

Charter commission testimony
Thomas Croly

I would like to begin by making the suggestion that this commission make a concentrated effort to educate the public about the charter. The average Maui citizen is probably not familiar with the County's charter and how it sets up the structure and functions of our Government.

If this commission simply holds meetings allowing for public to raise concerns to be considered for charter amendments, it will be engaging only a very small fraction of our community. If, and when charter amendments appear on a ballot many voters will have no idea how these items were derived and more importantly what they apply to.

As to the issues for this charter to consider, I would expect that there is already a growing list. And I do not expect that this charter will find total agreement about the importance of these issues. But I do expect is that this commission will be responsible to consider the need for any proposed change in our charter. To that, I would say that an issue that has been as controversial and as hotly debated as the way we structure and elect our council members has to find itself at the top of any list for consideration.

It would be an oversight of this commission to ignore what has transpired over the past several years concerning the residency requirements of our council members. I think are many ideas that might work better than our current system that has proven it's dysfunction over the past 30 years. So I do expect a proposal from this commission that would address some kind of alternate elective process for our County council.

As for new ideas for this commission to consider I do have one.

Anyone who has ever served on a jury understands the role of the alternate jurors. Anyone who has ever served on a board or commission know the frustration of achieving quorum and sometime more importantly having enough members present at a meeting to actually achieve enough votes to take action. To address these problems I would like to suggest that our charter be amended to include the appointment of "alternate members" who would initially serve the role similar to that of an alternate juror. When a member of the commission is absent, or perhaps has to leave a meeting before the commission has finished it's agenda for the day, the alternate would take their place.

This alternate member would also take their place as a regular member as soon as the first vacancy for a regular member becomes available. This would allow the board or commission to function better during the 90 to 180 days between the loss of a member and the appointment of a new member by the Mayor and approval by the council.

Adding an alternate position to each of our critical boards and commissions would help make them more productive.

08/15/11 - Public Testimony - Thomas Croly

James R. Smith

August 15, 2011
Members of the Maui County Charter Commission
200 S. High Street
Wailuku, Hawaii 96793

Subject: Political reality as it affects your study of
the Maui County Charter

Members,

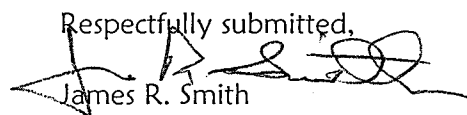
On January 25, 2011, during testimony given to you, I made reference to Chairperson Stone's commentary as it appeared in the July 21, 2011 edition of the Maui Weekly. The Chair interrupted my testimony with the claim that I made a mistake, though he knew that his name appeared as its author. (See attachment) Commissioner Deleon stated to the chair that he provided the commentary to the chair and that the chair signed off on it. Deleon explained that prior to submission of this commentary to the Chair he provided a copy to another member of the commission for review. I was not included in this exchange.

The Chair did not describe the circumstance the understanding that made his comment true. The political reality is this: the Mayor's appointed Chair of this Commission accused a citizen of providing false testimony. Those attending the meeting, viewing it, or hearing of it, have no reason to doubt that the chair's comment was true.

The next morning, July 26, 2011, five days before the end of my regular pay period, the company's financial officer informed me I was discharged, effective immediately. My former employer's business and programs rely in part upon public funding. The officer did not clarify the reason for discharge other than to say work would be out-sourced. Circumstance suggests a correlation, but correlation is not causation.

I submit that the treatment I received is inconsistent with the high standards that should guide all government agencies and officials; that this Chair may subject other citizens to certain unacceptable risk through similar involvement with a testimony he finds uncomfortable. He should relinquish the chair. If there is a repetition I ask that he be removed from his position by this commission.

Respectfully submitted,


James R. Smith

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Commentary

Charter Review Commission

Charter commission requests input from the public.

Josh Stone · Maui County Charter Commission Chair

POSTED: July 21, 2011

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All over the Middle East right now, people are fighting and dying. We sit in apt amazement as unarmed protestors return to the streets, day after day, despite the real threat of death. What are they marching for? They are demanding a say in how they are governed. They are demanding a voice.

Here on quiet Maui, that same type exercise is also playing out. But instead of taking to the barricades, we have an organized, civil process to review how our county governance—the one closest to the people—is working and how to fix problems our community identifies. This process is called the county Charter Review Commission and happens every ten years. The commission is a panel of 11 citizens nominated by the mayor and approved by the County Council to meet with the public, to study the issues raised, and propose amendments to our structure of government as established by our County Charter.

The charter is the organic document of the county, something like a county constitution. It establishes the rules that the county operates from. It sets up how we elect our leaders, how we write our budgets, it establishes the county departments and what they are supposed to do, and it establishes that there will be public audit—done by the voters—every ten years of this structure.

This is the most important point. The commission only proposes changes. You, the voter, will determine whether the commission's proposed amendments get adopted or not. The key step in that process is that the commission be given good input on what the public wants to happen, to what needs to change. To get a read on that, the commission is holding hearings throughout the county at the beginning of its process to hear what the community is thinking.

The last of this round of those hearings will be held at the Kihei Community Center on Monday, July 25, at 6:30 p.m. When the commission comes back at the end of the year, it will be bringing proposals with it to get your opinion about them. But if you want to get in on the front end of this process, the Monday hearing is a great place to start.

Why should you be concerned about how this document is written? I guess that depends on whether you think everything is fine with the county government. If you have issues, let's talk.

For further information about the Charter Commission, see www.Mauicounty.gov and look for the button under the waterfall.

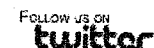
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Maui County Charter

Recommendations and Positions of the Tri-Isle Main Street Resource Center.

1. Position on District Voting (See testimony to Council 6/2010 & Charter Commission 7/25/11)

Other recommendations and positions coming in from our Tri-Isle Main Street Towns.

- * Liquor Commission, Consolidate the Adjudication Division....NO
Leave it Alone, it is operating fine as is.
- * County Council Terms 2 years to 4 years....Yes

Discussion ensued...result The only benefit by keeping it the same is that you have an opportunity to replace a Councilmember within 2 years. While this has been viewed as the best way to replace a non-responsive legislator, and although retaining the present terms are acceptable to some in our organization, the consensus of our small town communities is to support the change. The prevailing reasons are based on fact and observation. There appears to be a learning curb and it takes most new Councilmembers about two years to learn the job, understand the critical issues, deal with the County budget, acquaint themselves with their constituency and the broader Maui County community.

After the 1st year of their term they start positioning themselves to run for office again. They are in fact human and do not want to become embroiled in controversial issues and the pressures that come with that reality. Due to time constraints they may not have the full opportunity to familiarize themselves with the complexities of the issues, nor the opportunity to go out into the community to get broad-based grassroots viewpoints and input to help them make informed decisions. They need the time to fully access their positions, discuss alternatives and/or consider appropriate compromise. This affords them the confidence to make the right calls, to take action on issues that may not be popular but in the best interest of the total population; or rooted in fact based and rooted by long term support from diverse groups that make decision making justifiable and defensible. This eliminates the need to test the winds, sit on the fence or due to their time constraints, may not offer time or opportunities to fairly weigh the pros and cons, hear from those directly impacted in order to make an informed decision. They need to balance their work load and given the tremendous growth in our County, the desire to gain the support of the masses and the pressures of fundraising you can see why this is becoming increasingly more difficult. The TIMSRC Board did however note that this should be accompanied by support for Staggered and Term Limitations....Two, (Four Year) Terms then out.

- * Water Board change from an appointed Board by the Mayor, approved by the Council to an Autonomous Body was given serious consideration and we discussed the pros and cons of both. Given the concerns of our Small Towns in the UpCountry area, and the limited public dollars

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available, the consensus of the Tri-Isle Main Street Resource Center is to spend the money in the Water System rather than in elections. This is however contingent upon the Mayor and Council giving the appointed Board the authority and budget needed so that they are all on the same page. This was in keeping with prior positions of our small towns and deemed preferable to the proposed alternative of an autonomous elected Board. The problem with this, is when a Board member resigns or leaves the Board the cost of providing for an election to fill the position will prove to be cost prohibitive. Given our organization's support for Water to remain a priority and that policies not be in conflict with our Community Plans and that both the Administrative and legislative bodies be held accountable for holding transparent discussions by approving qualified, dedicated members to serve on the Water Board . We prefer to see the money spent in an improved water system and therefore support an appointed Water Board.

* Establish an Office of the County Auditor..... Yes

It is part of the checks and balances. It should not be associated with political favors or to exercise political retribution. They feel it necessary to put in place safeguards to ensure the highest ethical standards.

* Council Approval of the Planning DirectorNO

* Council Approval of the Finance Director.....NO

The consensus opinion on the above two items is that the County has to be run like a business. The Mayor is elected and expected to select his own management team. However, a recommendation is to consider a Committee to advise on qualified appointments or to direct changes. This committee should represent a good cross-section of the community. This is better than a Buddy/Buddy system. The jobs should come with specific performance measures and reporting accountability.

COUNTY CHARTER SUGGESTED CHANGES

ARTICLE 3 – COUNTY COUNCIL

S3-1 Composition:

NB: A Single member District electoral system, comprising ELEVEN (11) separate and distinct Districts, is preferable and NEEDS to replace this entire Section. Nevertheless, the changes incorporated below are also suggested for alteration of current Districts!

East Maui – Change boundaries to place Huelo Precinct in Ha'iku-Pa'ia-Makawao.

S3-2 Election and Terms:

1. Institute Instant Runoff Voting (IRV) and/or Preferential Voting – Thus eliminates need for special and general elections. Held only during general election in November.

Keep the two year terms and five term limit

S3-3 Qualifications: Must be a resident of the district for 90 days prior to filing of nomination papers.

ARTICLE 8 – COUNTY DEPARTMENTS

CHAPTER 8. DEPARTMENT OF PLANNING

S8-8.4 DELETE: “4. Act as the authority... Coastal Zone Management law.”

CHAPTER 11. DEPARTMENT OF WATER SUPPLY

S8-11.2.1 ADD: “and acquire, through purchase, eminent domain, condemnation and/or any other legal mechanism, ALL ground and surface sources of water used for residential and commercial consumption in the County of Maui.

ARTICLE 10 – CODE OF ETHICS

S10-4.2.a CHANGE: “No former.... within a period of **TWO (2) YEARS** after...”

S10-4.2.b CHANGE: “No former.... within a period of **TWO (2) YEARS** after...”

ARTICLE 11 – INITIATIVE

S11-3.2 CHANGE: “Such petitions must be signed..... **FIVE percent (5%)** of the election.”

ARTICLE 14 – CHARTER AMENDMENT

S14-1.2 CHANGE: By petition presented..... **FIVE PERCENT (5%)** of the ... counsel.”

S14-1.3 CHANGE: By petition presented.....**FIVE PERCENT (5%)** of the ...counsel.”

S14-2.2 ADD: “The county clerk.... forty-five (45) days ,**AND AT LEAST TWO OTHER TIMES** prior to.... election.”

S14-3 ADD: “Mandatory Review..... The commission shall publish.... days... election, “**AND AT LEAST TWO OTHER TIMES** in the newspaper.... (Amended 1992)”

Submitted by:

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08/15/11 - Public Testimony - Nikhilananda