commission.

First I noticed that there was a lack of a purpose of establishing a county government. While there a few purposes noted in certain departments, other departments had no clearly defined purposes. What if we took a few of the purposes found within the departments and created a general purpose statement like:

**PURPOSE OF ESTABLISHING A COUNTY GOVERNMENT:**

*To preserve and protect the rights of persons and property; provide emergency services to save lives and property; to protect the beauty of Maui County through environmental management and control of pollution; to provide recreational facilities and programs for the people of the county; provide adequate and safe water to the people; to perform other functions that are authorized by law and may be deemed appropriate by the council.*

The rationale of establishing a general purpose statement is to constantly guide the council whenever a piece of legislation is considered.

For example we have dog wardens on Lanai and Molokai that are government positions and on Maui we have the humane society performing that function. I have seen "animal rescue" on the side of pickup trucks on Maui. Does this mean we have nongovernment workers operating government vehicles on Maui? Animal control is a function assigned to the department of Human Concerns, why are positions assigned to MPD on Lanai and Molokai?

We have a Department of Transportation in the county charge with the responsibility for planning and developing an efficient program of all modes of transportation to facilitate the rapid, safe, and economical movement of people and goods in Maui County. Planning department determines where and when the roads go in and department of public work is responsible for the design, construction and maintenance of the roads. It appears the Transportation is charged with coordination among the three departments and others, but am doubtful that any meeting were held.

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As far as I can determine, no department is charged with the purpose of providing safe and adequate water for its people. Assign the function of providing clean and adequate water to the people of the county to the department of water supply. Providing clean and adequate water should be solely a county responsibility.

There are several departments that have an automotive maintenance division. There are other departments that have vehicles assigned to it without a maintenance section. Again there are no department charged with keeping track of all vehicles in the county inventory, its maintenance, and disposition of the vehicle.

As a result of not having a reason of having a county government, this county is pushed and pulled in every direction. We grant more to private non-profits than the other three counties combined. As noted, county grants millions of dollars to private non-profits, including organizations whose function to assist for profit organizations such as the MVB whose function is to assist the tourist industry. All nonprofits that receive grants should at the minimum provide an annual report to the public. The report should include how much of the annual budget were spent on program, how much on administration, how much was spent on fund raising. Report should be posted on the county's website.

By having a functional or a purpose statement for the County would slow the county down whenever a proposal is made that would lead the county accept new roles and responsibilities.

In the area of county organization, I am an advocate of district representation in the council. Our current residency requirement with voting county wide for each council member has not worked for the following reasons: (1) the district where the candidate resides have not always gotten the person who they wanted because of county wide voting; (2) candidates seeking a council office is required to campaign wide which makes it very expensive; (3) the high expense of running for council gives an unfair advantage to the incumbent, which generally leads one to vote because of name recognition. District representation would eliminate the weakness of our current system that's noted above.

Council needs either in council service or a separate unit by charter or ordinance an entity whose function will be to conduct performance or financial audits of any executive agency. The auditor could also determine if the Charter or Code is followed.

Department of Management needs management analysts to assist departments in determining appropriate organization, manpower and performance measures.

Reports – All reports should be available for viewing by the public by having them on the web within 60 days of the end of the reporting period. Reports could be emailed to the addressees thereby reducing cost. Those who want hard copies could have them printed.

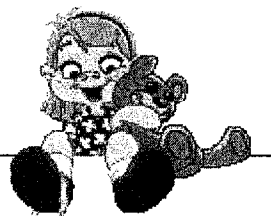
Not everything discussed in this letter should be in the Charter. I don't think Management Analysts in the Department of management should be in charter.

I believe that the 100's of millions of taxpayer's monies that are spent annually

should be accounted for and reported to the public. Transparency is critical in a democracy and unfortunately this is not the case with Maui County. I understand not all information can be made public, but those that can should be.

Thank You,

Ken Taira



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## **RULES OF THE 2011-2012 MAUI COUNTY CHARTER COMMISSION**

(Adopted May 23, 2011)

(Effective June 1, 2011)

### **Section 1. Authority and Scope of Rules.**

- Rule 1.1. Effective date of rules.
- Rule 1.2. Force and effect of rules.
- Rule 1.3. Amendment or rescission of rules; new rules.
- Rule 1.4. Suspension of rules.

### **Section 2. Meetings.**

- Rule 2.1. Regular Commission meetings.
- Rule 2.2. Special Commission meetings.
- Rule 2.3. Emergency Commission meetings.
- Rule 2.4. Executive sessions.
- Rule 2.5. Avoidance of improper meetings.
- Rule 2.6. Limitation on duration of recess.

### **Section 3. Quorum; Voting.**

- Rule 3.1. Quorum.
- Rule 3.2. Six votes generally required for Commission action.
- Rule 3.3. (RESERVED)
- Rule 3.4. (RESERVED)
- Rule 3.5. Votes required in committee or subcommittee.
- Rule 3.6. Voting generally required.
- Rule 3.7. Abstention from voting.
- Rule 3.8. Limitations on members' speaking opportunities.
- Rule 3.9. Other voting procedures.

### **Section 4. Officers and Their Duties.**

- Rule 4.1. Commission Chair.
- Rule 4.2. Support Staff.
- Rule 4.3. (RESERVED)

### **Section 5. Committees and Subcommittees.**

- Rule 5.1. Establishment of standing committees.
- Rule 5.2. Purpose of standing committees.
- Rule 5.3. Committee Chair and Vice-Chair.
- Rule 5.4. Committee recommendation generally required.
- Rule 5.5. Discharge of committee's consideration.
- Rule 5.6. Direct referrals.
- Rule 5.7. Subcommittees.
- Rule 5.8. Special committees.



- Rule 5.9. Minutes.
- Rule 5.10. Site inspections. (RESERVED)
- Rule 5.11. Expiration of committee items.

#### **Section 6. Committee Reports.**

- Rule 6.1. Contents.
- Rule 6.2. Signing.

#### **Section 7. Roll Call Votes.**

- Rule 7.1. Clerk shall call roll.
- Rule 7.2. Clerk shall announce result.

#### **Section 8. Agendas.**

- Rule 8.1. Filing deadline for Commission agenda.
- Rule 8.2. Posting of Commission agenda.
- Rule 8.3. Posting of committee and subcommittee agendas.
- Rule 8.4. Notification.
- Rule 8.5. Adequate notice.

#### **Section 9. Order of Business.**

- Rule 9.1. Commission meetings.
- Rule 9.2. Committee and subcommittee meetings.

#### **Section 10. Rules of Procedure.**

- Rule 10.1. Robert's Rules of Order.

#### **Section 11. Testimony; Protocol.**

- Rule 11.1. Acceptance of testimony.
- Rule 11.2. Oral testimony.
- Rule 11.3. Written testimony.
- Rule 11.4. Presentations.
- Rule 11.5. Participation by resource persons.
- Rule 11.6. Discussion period.
- Rule 11.7. Reconvened meetings.
- Rule 11.8. Respect during speaking.
- Rule 11.9. Chair's authority.
- Rule 11.10. Public forum not created.

## **Section 12. Commission Expenditures.**

Rule 12.1. Commission Chair's prior approval required.

Rule 12.2. Report required.

## **Section 13. Meetings by Videoconference.**

Rule 13.1. Authorized.

Rule 13.2. Definition.

Rule 13.3. Reasonable necessity for meeting by videoconference.

Rule 13.4. Agenda.

Rule 13.5. Testimony.

Rule 13.6. Failure of system of audio and visual interaction.

Rule 13.7. Requirement of audio and visual interaction.

## **Section 14. (RESERVED).**

# **SECTION 1. AUTHORITY AND SCOPE OF RULES.**

**Rule 1.1. Effective date of rules.** These rules shall become effective upon adoption by the Commission and shall remain in effect until after the general or special election as referenced in Section 14-3 of the Revised Charter of the County of Maui (1983), as amended (the "Charter"), unless superseded earlier by new rules.

**Rule 1.2. Force and effect of rules.** Unless otherwise indicated, these rules shall apply to the Commission, the Commission's standing committees, the Commission's special committees, the subcommittees of the Commission's standing committees, individual Commission members, the Commission's officers and support staff, and individuals who attend or participate in Commission, committee, or subcommittee meetings. To the extent that they are not in conflict with other law, these rules shall have the force and effect of law pursuant to Chapter 50 of the Hawai'i Revised Statutes; provided, that they may be amended, rescinded, or suspended as provided in these rules. References to "Chair" in these rules shall be read to include the Commission Chair, committee chairs, and subcommittee chairs, unless the context indicates that such a reading is not intended.

**Rule 1.3. Amendment or rescission of rules; new rules.** The amendment or rescission of a rule, or adoption of a new rule, under this provision shall become effective upon the affirmative vote of a majority of the Commission.

**Rule 1.4. Suspension of rules.** These rules may be suspended by the affirmative vote of a majority of the Commission; provided, that duration of the suspension shall not be longer than necessary to further the purpose of the suspension.

## **SECTION 2. MEETINGS.**

**Rule 2.1. Regular Commission meetings.** Regular Commission meetings shall be held on dates, times and places as determined by the Commission Chair. If a regular meeting date is a holiday or is in conflict with an important public event, the Commission Chair may reschedule the meeting date. The Commission may reschedule a regular meeting for a different time, date, and place.

**Rule 2.2. Special Commission meetings.** Special Commission meetings may be called at any time by the Commission Chair, or by a majority of the Commission.

**Rule 2.3. Emergency Commission meetings.** Emergency Commission meetings shall be governed by Section 92-8 of the Hawai'i Revised Statutes. To ensure compliance with these provisions, the following guidelines shall apply:

A. If time permits, the Chair shall confer with Commission members for the limited purposes of determining whether an emergency exists and making a written finding to that effect. If at least eight of all the Commission members agree that an emergency exists, then an emergency meeting shall be scheduled, and the emergency meeting agenda and written finding of an emergency shall be filed with the County Clerk for posting at least twenty-four hours prior to the emergency meeting. Persons requesting notification on a regular basis shall be contacted by mail or telephone as soon as practicable.

B. If there is not sufficient time for such conferral to determine whether an emergency exists and to make a written finding, the Commission Chair shall prepare a draft written finding that an emergency exists and schedule the emergency meeting. The emergency meeting agenda and draft written finding shall be filed with the County Clerk for posting. Persons requesting notification on a regular basis shall be contacted by mail or telephone as soon as practicable. When the Commission convenes the emergency meeting, the first order of business shall be the adoption of the draft written finding (or an amended written finding) that an emergency exists by at least eight of all Commission members. If such a finding is made, the Commission can proceed with the emergency meeting. If the Commission does not find that an emergency exists by a vote of at least eight of all Commission members, then the meeting must adjourn immediately.

**Rule 2.4. Executive sessions.** Executive sessions shall be held in accordance with Sections 92-4 and 92-5 of the Hawai'i Revised Statutes. An executive session is a portion of a meeting that is closed to the public to allow for a confidential discussion in accordance with law. An affirmative vote of at least two-thirds of the members present, taken in open session, shall be required to hold an

executive session; provided, that the affirmative vote constitutes a majority of all of the voting members of the Commission, the committee, or the subcommittee holding the meeting. The reason for holding an executive session shall be publicly announced and included as part of any motion to hold an executive session. In addition to members, only necessary staff and necessary resource persons shall attend an executive session. The information provided in executive session shall be confidential and may be protected by the attorney-client privilege. The attorney-client privilege may only be waived by a majority of the Commission. Any action taken in executive session shall be announced in open session; provided, that the announcement shall not reveal confidential information.

**Rule 2.5. Avoidance of improper meetings.** Two members of the Commission may communicate or interact privately to gather information from each other about official Commission matters to enable them to perform their duties, as long as no commitment to vote is sought or made. To avoid meeting without proper notice and to ensure compliance with the letter and spirit of the Sunshine Law (Part I, Chapter 92, Hawai'i Revised Statutes), Commission members shall scrupulously avoid discussing matters under the Commission's supervision, control, jurisdiction, or advisory powers with more than one other member of the Commission at any time except during a properly noticed meeting. Any Commission member may attend and participate in any properly noticed meeting.

**Rule 2.6. Limitation on duration of recess.** A meeting shall not be in recess for longer than six calendar days.

### **Section 3. QUORUM; VOTING.**

**Rule 3.1. Quorum.** A majority of all of the members of the Commission shall constitute a quorum. A majority of all of the voting members of a committee or subcommittee shall constitute a quorum for that committee or subcommittee. The loss of quorum shall automatically adjourn a meeting. No meeting may be convened without a quorum. Any member may be excused by the Chair from attendance at a meeting. If a member is not in attendance and has not been excused by the Chair, the member shall be deemed absent. A member who abstains pursuant to Rule 3.7 shall not be counted as present for purposes of quorum with regard to the matter upon which the member is abstaining; provided, that if a quorum is lost on a matter because of one or more abstentions, the meeting can continue for the purpose of considering other matters for which a quorum is present.

**Rule 3.2. Six votes generally required for Commission action.** The affirmative vote of six members shall be necessary to take any Commission action, unless otherwise provided by law or these rules.

**Rule 3.3. (RESERVED)**

**Rule 3.4. (RESERVED)**

**Rule 3.5. Votes required in committee or subcommittee.** A committee recommendation on any matter shall be made by a simple-majority vote of all of the members of the committee or subcommittee, even if Commission action on the matter ultimately requires a super-majority vote.

**Rule 3.6. Voting generally required.** No member shall refrain from voting on any matter unless abstaining pursuant to Rule 3.7. A failure to vote by a member who is present or who, having been present, has withdrawn from the meeting without being excused, shall be deemed an affirmative vote and shall be so recorded.

**Rule 3.7. Abstention from voting.** Notwithstanding Rule 3.6, a member shall abstain from voting on any matter in which the member has a financial interest, or on any matter involving the member's official conduct. Prior to discussion on the matter, a member who will be abstaining from voting shall advise the Chair in open session of the reason for the abstention. An abstaining member shall be permitted to participate in the discussion of the matter, except in executive session; provided, that the member shall refrain from advocating the member's financial or other personal interests during the discussion.

**Rule 3.8. Limitation on members' speaking opportunities.** No member shall speak more than twice on any pending matter, except upon the majority consent of the other members. The movant of a matter shall not be permitted to speak in a reply to arguments of other members until every member choosing to speak shall have spoken.

**Rule 3.9. Other voting procedures.** Once the Chair calls for a vote, no member shall be permitted to explain the member's vote; only the Chair is authorized to call for a vote. After the Chair or staff announces the result of a vote, no member shall be allowed to change the member's vote. For Commission meetings, the staff shall record the vote of each member upon the minutes of the Commission; for committee or subcommittee meetings, staff shall also record the vote of each member in the minutes of the committee.

**SECTION 4. OFFICERS AND THEIR DUTIES.**

**Rule 4.1. Commission Chair.** The Commission Chair shall be the presiding officer of the Commission. In the absence or disability of the Commission Chair, the Commission Vice-Chair shall act as the presiding officer. In the event of the absence or disability of all of these officers, a majority of the members present shall select a temporary Commission Chair; provided that, if necessary, the Commission Chair may designate a Commission member to convene the meeting;

and further provided, that the first action at the meeting shall be the selection of a temporary Chair.

In addition to those duties prescribed by law or by these rules, it shall be the duty of the Commission Chair to:

- A. Open all meetings of the Commission at the appointed hour by taking the Chair and calling the Commission to order.
- B. Reasonably administer the receipt of oral and written testimony on Commission agenda items, pursuant to Section 11 of these rules.
- C. Call for the approval of the minutes of a prior meeting.
- D. Maintain order and proper decorum.
- E. Announce the business before the Commission in the order prescribed by these rules.
- F. Receive all communications and present them to the Commission or committee before which the subject matter is pending.
- G. Dispose of matters properly brought before the Commission, subject to appeal to the Commission.
- H. Authenticate by signature all acts of the Commission.
- I. Make known all rules of order when so requested and decide all questions of order and procedure subject to appeal to the Commission.
- J. Announce the result of any matter voted on by the Commission.
- K. Coordinate all intergovernmental meetings, functions, and activities on behalf of the Commission.
- L. Manage the staff and activities of the Commission.
- M. Develop organizational and staffing plans and budgets pertaining to the Commission.
- N. Plan, assign and coordinate studies and research, compile data, and reports on matters requested by the Commission, committees, or subcommittees.
- O. Plan and coordinate meetings and public hearings, including the preparation and posting of Commission agendas.

**Rule 4.2. Support Staff.** It shall be the duty of the staff to:

A. Review communications, reports, and other material received by the Commission or its Chair, prepare digests, and compile necessary information, and recommend disposition for Commission action.

B. Read matters to the Commission, as directed by the Chair.

C. Transmit upon receipt all communications or other matters to the proper parties.

D. Deliver to the appropriate committee all matters, as may be duly referred to such committee.

E. Record all matters that come before the Commission.

F. Make a list of all items and communications, and other matters set for consideration on particular dates.

G. Have charge of all records of the Commission, including the minutes of the Commission, communications, and other business matters transmitted to the Commission.

H. Serve in all matters as Clerk of the Commission and to perform or coordinate all clerical functions as the Chair or Commission shall from time to time direct.

I. Assist the Commission in preparing publication of proposed charter amendments, form of the ballot, including such explanatory information as may be necessary.

J. Assist the Commission Chair in coordinating all intergovernmental meetings, functions and activities.

**Rule 4.3. (RESERVED)**

**SECTION 5. COMMITTEES AND SUBCOMMITTEES.**

**Rule 5.1. Establishment of standing committees.** The Commission by resolution may establish standing committees, along with their composition of Commission members, Chair and Vice-Chair, and jurisdictional authority.

**Rule 5.2. Purpose of standing committees.** The purpose of the standing committees is to obtain information, deliberate and to provide

recommendations to the Commission on matters referred to the standing committees by the Commission.

**Rule 5.3. Committee Chair and Vice-Chair.** The Chair of a committee shall call meetings and preside over the same. In the absence of the Chair, the Vice-Chair shall preside. In the absence of both, a majority of the members present shall select a temporary Chair; provided that, if necessary, the Commission Chair may designate a committee member to convene the meeting; and further provided, that the first action at the meeting shall be the selection of a temporary Chair.

**Rule 5.4. Committee recommendation generally required.** The Commission may refer matters to a standing committee and shall receive the committee's recommendation; provided, that the Commission may waive this requirement by an affirmative vote of the majority of the Commission; and further provided, that this rule shall not apply to the adoption of new or amended rules.

**Rule 5.5. Discharge of committee's consideration.** A majority of the Commission may discharge a committee from further consideration of any matter.

**Rule 5.6. Direct referrals.** Notwithstanding Rule 5.4, the Commission Chair may directly refer a new matter to a committee without Commission action if there is a time limit for Commission action; provided, that the Chair shall concurrently place on the next available Commission meeting agenda a written notice to enable the Commission to take such action as may be necessary. In addition, with respect to existing committee matters, the Commission Chair and staff members shall directly refer communications relating to those matters to the appropriate committees.

**Rule 5.7. Subcommittees.** A subcommittee within any standing committee may be created for the purpose of providing recommendations to the standing committee, particularly on matters that require in-depth research or technical expertise. The standing committee shall appoint the subcommittee's Chair and Vice-Chair, at least one of whom shall be a Commission member; appoint the subcommittee's voting and non-voting members; specify the subcommittee's objectives; and set a date on which the subcommittee shall be dissolved. Subcommittees shall comply with the rules applicable to standing committees to the extent practicable.

**Rule 5.8. Special committees.** The Commission may create any special committee for the purpose of providing well-considered recommendations to the Commission, particularly on matters that are not clearly within the jurisdictional authority of any standing committee. The Commission shall appoint the special committee's Chair and Vice-Chair, at least one of whom shall be a Commission member; appoint the special committee's voting and non-members; specify the special committee's objectives; and set a date on which the special committee shall



be dissolved. Special committees shall comply with the rules applicable to standing committees to the extent practicable.

**Rule 5.9. Minutes.** The Chair of a committee shall approve minutes of committee meetings. In the absence of the Chair, the Vice-Chair shall approve minutes. Minutes shall comply with the requirements of Section 92-9 of the Hawai'i Revised Statutes.

**Rule 5.10. Site inspections. (RESERVED)**

**Rule 5.11. Expiration of committee items.** All pending matters listed on each committee's master agenda shall expire at the conclusion of the Commission term.

## **SECTION 6. COMMITTEE REPORTS.**

**Rule 6.1 Contents.** All committee reports shall clearly and concisely state the committee's recommendations for Commission action and describe the committee's deliberations in reaching those recommendations. A committee report shall state clearly the intent and purpose of the recommended action. Proposed amendments to the Charter shall be set forth in Ramseyer format.

**Rule 6.2 Signing.** The Chair of the committee shall sign committee reports. The Vice-Chair of the committee may sign in the absence or disability of the Chair. In signing a report, the Chair or Vice-Chair may write "with reservations" or "I do not concur" at the end of the report or next to certain sections of the report. Other committee members shall also be afforded the opportunity to sign committee reports and may write "with reservations" or "I do not concur" at the end of a report or next to certain sections of the report. Notwithstanding the foregoing, a member who has abstained from voting on a matter pursuant to Rule 3.7 shall not sign the committee report on the matter.

## **SECTION 7. ROLL CALL VOTES.**

**Rule 7.1.** Clerk shall call roll. If determined by the Chair that a roll call vote is necessary for any Commission action, the Clerk or the Chair shall call for the vote.

**Rule 7.2. Chair shall announce result.** The Clerk or Chair shall announce the result of roll call votes.

## **SECTION 8. AGENDAS.**

**Rule 8.1. Filing deadline for Commission agenda.** In order to be placed on the Commission agenda of a meeting scheduled in accordance with Rule 2.1, all items supporting documentation communications shall be filed with the Clerk before 4:30 p.m. on the day that the agenda is posted. Agenda requests received later than the applicable deadline shall be placed on the agenda of the following meeting.

**Rule 8.2. Posting of Commission agenda.** The agenda for any Commission meeting scheduled in accordance with Rule 2.1 shall be posted and made available to members of the Commission and the public no later than six calendar days before the meeting day, provided that the day of this deadline shall not be a Saturday, Sunday or County holiday.

**Rule 8.3. Posting of committee and subcommittee agendas.** Committee and subcommittee agendas shall be posted and made available to members and the public no later than six calendar days prior to the meeting.

**Rule 8.4. Notification.** A meeting agenda shall be sent to individuals who have requested notification of the meeting pursuant to Section 92-7 of the Hawai'i Revised Statutes on the same day that the agenda is posted. To the extent that it is practicable to do so, the notification shall be accomplished by facsimile or e-mail when so requested. An e-mail notification may either transmit the agenda itself or provide the Internet address for the official website where the meeting agenda is located.

**Rule 8.5. Adequate notice.** Pursuant to the Sunshine Law (Part I, Chapter 92, Hawai'i Revised Statutes), meeting agendas shall list all items to be considered.

## **SECTION 9. ORDER OF BUSINESS.**

**Rule 9.1. Commission meetings.** The following shall be the order of business for meetings, unless altered by majority vote of the Commission:

1. Roll Call
2. Minutes
3. Presentation of Written or Oral Testimony
4. Committee Reports
5. Communications

6. Unfinished Business
7. New Business
8. Announcements

**Rule 9.2. Committee and subcommittee meetings.** The order of business for committee and subcommittee meetings shall be determined by the chairs of the committees and subcommittees.

## **SECTION 10. RULES OF PROCEDURE.**

**Rule 10.1. Robert's Rules of Order.** The rules of parliamentary practice set forth in Robert's Rules of Order, Newly Revised, shall govern Commission, committee, and subcommittee meetings in all cases in which they are not inconsistent with law or these rules.

## **Section 11. TESTIMONY; PROTOCOL.**

**Rule 11.1. Acceptance of testimony.** At any meeting (including public hearings), written and oral testimony pertaining to items on the meeting agenda (or hearing notice) shall be accepted as provided herein.

**Rule 11.2. Oral testimony.** For each item on the meeting agenda, oral testimony shall be accepted before the item's discussion period commences. Persons wishing to provide oral testimony shall register with staff prior to testifying. The following procedures shall apply to oral testimony.

A. **Order and duration of testimony.** The Chair shall accept testimony in the order in which testimony forms are submitted. Each testifier shall be allowed to speak for three minutes on each item. For each item, at the end of three minutes, the Chair may allow a person an additional minute to conclude the testimony on the item. After all registered testifiers have testified once on the item, an additional three minutes per person shall be allowed to those who were unable to conclude the testimony. An individual's request to testify shall be deemed withdrawn if the individual is not present when called to testify.

B. **Chair decides whether all testimony shall be accepted at beginning of meeting.** The Chair may either: (a) accept testimony on all items prior to the discussion period for any of the items; or (b) accept testimony on each item immediately prior to the discussion period for the item.

**Rule 11.3. Written testimony.** Hand-delivered written testimony shall be accepted before or during the testimony-registration period; provided, that the Chair may (but is not required to) accept and distribute relevant documentary information at any time, which shall not have the effect of re-opening the oral testimony-registration period. Written testimony that is submitted by letter, facsimile, or e-mail should be received by the Commission staff at least twenty-four hours prior to the meeting to ensure its timely distribution; provided, that written testimony for a meeting by videoconference should be received by the Commission staff at least seventy-two hours prior to the meeting to ensure its distribution. If a Commission member receives a written communication that reasonably appears to have been intended as written testimony, the Commission member shall promptly forward the written communication to the appropriate recipient.

**Rule 11.4. Presentations.** Prior to the acceptance of oral testimony on an item, the Chair may allow a member or resource person to make an informational presentation on the item; provided, that the presentation shall not be considered testimony. The decision on whether to allow a presentation and on the allowable form and duration of any presentation shall be made at the Chair's discretion.

**Rule 11.5. Participation by resource persons.** The Chair may allow Administration officials, attorneys from the Department of the Corporation Counsel, State officials, Federal officials, and other resource persons to participate in meetings for the purpose of providing information or advice to facilitate the deliberative process. For purposes of these rules, a resource person is anyone designated by the Chair as possessing special knowledge or experience with respect to an item on the meeting agenda. Participation in the meeting by a resource person pursuant to this rule shall not constitute testimony; provided, that a resource person may also submit written or oral testimony pursuant to these rules.

**Rule 11.6. Discussion period.** The discussion period on any item shall not commence until all persons who have registered to testify during the testimony-registration period for the item have been afforded an opportunity to testify. During the discussion period, the Chair may invite a testifier, a resource person, or any other person to appear for the purpose of responding to questions. Such an appearance shall not re-open the testimony-registration period for that item.

**Rule 11.7. Reconvened meetings...** When a meeting has reconvened after being in recess, no one may register to testify on an item if the testimony-registration period has closed for that item.

**Rule 11.8. Respect during speaking.** When a member, a testifier, or another person is properly speaking during a meeting, no one shall engage in private discourse. All speakers during meetings shall direct their remarks only to the Chair, be recognized by the Chair before proceeding, confine their remarks to matters within the scope of the meeting agenda, and avoid abusive language.

**Rule 11.9. Chair's authority.** Nothing in this section shall diminish the responsibility or the authority of the Chair to maintain order and decorum.

**Rule 11.10. Public forum not created.** The conduct of meetings, including the receipt of testimony or presentations, shall not constitute the creation of a public forum.

## **SECTION 12. COMMISSION TRAVEL.**

**Rule 12.1. Commission Chair's prior approval required.** All expenditures from the accounts shall require the prior approval of the Commission Chair or a representative designated for such purpose.

**Rule 12.2. Report required.** The Commission Chair shall require a written report, as the Chair deems appropriate, from any officer or employee who expends public funds on off-island travel. Unless specifically required by the Commission Chair, this requirement shall not apply to travel required to attend a Commission, committee, or subcommittee meeting, or to travel required between a Commission member's residence and the meeting place for a scheduled meeting.

## **SECTION 13. MEETINGS BY VIDEOCONFERENCE.**

**Rule 13.1. Authorized.** Meetings by videoconference shall be held in accordance with Section 92-3.5 of the Hawai'i Revised Statutes and these rules.

**Rule 13.2. Definition.** A meeting by videoconference is a meeting in which one or more members participate in the meeting by means of a system of audio and visual interaction.

**Rule 13.3. Reasonable necessity for meeting by videoconference.** The Chair may authorize a meeting by videoconference when the Chair finds that it is reasonably necessary to do so; provided, that an adequate system of audio and visual interaction is readily available for use and that the expenses and administrative burden of conducting such a meeting are not unreasonable; and further provided, that the Commission Chair provides written approval at least ten calendar days prior to the meeting.

**Rule 13.4. Agenda.** The meeting agenda shall be posted at each site at which a member will be participating in the meeting at the same time that the agenda is posted elsewhere.

**Rule 13.5. Testimony.** Each site at which a member will be participating in the meeting shall be open to the public during the meeting. At each site, oral testimony shall be accepted pursuant to Rule 11.2. Written testimony for a meeting

by videoconference must be received by the Commission staff at least seventy-two hours prior to the meeting to ensure its distribution.

**Rule 13.6. Failure of system of audio and visual interaction.** A meeting by videoconference shall adjourn immediately if the system of audio and visual interaction fails to allow adequate audio and visual communication. In such an instance, the meeting shall adjourn irrevocably and in its entirety, even if there are enough remaining members in communication who would otherwise constitute a quorum.

**Rule 13.7. Requirement of audio and visual interaction.** A meeting shall not be conducted by telephone or other means in which audio interaction is not accompanied by visual interaction. Oral testimony by telephone or other means in which audio interaction is not accompanied by simultaneous visual interaction shall not be accepted. Nonetheless, the Chair may permit participation in a meeting by non-member resource persons by telephone or other means of audio interaction even without accompanying visual interaction; provided, that such participation shall not be permitted during an executive session.

## **SECTION 14. (RESERVED)**

**From:** Rod Antone  
**To:** Lisa Kahuhu  
**CC:** Mike Molina  
**Date:** 5/19/2011 3:47 PM  
**Subject:** please review the Charter Commission press release and provide corrections if necessary

The Maui Charter Commission will be accepting public testimony for charter amendment proposals at noon on May 23.

This is the second of a series of meetings held by the new 2011 Maui County Charter Commission. It is during these meetings that the public is urged to submit proposed changes to the County Charter.

Some examples of proposed changes which became actual amendments include the creation of the County Department of Transportation and the splitting of the Department of Public Works and the Department of Environmental Management.

Other proposals such as changing Council term limits from four years to two years did not pass but can be brought up again this year.

"This is a unique opportunity for everyday citizens to initiate real change in government," said newly appointed Charter Commission Chairman Josh Stone. "All submitted proposals will be acknowledged and addressed. We want the people of Maui County to know we are listening to them."

These meetings are also a good chance for the public to meet and greet new Charter Commission members. Attached to this press release are the bios and pictures of most of the new members.

Those interested in submitting a proposal may do so by sending it to:

Charter Commission  
c/o Department of the Corporation Counsel  
200 S. High Street  
Wailuku, HI 96793

Proposals may also be submitted via email at [Charter.commission@co.maui.hi.us](mailto:Charter.commission@co.maui.hi.us). Past minutes and agendas of the commission may also be viewed on their County website at <http://www.co.maui.hi.us/index.aspx?NID=1791>

For more information about submitting proposals or the Charter Commission itself please call Corporation Counsel at 270-7742.

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052311 - Item No. IV.B. page 1 of 1

How I would handle the ad copy:

Every ten years Maui County takes an extra step to assure our Democracy is in good shape. While we watch people around the world taking to streets to challenge the way their governments function, Maui County residents are offered a formal, orderly opportunity to affect the way their local government works, and to assure that it works for them.

Earlier this year Mayor Alan Arakawa appointed and the County Council confirmed a group of eleven community leaders and tasked them to review our County Charter and propose amendments so that Maui County's operations will be fairer, more efficient, and more open to the whole community. This Charter Commission has until next year to complete its study and make its recommendations to Maui County voters in the next election.

The key point is that, ultimately, it will be the voters who will decide the overcome of the commission's recommendations.

This commission is remarkable in the balance it represents: a college dean, a retired judge, a business man, a sociologist. They represent just about every major ethnic, cultural and geographical category in our diverse tri-isle community and a wide variety of political perspectives.

The commission's first task is to listen to the concerns of Maui County residents about the way our local government functions and to address those concerns, when possible, by means of adjustments to the County Charter.

The Charter is the "organic" document of the County government, the foundation that sets the structure of government we have today. It is often referred to as the County's "constitution." Previous Charter Commissions have adjusted this structure by creating new departments, limiting or adding to the powers of the Mayor, and adjusting the way we elect our County Council.

The Commission will be holding a variety of public hearings throughout Maui County in June and July to give you an opportunity to speak to what needs to change in order to make our government work better. This is your chance to speak up. The hearings will be held ...



LIST OF PUBLIC HEARING DATES  
FOR THE CHARTER COMMISSION 2011-2012  
(subject to change)

Day of the Week	Date	Time	Place
Wednesday	6/8/2011	6:30 p.m.	Mayor Hannibal Tavares Community Center, 91 Pukalani Street, Pukalani, Hawaii
Monday	6/13/2011	6:30 p.m.	Kahului Community Center 275 Uhu Street Kahului, Hawaii
Tuesday	6/21/2011	6:30 p.m.	Paia Community Center, Hana Highway, Paia, Hawaii
Tuesday	6/28/2011	6:30 p.m.	Lahaina Civic Center 1840 Honoapiilani Hwy Lahaina, Hawaii
Tuesday	7/5/2011	6:30 p.m.	Helene Hall, 150 Keawa Place, Hana, Hawaii
Monday	7/11/2011	6:30 p.m.	Mitchell Pau'ole Center, 90 Ainoa Street Kaunakakai, Hawaii
Wednesday	7/20/2011	6:30 p.m.	Lanai Community Center, Eighth Street and Lanai Ave. Lanai City, Lanai, Hawaii
Monday	7/25/2011	6:30 p.m.	Kihei Community Center, 303 E. Lipoa Street Kihei, Hawaii

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**CHARTER COMMISSION  
COMMISSION ANALYST**

**Type of Position: Part-time, independent contractor (Present through June 30, 2012)**

**Requirements: State of Hawaii General Excise Tax License**

**Duties and Responsibilities**

1. Attend Charter Commission Meetings
2. Perform a variety of research work for the Commission
3. Compile research work for commission
4. Interview sources when necessary for research purposes
5. Work independently with minimal supervision
6. Prepare clear, concise, and comprehensive reports and recommendations for the Commission
7. Work with Commission members to address any questions/concerns
8. Prepare and write the draft report of the Commission's findings
9. Work with Corporation Counsel to prepare wording for ballot amendments
10. Assist the Commission Chair and Clerk in preparation of agenda items
11. Prepare the final report for the Commission's review and adoption

## **CHARTER COMMISSION SECRETARY**

**Type of Position: Part-time independent contractor (Present through June 30, 2012)**

Requirements: State of Hawaii General Excise Tax License

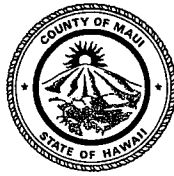
### **Duties And Responsibilities**

1. Review communications, reports, and other material received by the Commission or its Chair, prepare digests, and compile necessary information, and recommend disposition for Commission action.
2. Attend all Commission meetings and read matters to the Commission, as directed by the Chair.
3. Transmit upon receipt all communications or other matters to the proper parties.
4. Coordinate all travel arrangements for Commission members and staff; coordinate and secure public facility reservations; preparation and processing of all Commission related press releases.
5. Create and maintain listings of (1) all items and communications received and disseminated by the Commission; and (2) matters set for consideration on particular dates. Prepare, file and post Commission agendas within 7 days of the meeting date.
6. Have charge of all records of the Commission, including the minutes of the Commission, communications, and other business matters transmitted to the Commission. Records must be kept in an organized fashion at all times.
7. Serve in all matters as Clerk of the Commission and to perform or coordinate all clerical functions as the Chair or Commission shall from time to time direct.
8. Assist the Commission in preparing publication of proposed charter amendments, form of the ballot, including such explanatory information as may be necessary.
9. Assist the Commission Chair in coordinating all intergovernmental meetings, functions and activities.
10. Must have use of own workspace and necessary clerical equipment. Office supplies will be provided.

061311 - Reg- Item No. IV.B.

ALAN M. ARAKAWA  
Mayor

KEITH A. REGAN  
Managing Director



Joshua A. Stone, Chair  
Wayne N. Hedani, Vice Chair  
Artemio C. Baxa  
Stephanie S. Crivello  
David P. DeLeon  
Frank R. DeRego, Jr.  
Clifford P. Hashimoto  
Susan A. Moikeha  
Linda Kay Okamoto  
Yuki Lei Sugimura  
Flo V. Wiger

CHARTER COMMISSION  
COUNTY OF MAUI  
C/O DEPARTMENT OF THE CORPORATION COUNSEL  
200 SOUTH HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
Email: Charter.commission@co.maui.hi.us

June 13, 2011

Honorable Danny A. Mateo, Council Chair  
Maui County Council  
200 S. High Street  
Wailuku, Maui, Hawaii 96793

RE: CHARTER AMENDMENT PROCESS

Dear Council Chair Mateo:

Thank you very much for taking the time to meet with Yuki Lei and myself the other day. It was a pleasure to discuss a coordinated effort between the County Council and the Charter Commission during this exciting period.

I am glad you agree that we should coordinate the Charter amendment process during the Charter Commission period as to avoid confusion with the voters due to potentially ambiguous options. My understanding from our discussion was that you, as Council Chair, would recommend to the Council that all resolutions to the Charter proposed this year would be directed to the Charter Commission as an identical proposal. The Charter Commission would in turn review the proposal in a timely manner and decide either to accept the proposal as an active amendment to be worked on by the Commission, or inform the Council Member that the Charter Commission would not work on the proposed amendment. If the Charter Commission decides to actively work on the proposed amendment, then the Council Member would relinquish the resolution in Council. However, if the Charter Commission decides not to work on the proposed resolution, then the Council Member would continue forward with their resolution in Council. Please let me know if this is not your understanding.

It was also good to put to rest any misunderstandings created by the media concerning the Charter Commission's view on the County

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Honorable Danny A. Mateo  
June 6, 2011  
Page 2

Council's amendment powers. The Charter Commission members have much respect for the County Council and their duties, and we all appreciate the Council's efforts in working diligently with us during this process. Thank you very much for your time.

Mahalo,

JOSHUA A. STONE, Chair  
Chairman, Charter Commission

cc: Charter Commission members

## **Amendment Proposal Review Structure:**

### **Proposals are presented.**

1. During the time of presentation the proposal is not debated.
2. All proposals are presented on the NEXT agenda for the next normal meeting

### **Proposals on the Agenda.**

1. First order of dealing with the proposal is to classify it. As per Frank's suggestion, classify the section under the Charter that the proposal would be labeled. Also, name the proposal so the public has a clear understanding of its intent.
2. Review the proposal to determine if it is to be a "priority" proposal, meaning one in which the commission will review further. If it is a priority proposal put it on the priority list and begin initial debate of the proposal after all proposals on the agenda have been labeled and prioritized.

### **Continuation of Proposal.**

1. Keep list of "Priority Proposals" and "All Proposals" on the agenda as Old Business

## **Proposed Amendment**

### **CREATE SINGLE-MEMBER DISTRICTS AND LANAI AND MOLOKAI ISLAND BOARDS**

Submitted by David DeLeon, June 13, 2011

The current Council election system is broken and needs to be fixed:

- History shows that the process creates an environment in which council incumbents from Lanai and Molokai are nearly invulnerable to challenge, and some Maui incumbents do not face meaningful competition. Each election some seats – and usually the Lanai and Molokai seats – are not challenged.
- Process requires challengers to run Countywide, on three islands. Lanai and Molokai challengers lack the pre-requisite Maui base to have a chance at success, which explains why when incumbents run, Lanai and Molokai challengers rarely materialize.
- Each election many of thousands of votes in Council races are not exercised – some voters don't understand that they are expected to vote in all nine contests. Others believe that it is not pono to vote outside of their district or their island. Many voters don't understand or do not agree with the current elective process. An opinion poll showed a clear majority favored changing the current system.
- When challenged, council incumbents frequently lose in their own residency districts but win countywide, because they have countywide name recognition. Challengers usually don't.
- Maui elects all Council Members. Lanai and Molokai votes amount to a small percentage of the total.
- Lanai and Molokai residents lack any elective leverage over who represents them.
- Extremely disproportional. Lanai, Molokai, and Hana have 33 percent of the Council seats while representing about 7 percent of the County's total population.

How to fix the problem:

- 1) Equally proportioned, single-member Council Districts.
  - Creates manageable, walkable districts, that will allow opportunities for challengers.
  - Will give Lanai and Molokai residents true elective leverage, a say in who represents them
  - Americans understand single member districts – ends the current confusion
  - Council Members have to pay attention to their districts
  - Creates balanced representation
  - Ideally, Lanai and Molokai would not be assigned to the same Council District because of the difficult logistics involved in representing a "sister" island

## 2) Create elected Island Boards on Molokai and Lanai

This idea grew out of the statement floriger made at her confirmation hearing: find a way to include the small communities. Looking for examples on the mainland, the obvious answer was townships and village governments. On the mainland these bodies are usually incorporated, meaning that they can raise taxes, operate a budget, hire staff. I also looked to similar island situations, like the Florida Keys (Monroe County) and the San Juan Islands, which are one county in Washington State. The Keys have a number of incorporated towns and cities. Only the main urban center Friday Harbor is incorporated in the San Juans. San Juan County just recently re-organized its elective system into proportionate, equal sized districts.

The idea of creating incorporated townships on Lanai and Molokai seemed a stretch too far economically. They depend on Maui tax dollars to pay for the County services they now receive, so it seems unrealistic to expect them to start raising their own tax revenues. The West Maui Working Group had raised the idea of electing the islands' Planning Commissions. That seemed like a start, but still too short of the goal. The goal is to give those islands greater say over their futures and the ability to elect their island leaders.

Island Boards (for want of a better name) would:

- be elected by the residents of the island
- Could be just five or seven, not necessarily nine members
- Would replace the Planning Commission, and would take up the same responsibilities as the commission, plus zoning and land use variance approvals on their island, taking over an authority that now rests with the County Council.
- Would act as the official voice of their community, at the County, State, and National levels
- Both islands would also continue to be part of council districts. A Council Member elected by their district would represent them at the Council.
- The Island Boards would be part of Maui County, under its charter, in a manner similar to the way Neighborhood Boards on Oahu are incorporated in the City and County's charter. The difference would be these bodies would have actual authority; the Neighborhood Boards are advisory.

### Benefits of Island Boards

- Would give meaning to island votes. The people would be able to elect their leaders



- Would give a place for the island's voice. When someone, say, proposes windmills to cover a portion of the island, the Island Board would have a say and would be able to represent the interests of their island at all levels.
- Would meet the one person, one vote test to true representation.
- Would allow for a truly elected representative to present the island's perspective at all levels of government
- Would address Lanai's and Molokai's natural isolation by bringing government home