

P.O. BOX 123  
Kaunakakai, HI 96748

August 25, 2011

To: Maui County Charter Commission  
Attention: Mr. Josh Stone, Chair  
From: Mr. Zachary Helm  
Subject: Charter Proposal - Appointment of Department Directors

The process of appointing Maui County directors by the authority of a board of commission is a fair process of selecting department heads of Maui County. According to the present County Charter, a nine-member commission appoints the following directors:

- Police Commission - Chief of Police
- Civil Service Commission - Director of Personnel
- Liquor Control Commission - Director, Liquor Control Department
- Fire and Public Safety Commission - Fire Chief

I propose to retain the above-mentioned provisions of appointing department heads by a nine-member commission that is appointed by the Mayor and approved by the Council.

With regards to the other departments, the Mayor presently appoints the directors and deputy directors. I propose to extend this process to include a selection committee whose purpose is to recommend to the Mayor the most qualified applicant. This selection committee shall be appointed by the Mayor and approved by the Council. The committee will screen all applications and submit its recommendation to the Mayor for his or her final appointment for the Council's approval. One of the criteria to qualify as an applicant for director or deputy director is to have significant experience and/or educational background. In my opinion, this process excludes the strictly "political" appointment.

It is my hope you will consider this proposal as a step toward attaining "political purity." The appointment of qualified people to the position will restore confidence, integrity, and creditability to our government process and will help improve operations and functionality of the departments.

Thank you for your time. Please consider these proposals for your review and submission for placement on the 2012 Charter amendments' ballot.

Sincerely,

Zachary Helm

091211 - Item No. II. A Pg. 1 of 1



**BOARD OF WATER SUPPLY**

**COUNTY OF MAUI**

200 SOUTH HIGH STREET

WAILUKU, MAUI, HAWAII 96793-2155

TELEPHONE (808) 270-7816 • FAX (808) 270-7951 • [www.mauewater.org](http://www.mauewater.org)

August 29, 2011

Mr. Joshua Stone, Chair  
Maui County Charter Commission  
Department of the Corporation Counsel  
200 South High Street, 3<sup>rd</sup> Floor  
Wailuku, HI 96793

RECEIVED  
CORPORATION COUNSEL  
2011 AUG 29 AM 10:08

Dear Chair Stone:

**SUBJECT: REQUEST FOR SUBMITTAL OF PROPOSED CHARTER  
AMENDMENTS AND/OR RECOMMENDATIONS**

Thank you for your memorandum of May 10, 2011 requesting our recommendations for proposed Charter amendments to your commission by June 30, 2011.

Unfortunately, the Board of Water Supply (the Board) was not able to meet your deadline as this matter was placed on our June 23, 2011 meeting agenda. The Board respectfully requests that you still accept our recommendations for your commission's consideration as a proposed charter amendment.

The Board recommends that the Maui County Charter Commission consider a proposal to amend the current charter relating to the Department of Water Supply and the Board of Water Supply. This proposed amendment would allow the department and the board to operate as a semi-autonomous business in a self-sufficient and self-sustaining manner based somewhat on the model of the Honolulu Board of Water Supply. This proposed amendment would give the Board of Water Supply the authority and power to set rates, adopt regulations, make decisions regarding the development of water supplies, and evaluate and hire the Director of the Department of Water Supply. We strongly feel that having a semi-autonomous water board would promote greater continuity and thus permit more long-term planning.

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*"By Water All Things Find Life"*



Joshua Stone, Chair  
Maui County Charter Commission  
Page 2

The proposed charter language changes relating to the Department of Water Supply and the Board of Water Supply are attached for your review.

On behalf of the members of the Board of Water Supply, I thank you for giving us an opportunity to participate in this process.

Sincerely,

A handwritten signature in black ink, appearing to read 'Phyllis Robinson', with a stylized flourish at the end.

Phyllis Robinson  
Chair

attachments

xc: Dave Taylor, Director of Water Supply  
Paul J. Meyer, Deputy Director of Water Supply  
Edward S. Kushi, Jr., First Deputy Corporation Counsel  
Board of Water Supply members



## CHAPTER 11 DEPARTMENT OF WATER SUPPLY

**Section 8-11.1. Organization.** There shall be a department of water supply consisting of a board of water supply, a director, a deputy director and the necessary staff.

**Section 8-11.2. Functions of the Department.**

1. [The department of water supply shall manage and operate all] All water systems owned and operated by the county[.], including all county water rights and water sources, together with all material, supplies and equipment and all real and personal property used in connection with such water systems shall be under the control of the department.

2. [In order to protect and manage the water resources in the county, the department of water supply shall make studies, surveys, and investigations relating to the locations and sources of water supply within the county, the amounts available for current and prospective uses, the water resources which may be available for such uses and the maximum sustainable yield of such sources.] The department shall have full and complete authority to manage, control and operate water systems and properties used in connection with such water systems. The department shall also have the authority to coordinate private water systems in order to promote the policies stated in the Hawai'i State Constitution and other applicable state laws, while also respecting existing private property rights.

3. The department [of water supply] shall implement the county's [general plan] General Plan and community plans in the administration of its affairs. The department [of water supply] shall prepare [and annually update a long-range capital improvement plan and an updated] a water use and development plan[, which] for each community plan district or departmental water system district, which shall be consistent with land-use and zoning classification, the county's general plan and community plans, and which shall include an inventory of existing water uses and sustainable yields, projected water demand, proposed public and private water system improvements and water source developments (along with alternative options), storage, and costs. The department shall also prepare a long-range capital improvement plan designed to ensure proper maintenance of existing public water systems and to increase the publicly-owned and publicly-maintained water systems and infrastructure. The water use and development plans, and any updates thereof, for each community plan district or departmental water system district shall be subject to the approval of the county council, as provided by law.

4. The county council shall have the authority to issue general obligation bonds for the benefit of the department and may provide capital appropriations for the department.

**Section 8-11.3. Board of Water Supply.** The board of water supply shall consist of nine members, who shall be appointed by the mayor with the approval of the council. The director of the department of planning and the director of the department of public works [and environmental management] shall be non-voting ex-officio members of the board of water supply. [The board of water supply shall act as advisor to the director of the



department of water supply, the mayor and the council in all matters concerning the county's water system.] The appointed members service, terms of office and other related conditions shall be subject to the provisions of Section 13-2 of this charter, provided that neither the planning director nor the director of public works shall serve as the board's chair or vice-chair.

**Section 8-11.4. Powers, Duties and Functions.** The board of water supply shall:

[1. Review and submit to the mayor the department of water supply's request for an annual appropriation for operations and capital improvements.

2. Recommend the establishment and adjustment of rates and charges for furnishing water; such rates and charges shall be submitted to the mayor for review and approval. If approved by the mayor, proposed rates and charges shall be submitted to the council for enactment by ordinance.

3.]

1. Appoint, evaluate annually, and may remove the director of the department of water supply.

2. Have the authority to create and abolish positions.

3. Adopt rules and regulations which shall have the force and effect of law relating to the management, control, operation, preservation and protection of the water works of the county, as well as the establishment and adjustment of rates and charges for furnishing water.

4. Adopt an annual operating and capital budget.

5. Have authority to issue revenue bonds under the name of the board of water supply.

6. Have authority to acquire by eminent domain, purchase, lease or otherwise, and to sell, lease, or otherwise convey real property in the name of the board of water supply.

7. Perform such other duties and function as shall be prescribed by law.

**Section 8-11.5. Director [and Deputy Director] of Water Supply.** The director of the department of water supply shall be appointed [by the mayor with the approval of the council, and may be removed by the mayor with the approval of the council.] and evaluated annually by the board of water supply, and may be removed by the board of water supply. The director [of the department of water supply] shall have a minimum of [five] three years of experience in [a management] an administrative capacity, either in public service or private business, or both. [The deputy director of the department of water supply shall be appointed by the mayor and may be removed by the mayor.] The director or the deputy director [of the department of water supply] shall be a registered engineer.

**Section 8-11.6. Powers, Duties and Functions.** The director [of the department of water supply] shall:

1. Recommend the rules and regulations for adoption by the board.

[1.] 2. Administer the affairs of the department [of water supply], including the rules and regulations adopted by the board and be responsible for the day-to-day management and control of all water systems of the county.



**[2.]** 3. Prepare and implement long-range capital improvement plans [and up-to-date water use and development plans for review by the board of water supply and enactment by the council by ordinance.], which have been adopted by the board.

**[3.]** Implement enacted long-range capital improvement plans and water use and development plans.

**4.]** 4. Appoint a deputy director.

5. Prepare an annual operating and capital budget for the [board of water supply's] board's review [and submit the department of water supply's request for an annual appropriation to the mayor.] and approval.

6. Coordinate the affairs of the department with the mayor and the county council and submit an annual report concerning the department to the mayor and the council.

**[5.]** 7. Perform such other duties and functions as shall be prescribed by law.

**Section 8-11.7. Revenues.** The revenues of the department **[of water supply]** shall be kept in a separate fund and shall be such as to make the department **[of water supply]** self-supporting**[, provided that the council may issue general obligation bonds on behalf of the department of water supply and may provide capital improvement appropriations for the department of water supply].**

**Section 8-11.8. Independent Audit and Council Oversight.** The accounts, financial status, and management operation of the department shall be examined and audited annually by a certified public accountant whose services shall be contracted for by the council and whose fees shall be paid by the council. After the audit is prepared, its results shall be made public, and the council shall review it and make recommendations for any changes that may be appropriate.

**Section 8-11.9. Legal Counsel.** The corporation counsel of the county shall be the legal adviser of the department and shall institute and defend, as the board may require, any and all actions involving matters under the jurisdiction of the department. The corporation counsel may, with the prior approval of the board, compromise, settle or dismiss any claim or litigation, for or against the department.

The compensation for such legal work shall be as agreed upon by the board and the council and shall be paid from the revenues of the department.

The department, with the board's prior approval, may employ special counsel to act as its legal advisor, or to represent the department in any litigation to which the department is a party. Section 3-6.6 of this charter shall not apply regarding appointment of special counsel.

**Section 8-11-10. Applicability of Charter Provisions.** Except as otherwise provided, no provision of this charter, other than those set forth in this article of the charter, shall be applicable to the department.

**PROPOSED CHARTER AMENDMENTS**  
**Proposed by Commission Member David DeLeon**  
**August 31, 2011**

**1. Establishing an Apportionment Commission to create a new nine-district Council Election system based on equally proportioned districts.**

Justification has already been submitted (see attached). This would replace the language in Section 3.1 that establishes the current at-large election system composed of nine equally proportioned single-member districts.

**2. Create Island Boards for the Islands of Lanai and Molokai.**

These would be elected bodies of five (Lanai) to seven (Molokai) members who would (1) replace and would take on the responsibilities of the appointed planning commissions (2) and in addition have authority over all other land use approvals on the island, including zoning and variances. These bodies would also (3) be the official voice of their communities, at the County, State and national levels. An identical proposal was made to the 1992 Charter Commission by then-Molokai community leader Sara Sykes. (See attached.)

**3. Give the Mayor the authority to approve the appointment of the Fire Chief.**

The Mayor is supposed to have authority over all the departments of the County, but in reality that power exists in the departments where the Mayor directly appoints the director and only in theory in the four departments where the department heads are appointed exclusively by commissions. These commission-appointed directors owe no loyalty to the Mayor and there have been examples of these directors resisting administrative direction from Mayors. The appointment of the Liquor Control Director is controlled by state law and outside of this conversation. The Police and Personnel Departments are also special cases, in which protection against undue political influence is paramount. But the isolation of the Fire Chief's appointment can not be similarly justified. It can be argued that the commission-based appointment process results in a more objectively selection and perhaps a more highly qualified director. This proposal would keep that value by having the commission continue its recruitment and selection role. The difference would be that the commission then make its recommendation for appointment to the Mayor. Mayoral appointment makes clear the line of authority while commission-nomination allows for a more objective, professional, less politically oriented appointment. In the case of a removal, the Mayor would initiate and the Commission would have to approve the request by a majority vote.

**4. Remove the Council's power to nominate and approve Board and Commission Members under 13.2-16 and 13.2-17.**

In apparent reaction to one administration's failure to make timely appointments to various boards and commissions, the Charter was amended so that the Council would have the power to nominate and approve board and commission members without the approval or participation by the Mayor when the Mayor fails



to act in a specified time. This is a highly unusual legislative power that can be readily abused. The roles of the administrative and legislative branches in the appointment process are clearly defined in the American form of Democracy: checks and balances; advise and consent. In this case, however, the Council is given the power to deny the Mayor's appointments without end, until the Mayor fails to appoint on time and then the Council can appoint someone of its own choosing. There is no check on a Council-appointment. There is no mechanism to assure that the best interests of the community are being served. The balance of power is out of alignment. The clear role of the administrator is to recruit and nominate qualified nominees to fill board vacancies. The clear role of the legislative body is to examine those nominations and either approve or deny them. It should not be to appoint. Disturbing that balance gives inappropriate power to the Council and leaves the process open to unchecked abuse and arbitrary use of that power, as Mayor Arakawa alluded to at our last meeting.

**5. Amend the Charter Commission Appointment Process, Sec. 14.3, so that it follows the time requirements for regular Maui County boards and commissions in Sec. 13.2 -16,**

There is no safeguard in the current Sec.14.3 to assure that a Charter Commission will be confirmed in a reasonable timeframe. A Council Committee Chair can choose to stall the confirmation of a Charter Commission for months, greatly limiting the commission's time to function. The procedure for regular Commission appointments is clearly set out in Sec. 13.2 -16 and should be used for this commission as well.

**6. Insert a declaration that Maui County is a Non-partisan Government.**

The far majority of Maui County voters do not identify with a political party. The Mayor and Council are elected in Non-partisan Elections. There should be a clear statement in the Charter that declares that Maui County is a Non-partisan government. Perhaps in Sec. 2.3 (not currently existing.)

**7. Remove Sec. 13.2, which requires that no more than a majority of the members of a board or commission can belong to the same political party.**

There is no requirement for candidates for Mayor or County Council to identify their party affiliation when running for office, but applicants to serve on County boards and commissions are required to identify their party affiliation, because this anachronism remains in the Charter. Many applicants for appointment, who are reluctant to fill out this line on the Board and Commission application form, however, must comply because this Charter provision makes it a requirement. The far majority of the applicants declare themselves as either Non-partisan or Independent, again indicating how far our community has moved away from the party-based politics of the past and how out of date this once meaningful requirement has become.

8. **Remove the requirement in Sec. 8.11 -5 that Director of Water Supply be confirmed by the County Council.**

This is another anachronism that dates back to one of the times the Department was given semi-autonomous status. Approval by the Council was seen as a way to balance out the Board of Water Supply's power by giving political oversight of director appointments. The Water Director is now appointed by the Mayor. There is no longer a reason for the Water Director to be singled out in this fashion. Why not the Public Works Director? Planning? Environmental Management? Parks? Etc.

9. **Require that the Police Commission hold public meetings in truly public venues in different parts of the County four times a year.**

The Police Commission is the public's connection to the Police Department. However, the commission does not really hold its meetings in a public place but instead holds them in the Chief's Office, in a locked down Police Headquarters, with very limited parking. The Commission needs to make a better effort to meet and hear the public and should hold at least four meetings annually in different parts of the County in truly public venues.

**An Proposal for Single Member Council Districts and Island Boards**  
***Proposal to allow Lanai and Molokai to elect their own leadership***  
**Offered by Charter Commissioner David DeLeon**  
August 31, 2011

In a democracy, how we select our leadership is a fundamental concern. If your community is represented by someone your community did not select – which frequently happens in Maui County – then you have a problem.

For decades Maui County residents have debated the best way to elect our County Council. The Maui County Charter Commission will be reviewing this issue again over the next year. The following is proposed to help move that debate along.

The typical American system of electing representatives to a legislative body like the County Council is to create equally proportioned, single-member districts. The voters of the district elect their council member who represents their interests at the County government. Simple and straightforward.

The typical American system also includes smaller governmental units under the County level: townships, cities, villages, etc. In Hawaii, counties are the lowest level. We lack the tradition of townships.

In apparent response to that, Maui County has developed a system which guarantees that residents of the smaller, isolated communities of Lanai, Molokai, and Hana serve on the nine-member council. To give Lanai (pop:3135) or Hana (pop:3136) their own Council Member in equally proportioned districts, the Council would have to have 50 members, an obvious non-starter. Another problem is the U.S. Constitutional requirement that legislative districts be distributed equally: one person, one vote.

Our current convoluted system evolved around these constraints. The current “at-large” elective system requires that Council candidates come from certain defined “residency districts” but allows that all nine members are elected “at-large”, that is, by all of the voters.

While this creative solution attempts to sidestep the constitutional issues, it does come with a number of serious flaws. This elective system creates a reality in which the Lanai and Molokai “representatives” are actually elected by Maui voters and not by the communities they represent. Those communities have no elective leverage over their council members.

The history of this system also shows that incumbent Lanai and Molokai Council Members are invulnerable to competition and regularly run unopposed. No regular Lanai or Molokai incumbent has ever been defeated. Without competition, they are in invulnerable to elective pressures, either from Maui residents or from their home island. This is never healthy in a democracy.



This system also gives massive advantage to incumbents because challengers have to run countywide. Outside of their local communities, most challengers have no name recognition. The incumbents do.

The current system is extremely disproportional: the combined population of Lanai, Molokai, and Hana amounts to 7 percent of the county's total population but are assigned 33 percent of the Council seats.

This raises the question of whether our system is actually legal. Maui Council Members are elected at-large, but act in fact like they are elected to represent their home districts. There are frequent fights over distribution of resources and special consideration is given to certain districts, typical of single member district systems. Danny Mateo represents Molokai first and foremost. Freshman Elle Cochran was chastised for promoting the installation of a sidewalk outside of her district without first getting the support of the district Council Member. This is not an at-large council. It is just elected that way.

Another huge red flag indicating a broken system is the historic massive failure of Maui County voters to exercise their right to vote in all nine County races. Typical of this pattern, in the 2010 election 20 percent of the voters left their ballots blank in Council races compared to a 2.7 percent blank rate in the Mayor's race. In the nine Council races, the voters left a total of 73,759 votes in the voting booth blank, untaken. That indicates that a large number of Maui County voters either don't understand our system or do not think it is pono to vote outside of their own district.

The basic answer to this problem is equal-sized, single-member districts, the classic, straightforward American model. Single-member districts would:

- Give Lanai and Molokai voters far more elective leverage than they have now -- a real say in who represents them.
- Level the playing field for challengers in all council races
- End the current confusion. Americans understand the concept of one person, one vote.
- Create balanced representation.

But there remains the problem of how to recognize the special characteristics and isolation of the two sister islands, Lanai and Molokai. Compared to even other island communities, like Washington's San Juans and the Florida Keys, the isolation of these communities is severe and needs to be recognized. But there is not a countywide answer to this problem.

What needs to happen is to bring governance to the local level. Ideally, Lanai, Molokai, and perhaps Hana should have their own village or township governments, elected at the local level by their own residents.

The problem is that Hawaii has no tradition of townships. The other problem is that townships are typically incorporated, collect their own taxes, create budgets, hire staff, provide services, etc. That would probably be an economic stretch too far for these small communities.

The goal is to give these communities responsibility for their own destinies by electing their own leadership. To achieve that end, it is proposed that the County Charter allows for the creation of Lanai and Molokai Island Boards that would be elected by the residents of their communities. These boards would replace the Lanai and Molokai Planning Commissions and be responsible for all land use on the island, including permits, zoning and variances.

The elected members would be the true representatives of their communities, serving as the official voice of their communities, at all three levels of government. When someone proposes, say, a windmill farm on the islands, these boards would represent their community's interests.

They would part of Maui County, under its charter, in a manner similar to the way the Neighborhood Boards on Oahu are incorporated in the City & County Charter. They would differ from the Honolulu Neighborhood Boards, however, in that they would have real authority.

I proposed this approach this summer without being conscious of an identical proposal made by Molokai Community Leader Sara Sykes to the 1992 Charter Commission. A similar concept was also proposed independently by Molokai resident David Hafermann earlier this year. What these proposals seem to have in common is a recognition of a need to bring local government to these smaller, isolated communities. What they also have in common is that they are made by folks with experience with a broader range of government types than are seen in Hawaii.

These islands would also be represented on the County Council as part of regular Council districts.

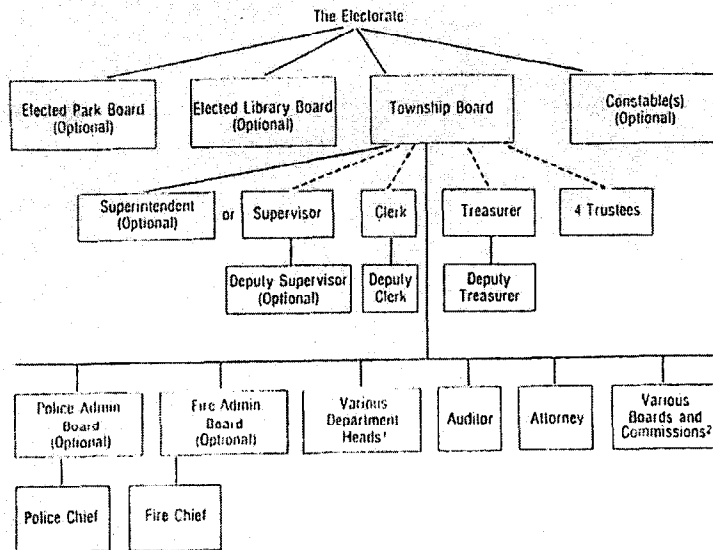
Creation of these boards would give Lanai and Molokai residents the ability to elect their own leadership for the first time. They would have their own voice on issues affecting their communities and would be responsible for their own futures.

This approach would meet the constitutional test for one person, one vote, while also addressing Lanai's and Molokai's isolation by bringing government home.

|                    | LOCAL INPUT IN DECISIONS   | CONTROL  | MONEY: GETTING AND SPENDING  |
|--------------------|--|--|--|
| CURRENT SYSTEM     | Non-official input by individuals & organizations  | Maui County controls all decision making and administers all services  | Getting & Spending:<br>Determined by Maui County Administration and Council  |
| NEIGHBORHOOD BOARD | All the above, PLUS<br>Official, advisory input by locally-elected Board                               | Same as above, Board has advisory role only  | Getting and Spending:<br>Same as above   |
| TOWNSHIP           | All of above, PLUS<br>1. Locally-elected Board/Commission<br>2. Possibly locally-elected administrator | Same as above, EXCEPT<br>1. Township-controlled functions, to be determined (example: Planning, Permits and Codes, etc.)<br>2. Direct interaction with State<br>3. Direct interaction with federal government                    | Getting:<br>Mostly determined by Maui County<br>Township could get share of County, and State revenues<br>Some direct federal funds possible<br>Spending:<br>Determined by Maui County, Township, State and Feds |
| SEMI-STATE COUNTY  | All the above, PLUS<br>Locally-elected Council and Officials   | Local control of County decision making and administration of all County services<br>More direct interaction with state agencies (e.g. representation on State Boards/Commissions)<br>Direct interaction with federal government | Getting:<br>Real property & gas tax, licenses, fees<br>State grant-in-aid<br>Federal program funds<br>Spending:<br>Establish budget for all County administration and services                                   |



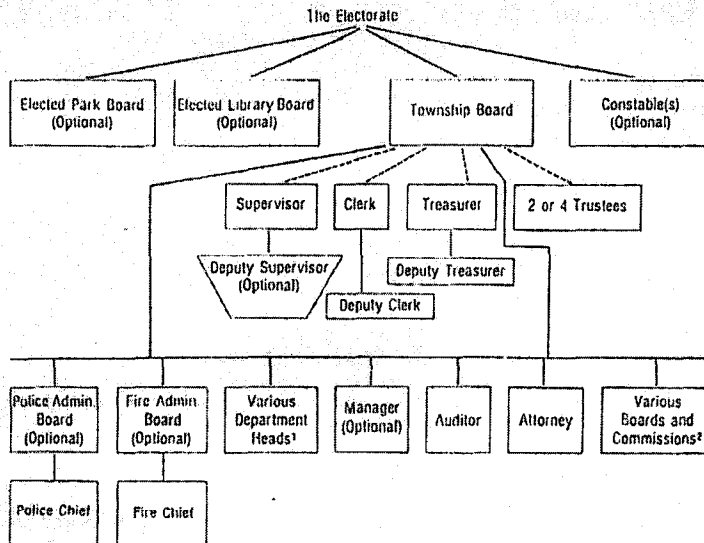
## Typical Organization Chart Charter Township



¹Examples include (all optional):  
 Assessor  
 Building Official  
 Fire Chief  
 Police Chief  
 Public Works Director  
 Zoning Administrator

²Examples include: Board of Review (mandated)  
 (the following are optional):  
 Building Authority  
 Civil Service Commission  
 Downtown Develop. Authority  
 Planning Commission

## Typical Organization Chart General Law Township



¹Examples include (all optional):  
 Assessor  
 Building Official  
 Fire Chief  
 Police Chief  
 Public Works Director  
 Zoning Administrator

²Examples include: Board of Review (mandated)  
 (the following are optional):  
 Building Authority  
 Civil Service Commission  
 Downtown Develop. Authority  
 Planning Commission  
 Salary Compensation Comm.

# A MODEL FOR MOLOKA'I TOWNSHIP

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## TOWNSHIP POWERS AND RESPONSIBILITIES

Planning - Land Use - Zoning (within limits set by state)

Uniform Building Codes

Definition (set Molokai-specific codes)

Application/Enforcement (permits & appeals)

Pass township ordinances (that do not conflict with those of the State or County), enforced by County Police Department

Administer local services, as negotiated with county

Beginning with:

Building Inspector

Parks and Recreation

Office of Human Concerns (Elderly, Housing, etc.)

Special Projects (Ag Park, Ice House, Cooling Plant)

Hire necessary personnel to carry out township functions

Recommend legislative and funding priorities for Molokai to county and state, and advocate for those priorities

Apply for federal funds, as allowed by federal law

Levy additional real property tax, up to \_\_\_ mills for period of \_\_\_ years, to finance special township programs, subject to voter approval

Nominations to mayor and governor for county and state appointments

Represent interest of community in dealings with the county, state, federal governments and other outside interests

## LEADERSHIP

Locally-elected Township Council (seven members) with 2-year terms

Mayor (at-large) - serve as Chair of Council and oversees administrative activities of Township

Treasurer (at-large) - chairs Finance Committee and oversees financial affairs of Township

Five Precinct Councilmembers, one elected from each of the Molokai precincts

Planning Commission (seven-members) appointed by Township Council for staggered three-year terms

Council would nominate candidates for appointment by Mayor and Governor to county and state boards and commissions

Council would appoint standing and ad hoc committees, and board or commissions as required to meet township needs

## FUNDING

- Option A: Township receives set percentage of Molokai-derived real property taxes (or all taxes and fees)
- Option B: Township receives percentage of Molokai-derived taxes and fees as negotiated with County, with \_\_\_\_ % minimum
- Option C: Township receives percentage of county's state grant-in aid funds
- Option D: Township receives separately designated state grant-in aid funds

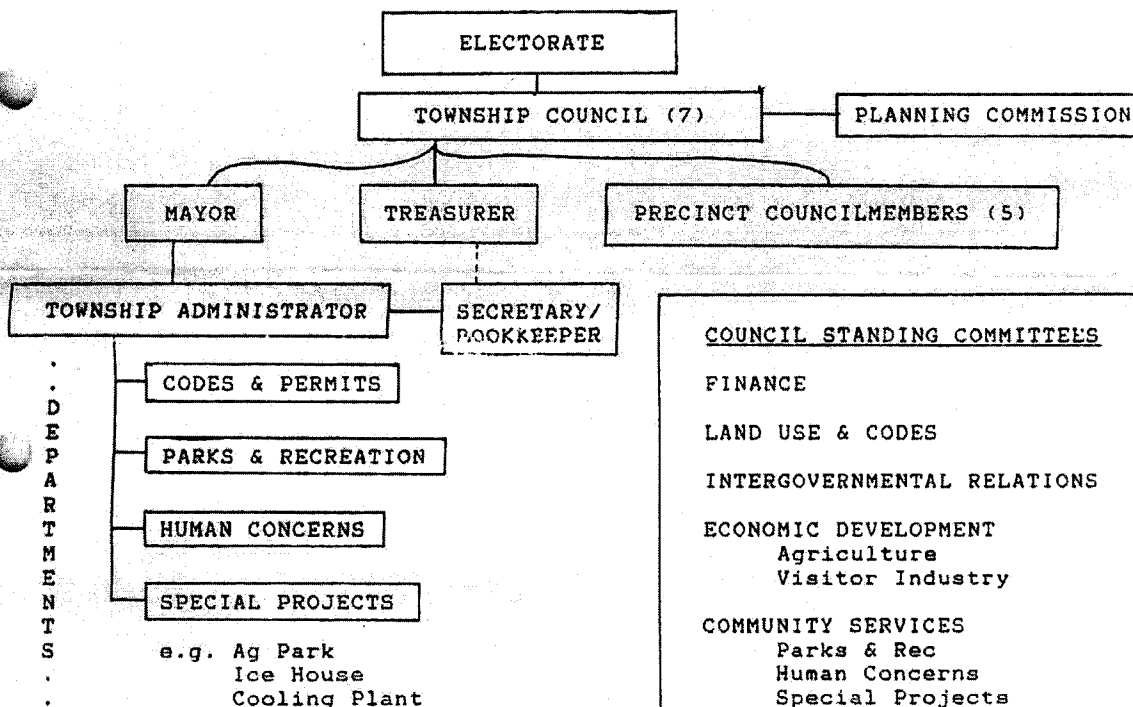
In addition, township could have authority to levy some additional real property tax millage (time limited, for specified use) subject to township voter approval.

## REASONS FOR TOWNSHIP FOR MOLOKAI

- > Bring decisions on exclusively local issues closer to people
- > Right of people to free access to local decision makers
- > To encourage participatory democracy by giving all residents (but particularly young people) an opportunity to see and experience government in action and provide for socialization/education for future community leaders
- > Enfranchise small-island voters with locally-elected Board with real powers on major locally-based issues
- > Need for popularly-elected (accountable) and legitimized advocates/representatives to present island's concerns to county and state and serve as two-way channel of information
- > Allow community to select their own leaders, rather than have them appointed by others
- > Provide training ground for future County and State government officials from Molokai

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## STRUCTURE OF TOWNSHIP





CHARTER COMMISSION  
MEETING MINUTES  
DECEMBER 9, 1991  
MITCHELL PAUOLE CENTER, MOLOKAI

Present

James Cockett  
Dolores Fabrao  
Annette Mondoy  
Robert Nakasone (Chair)  
Victor Reyes  
Allan Sparks  
Lloyd Yonenaka  
Sue Nakano-Ruidas (Staff)

Excused

Sherrilee Dodson (Vice Chair)  
Anne Takabuki  
Jamie Woodburn  
Deborah Wright

I. CALL TO ORDER

Chair Nakasone opened the public meeting at 7:08 p.m.

II. OVERVIEW OF CURRENT CHARTER FOR MAUI COUNTY AND  
PRESENTATION OF IDEAS FOR AMENDMENTS

- A. Commission Chair Nakasone explained the purpose of the public meeting on Molokai as being educational, informational and also the opportunity to receive input from the public. He noted that this was the first phase of the Commission's work, with the second phase being deliberation and the third phase decision-making and packaging for the voters.

Nakasone also noted the commission's three committees, set up to review different portions of the Charter.

- B. Commission member Sparks presented a brief history of the Charter of Maui, subsequent amendments to the Charter and a description of the duties of the Charter Commission.

As Chair of Committee A, Sparks presented details of proposed districting schemes for an At-Large system (with adjusted residency requirements) and for two types of True District systems: all nine equal districts and a seven equal plus two district system.

II. OVERVIEW OF CURRENT CHARTER FOR MAUI COUNTY AND  
PRESENTATION OF IDEAS FOR AMENDMENTS (Continued)

Sparks noted that the proposed "districts" on the three presentation maps were merely for visual purposes and that "districts" could be formed in any number of ways. He asked Molokaian present to "keep an open mind about districting and not reject it out-of-hand," further reminding them that it was possible that their percentage of influence and pool of candidates would both become larger.

- C. Committee B Chair James Cockett explained the function of his committee in reviewing current departments and their scope of duties.

III. PUBLIC TESTIMONY

- A. Sara E. Sykes (Individual) read her testimony (see Communication 91-37) urging that Maui County adopt sub-units of government such as townships or neighborhood boards. Utilizing this type of division would solve several county-wide problems, including easing the financial burden on the county for smaller populated areas by allowing them to apply for federal, state and private funds (for which the county does not qualify as a whole). Sykes stressed the distinction between the current planning commission vs townships and neighborhood boards is that the planning commission is appointed while the boards would be elected.

Sykes also noted that zoning questions could be referred to their own local board, with that board doing the presentation to the County for and on behalf of constituents.

When questioned by commissioners, Sykes said she has contacted planning commission members and that they see townships or neighborhood boards as working "hand and glove" with them and not as competition.

III. PUBLIC TESTIMONY (Continued)

Sykes stated that Molokaians sometimes feel "cut off" and noted that it is not always possible for them to attend hearings and meetings due to time and cost.

At commissioners request, Sykes will forward additional background research and supporting information for her proposal.

B. DeGray Vanderbilt (Individual) asked that commissioners consider the following items from the past:

1. His request for two scholarships for each Charter meeting so representatives from Molokai could attend (perhaps one pro/one con or first come/first served basis).
2. Citizens should be allowed to put things on the ballot.
3. He would like to see some type of districting for Molokai (maybe townships or neighborhood boards could be an answer if some could be elected and others could be appointed).
4. The Council should not be allowed to override the Planning Commission recommendations.
5. In favor of limiting Council terms to four terms of two years or two terms of four years.
6. There are no copies of the County Charter available in Molokai's court house.
7. Perhaps there would be a way to do "sky bridging" for public meetings (like Maui Community College uses for its classes).
8. Would like to receive commission materials in a more timely manner.

Vanderbilt was advised that he would have access to Molokai's commission member Annette Mondoy's files.

CHARTER COMMISSION  
MEETING MINUTES  
DECEMBER 9, 1991  
Page Four

III. PUBLIC TESTIMONY (Continued)

- C. Doris Miller (Individual) expressed her concern with the way the Council "often overrides the Molokai Planning Commission."

IV. ADJOURNMENT

There being no further business, Chair Nakasone pronounced the public meeting closed at 8:52 p.m.

APPROVED:

Robert Nakasone, Jr.  
Robert Nakasone, Chairman

1/16/92  
Date



ALAN M. ARAKAWA  
MAYOR



200 South High Street  
Wailuku, Hawai'i 96793-2155  
Telephone (808) 270-7855  
Fax (808) 270-7870  
e-mail: mayors.office@mauicounty.gov

**OFFICE OF THE MAYOR**

Ke'ena O Ka Meia  
COUNTY OF MAUI – Kalana O Maui

September 1, 2011

Mr. Josh Stone, Chairman  
And Commissioners  
Maui County Charter Commission  
c/o Department of Corporation Counsel  
200 So. High Street  
Wailuku, Hawaii 96793

RECEIVED  
CORPORATION COUNSEL  
2011 SEP -2 AM 11:13

Aloha,

On behalf of Mayor Alan Arakawa and myself, we want to extend our personal thanks to you and your colleagues for your commitment to serving on the 2011 Charter Commission.

On Monday, August 26, 2011, I attended your meeting at which Mayor Arakawa presented his list of proposed amendments to the Maui County Charter. During a break in the meeting, I shared some information with Commissioners Sugimura and DeRego, regarding Proposal #8 which would rename the Department of Environmental Management to incorporate a focus on sustainability. I am transmitting two documents which these Commissioners asked me to share with the entire commission.

The first document is a partial list of cities and counties that have incorporated an office or division of sustainability into their bureaucratic structure. You will note that many are recognized as some of the nation's more progressive communities.

The second document is a list of Maui County's environmental partner agencies and organizations. It illustrates a broad array of County, State, and Federal agencies, community associations, conservation groups, educational entities, and others addressing environmental and sustainability issues. The sheer number of groups underscores the importance of needing to bolster alliances with these partners to collaboratively address the multitude of challenges and opportunities before us. I believe the Mayor's Proposal #8 seeks to delineate more County focus and resources for this purpose.

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Mr. Josh Stone, Chairman  
And Commissioners  
Maui County Charter Commission  
September 1, 2011  
Page 2

Please know that I am available to provide more input and information on this proposal should you feel it may be useful in helping the Charter Commission arrive at a final decision and definitive language. Feel free to contact me at (808) 270-7855.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert Parsons". The signature is fluid and cursive, with the first name "Robert" and last name "Parsons" clearly distinguishable.

Robert Parsons  
Executive Assistant  
For Environmental Concerns

RP:cmc

cc: Honorable Alan M. Arakawa, Mayor  
Mike Molina, Executive Assistant

## **CITIES AND COUNTIES WITH OFFICES OF SUSTAINABILITY**

|                            |  |
|----------------------------|--|
| • PHILADELPHIA             | Mayor's Office of Sustainability             |
| • PORTLAND                 | Bureau of Planning and Sustainability        |
| • SANTA MONICA             | Office of Sustainability and the Environment |
| • CITY OF MILWAUKEE        | Office of Environmental Sustainability       |
| • FREDERICK COUNTY, MD     | Office of Environmental Sustainability       |
| • BERKELEY                 | Office of Environment and Sustainable Dev't  |
| • BALTIMORE                | Planning/ Office of Sustainability           |
| • ALBANY, NY               | Office of Energy and Sustainability          |
| • SEATTLE                  | Office of Sustainability and the Environment |
| • CLACKAMAS COUNTY (OR)    | Sustainable Clackamas County                 |
| • INDIANAPOLIS             | SustainIndy (Department of Public Works)     |
| • RALEIGH, NC              | Office of Sustainability                     |
| • CITY OF TACOMA           | Office of Sustainability                     |
| • CLEVELAND                | Office of Sustainability                     |
| • ATLANTA                  | Office of Sustainability                     |
| • MIAMI/ DADE              | Office of Sustainability                     |
| • PIERCE COUNTY (WA)       | Office of Sustainability                     |
| • CITY OF EVANSTON         | Office of Sustainability                     |
| • CITY OF AUSTIN           | Office of Sustainability                     |
| • MULTNOMAH COUNTY (OR)    | Office of Sustainability                     |
| • ASHEVILLE, NC            | Office of Sustainability                     |
| • LEE COUNTY (SW FL)       | Office of Sustainability                     |
| • COLUMBIA, MO             | Office of Sustainability                     |
| • CITY OF PALM SPRINGS, CA | Office of Sustainability                     |
| • TULSA, OK                | Office of Sustainability                     |
| • LEON COUNTY, (FL)        | Office of Sustainability                     |

MAUI COUNTY ENVIRONMENTAL COORDINATOR'S OFFICE  
... A few of our valuable partners

Watershed Partnerships:

- 1) The Nature Conservancy  
<http://www.nature.org/>
- 2) East Maui Watershed Partnership (EMWP)  
<http://eastmauiwatershed.org/>
- 3) West Maui Mountain Watershed Partnership (WMMWP)  
<http://www.westmauiwatershed.org/>
- 4) Pu'u Kukui Watershed Partnership  
<http://www.mauiland.com/puukukui.shtml>
- 5) Leeward Haleakala Watershed Restoration Partnership  
<http://www.lhwrp.org/>
- 6) SouthWest Maui Watershed Project  
<http://mauiwatershed.org/>
- 7) Lana'i Forest and Watershed Protection  
<http://hawp.org/lanaiforest.asp>
- 8) Hawaii Association of Watershed Partnerships  
<http://hawp.org/default.asp>

Alien Invasive Species Groups:

- 1) Maui Invasive Species Committee (MISC)  
<http://www.hawaiiinvasivespecies.org/iscs/misc/>
- 2) Hawaii Invasive Species Council (HISC)  
<http://www.hawaiiinvasivespecies.org/hisc/>
- 3) Coordinating Group for Alien Pest Species (CGAPS)  
<http://www.hawaiiinvasivespecies.org/cgaps/>
- 4) Hawaii Ecosystems at Risk (HEAR)  
<http://www.hear.org/>

Conservation groups:

- 1) Sierra Club  
<http://mauisierraclub.org/>
- 2) Maui Tomorrow Foundation  
<http://maui-tomorrow.org/>
- 3) KAHEA  
<http://kahea.org/>
- 4) Hawaii Wildlife Fund  
<http://wildhawaii.org/>
- 5) Plant Extinction Prevention Program of Hawaii  
<http://www.pepphi.org/>
- 6) Maui Coastal Land Trust



- <http://www.mauicoastallandtrust.org/>
- 7) Hawaiian Islands Land Trust  
<http://hawaiianislandslandtrust.org/>
  - 8) Trust for Public Land  
<http://www.tpl.org/>
  - 9) Save Our Seabirds  
<http://www.mauicounty.gov/saveourseabirds>
  - 10) Life of the Land  
<http://www.lifeofthelandhawaii.org/>

#### Sustainability groups:

- 1) Hawaii's 2050 Sustainability Task Force  
<http://hawaii2050.org>
- 2) Sustainable Living Institute of Maui  
<http://sustainablemaui.org/>
- 3) Upcountry Sustainability  
<http://upcountrysustainability.wordpress.com/>
- 4) West Maui Sustainability  
<http://westmauisustainability.weebly.com/>
- 5) South Maui Sustainability  
<http://southmauisustainability.wordpress.com/>
- 6) D.I.R.E. Coalition  
<http://dontinject.org/>
- 7) Aloha Shares  
<http://www.alohashares.org/>
- 8) Community Work Day  
<http://www.cwdhawaii.org/>
- 9) Maui Outdoor Circle  
<http://www.outdoorcircle.org/branches/maui>
- 10) Hawaii Nature Center  
<http://www.hawaiinaturecenter.org/>
- 11) Pacific Biodiesel  
<http://www.biodiesel.com/>
- 12) Maui Recycling Group  
<http://mauirecyclinggroup.org/>
- 13) Aloha Recycling  
<http://www.aloha-recycling.com/>

#### Marine Protection:

- 1) Making a Difference Guide: What to Do and Who to Call Concerning Ocean Issues  
<http://www.coral.org/node/4170>
- 2) Earth Foundation  
[http://www.ef123.org/EF\\_homepage.htm](http://www.ef123.org/EF_homepage.htm)

- 3) Project SEA Link  
<http://www.projectsealink.org/>
- 4) Coral Reef Alliance  
<http://www.coral.org/>
- 5) REEF Check  
<http://www.reefcheck.org/>
- 6) Maui Nui Marine Resource Council  
<http://mnmrc.org/>

Community Associations:

- 1) Haiku Community Association (HCA)  
<http://haikumaui.org/>
- 2) Kula Community Association  
<http://www.kulamaui.com/>
- 3) Kihei Community Association (KCA)  
<http://www.gokihei.org/>
- 4) Wailea Community Association  
<http://www.wcamaui.com/>
- 5) Makena Community Association  
<http://www.makawaocommunity.org/>

County and State Agencies:

- 1) Department of Land and Natural Resources  
<http://hawaii.gov/dlnr>
- 2) Office of Conservation and Coastal Lands  
<http://hawaii.gov/dlnr/occl/>
- 3) Parks Division  
<http://www.hawaiistateparks.org/>
- 4) Land Division  
<http://hawaii.gov/dlnr/land/>
- 5) Engineering Division  
<http://www.hidlnc.org/eng/>
- 6) Division of Boating and Ocean - Recreation (DOBAR)  
<http://hawaii.gov/dlnr/dbor/>
- 7) State Historic Preservation Division (SHPD)  
<http://hawaii.gov/dlnr/hpd/hpgrtg.htm>
- 8) Kaho'olawe Island Reserve Commission (KIRC)  
<http://kahoolawe.hawaii.gov/>
- 9) Division of Forestry and Wildlife Aquatics Division (DOFAW)  
<http://www.state.hi.us/dlnr/dofaw/cwcs/index.html>
- 10) Division of Conservation and Recreation Enforcement (DOCARE)  
<http://hawaii.gov/dlnr/docare/mission>
- 11) Department of Environmental Management  
<http://www.co.maui.hi.us/index.aspx?NID=114>

- 12) Department of Recycling Services and Information  
<http://www.co.maui.hi.us/index.aspx?NID=742>
- 13) Office of Hawaiian Affairs  
<http://www.oha.org/>
- 14) Department of Health  
<http://hawaii.gov/health/>
- 15) Department of Health-Clean Air Branch  
[http://hawaii.gov/health/environmental/air/cab/cab\\_onlinedata/cab\\_onlinedata\\_intro\\_2010.html](http://hawaii.gov/health/environmental/air/cab/cab_onlinedata/cab_onlinedata_intro_2010.html)
- 16) Department of Health- Water Quality  
<http://emdweb.doh.hawaii.gov/cwb/wqd/viewer/>
- 17) Office of Planning (Brownfields – EPA)  
<http://hawaii.gov/dbedt/gis/brownfields/>
- 18) Hawaii State Legislature  
<http://www.capitol.hawaii.gov/default.asp>
- 19) Office of Environmental Quality Control  
<http://hawaii.gov/health/environmental/oeqc/index.html>
- 20) UH SEA GRANT  
<http://seagrant.soest.hawaii.edu/>

#### Federal Agencies:

- 1) Environmental Protection Agency (EPA)  
<http://www.epa.gov/>
- 2) Army Corps of Engineers (ACOE)  
<http://www.usace.army.mil/Pages/default.aspx>
- 3) National Oceanic and Atmospheric Administration (NOAA)  
<http://www.noaa.gov/>
- 4) Hawaiian Island Humpback Whale National Marine Sanctuary  
<http://hawaiihumpbackwhale.noaa.gov/>
- 5) Sanctuary Advisory Council  
[http://hawaiihumpbackwhale.noaa.gov/management/council\\_introduction.html](http://hawaiihumpbackwhale.noaa.gov/management/council_introduction.html)
- 6) United States Geological Survey  
<http://www.usgs.gov/>
- 7) United States Fish and Wildlife  
<http://www.fws.gov/>
- 8) National Park Service (NPS) – Haleakala  
<http://www.nps.gov/hale/index.htm>
- 9) Kealia Pond National Wildlife Refuge  
<http://www.fws.gov/kealiapond/>

#### Other Organizations and Links:

- 1) Koi`ei`e Loko i`a Fishpond Restoration  
<http://www.mauifishpond.com/>

- 2) Maui Nui Botanical Gardens  
<http://www.mnbg.org/>
- 3) Earth Day Network  
<http://www.earthday.org/>
- 4) United National Environmental Program  
<http://www.unep.org/>
- 5) Tri-isle Resource Conservation and Development Council  
<http://www.tri-isle.org/>



Council Chair  
Danny A. Mateo

Vice-Chair  
Joseph Pontanilla

Council Members  
Gladys C. Baisa  
Robert Carroll  
Elle Cochran  
Donald G. Couch, Jr.  
G. Riki Hokama  
Michael P. Victorino  
Mike White



Director of Council Services  
Ken Fukuoka

**COUNTY COUNCIL**  
COUNTY OF MAUI  
200 S. HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
[www.mauicounty.gov/council](http://www.mauicounty.gov/council)

September 1, 2011

Honorable Alan Arakawa  
Mayor, County of Maui  
Wailuku, Hawaii 96793

For transmittal to:

Josh Stone, Chair  
and Members of the Charter Commission  
County of Maui  
Wailuku, Hawaii 96793

RECEIVED  
CORPORATION COUNSEL  
2011 SEP -2 PM 2:40

Dear Mr. Stone and Members :

SUBJECT: **FOUR-YEAR COUNCIL TERMS**

Thank you for seeking Council members' comments on proposed Charter amendments.

May I request the Charter commission consider proposing a Charter amendment that would achieve the following:

**Four-year Council terms**, with a limit of **three consecutive terms and staggered election dates.**

Please allow me to explain some of the rationale for this request.

**Four-year Council terms**

I believe two-year Council terms do not provide sufficient time for new Council members to develop the aptitude necessary to best serve their constituents. Moreover, two-year Council terms are inefficient and wasteful of public resources because Council members are effectively required to spend time and energy campaigning for re-election every other year – time and energy that would be better spent on official County business. In addition, some critics of two-year Council terms have alleged that some Council members would be more willing to make “tough decision,” with long-term benefits to the County, if they did not have to

091211- Item No. II.E. pgs. 1-12

face re-election within such a short period of time. Others contend that growing communities, such as Maui County, need stability and continuity in government leadership to ensure the existence of well-informed, long-term municipal planning. Also, the lack of continuity that can be created by short Council terms can result in staff members possessing undue influence because of their greater experience with government procedures. In recognition of these and related concerns, aggressive drives are currently underway to replace two-year terms with four-year terms for members of the San Antonio (Tex.) City Council<sup>1</sup> and St. Cloud (Fla.) City Council<sup>2</sup>.

### **Three consecutive terms**

Subsection 3-2(5) of the Charter currently provides: “No member of the county council shall serve more than five consecutive full terms of office.” Barring service in a partial term, this provision effectively limits each Council member to 10 consecutive years of office. The creation of four-year terms would, therefore, require the amendment of Subsection 3-2(5) (simply because a 10-year cap would be illogical with four-year terms). To remain close to the existing term limits, the obvious choice would be between a limit of two terms (eight years) and three terms (12 years). Certainly, reasonable people can disagree on the appropriate length of term limits, if any, for elected officials. My strong preference is for a limit of three consecutive terms. With a limit of just two terms, Council members would immediately become “lame ducks” upon reelection. This creates a risk that, after less than five years in office, some Council members might tend to become less focused on their Council work (as they consider running for a different office) or become less motivated (as they recognize that they will not again face the electorate). These negative possibilities exist with any form of term limits, but they can at least be deferred by the creation of term limits of a slightly longer duration. Among the many counties that have enacted a limit of three four-year terms for legislators are Cass County, N.D.; Howard County, Md.; and San Mateo, Calif.<sup>3</sup>

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<sup>1</sup>William Pack, “city term limits primed for ballot; Council moved by outcry for vote,” San Antonio (Tex.) *Express-News* (Aug. 5, 2001), at 1B (attached)

<sup>2</sup>Colleen Moore, “MOVE IS AFOOT TO DOUBLE ST. CLOUD COUNCIL TERMS”, Orlando (Fla.) *Sentinel* (June 30, 2001), at 1 (attached)

<sup>3</sup>“Term Limits on County Officials,” National Association of Counties, Washington, D.C. (1996) (attached).

September 1, 2011  
Page 3

**Staggered election dates**

In my opinion, if term limits are retained, a move to four-year Council terms **must** be accompanied by the creation of staggered election dates to ensure that all nine Council members do not reach their maximum number of terms in the same year. A complete turnover in the Council would be disastrous for County government. With staggered terms, only four or five Council seats would be on the ballot each election year. I would suggest that four Council seats be contested in the same year as the mayoral election, with the other five Council seats contested in mayoral off-years. A similar arrangement applies to Honolulu City Council terms.\*

Thank you for your consideration of my views. Please do not hesitate to let me know if you have any questions.

Sincerely ,

A handwritten signature in black ink that reads "Robert Carroll". The signature is fluid and cursive, with the first name "Robert" and last name "Carroll" clearly distinguishable.

ROBERT CARROLL  
Council Member, East Maui

RC.mhh.11901

\*§ 16-122, Revised charter of Honolulu (2000) (attached)

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THE ORLANDO SENTINEL

June 30, 2001 Saturday, FLORIDA

SECTION: OSCEOLA SENTINEL; Pg. 1

LENGTH: 561 words

HEADLINE: MOVE IS AFOOT TO DOUBLE ST. CLOUD COUNCIL TERMS

BYLINE: By Colleen Moore, Sentinel Staff Writer

BODY:

ST. CLOUD -- Hundreds of city residents will hear a knock on the door this morning -- but the culprits won't be traveling salesmen or evangelists.

Instead, 30 civic-minded volunteers will hit the streets with petitions. They say it's time to change City Council elections from two- to four-year terms because the current system hampers the council's ability to plan for long-range growth and economic development. No sooner do newly elected council members get a handle on complicated infrastructure, annexation and zoning issues than they have to focus their time and energy on getting re-elected, organizers say.

Spearheaded by the St. Cloud Chamber of Commerce, volunteers also will collect signatures at the city's Fourth of July celebration at East Lake Tohopekaliga on Wednesday. They hope to gather 1,200 signatures -- 10 percent of the city's population. That's the minimum necessary for a referendum.

If approved at the next council meeting July 12, the issue will go on the ballot for the Aug. 21 general election to replace District 18 state Sen. Charles Bronson, who was named agriculture commissioner in May.

Four-year terms would add stability to the council as it deals with tremendous growth that shows no signs of slowing, said chamber president David Lane. The city's



population grew by 7,600 from 1990 to 2000 and now numbers more than 20,000 residents.

"Those growth issues need attention and planning for the long haul," Lane said.

"It takes council members at least a year to learn the process in a significant way. There's a lot of detail and research that goes into learning the issues. By the time they've learned those issues they have to focus on re-election," Lane said.

Four-year terms also would encourage the council to vote on critical issues according to their conscience -- not the opinions of voters, said Rayelynn Woeste, a volunteer.

"Politicians are very cautious about voting on anything controversial while running for office. That has big impact on our community. Having elections every four years will provide more stability," she said.

"There's also the cost factor of having elections every two years," Woeste added.

During St. Cloud's most recent election in March, the city paid \$5,100 for ballots and the mailing of sample ballots, said Osceola County Supervisor of Elections Donna Bryant.

Darlene Maresco, who ran unsuccessfully for council in 1999, said she thinks most residents will support the change.

"The president is left in for four years. Why isn't the City Council? . . . No sooner do they get into office than they have to turn around again and deal with elections."

Florida League of Cities spokesman Ken Small said there are no current statistics, but studies years ago found most Florida cities had two-year terms.

Lane said there is nothing wrong with that if a city is small and doesn't have to contend with rapid growth issues. While that system may have been fine in St. Cloud in years past, those days are over, he said.

"When you have very strong forces of change and you

have a population explosion, suddenly you're dealing with difficult issues that are not as parochial. This is not going to go away in St. Cloud. Our growth will continue at an explosive rate, and to not address those issues today will create problems of a serious magnitude in the future."

LOAD-DATE: June 30, 2001

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San Antonio Express-News

August 5, 2001, Sunday , METRO

SECTION: METRO / SOUTH TEXAS; Pg. 1B

LENGTH: 776 words

HEADLINE: City term limits primed for ballot ; Council moved by outcry for vote

BYLINE: William Pack

BODY: Persuaded by spirited calls for change from the public, a majority of City Council is ready to put term limit reform on the ballot in November.

Council members Toni Moorhouse and John H. Sanders said they were so moved by the volume of supportive testimony at a public hearing Thursday that they are now ready to join four other council members who support letting voters decide the issue this fall.

"That just reconfirmed it," Moorhouse said of the repeated calls for a November vote at the hearing. "I would not hesitate to say, 'Yes, let's do it.'"

The movement still faces at least one major hurdle before it succeeds in scheduling a November vote on the controversial and divisive term limits issue - the continuing reluctance of Mayor Ed Garza to agree that November is the right time for such a move.

Garza said he agrees that San Antonio's limit of two, two-year terms for council members is too restrictive and that an overwhelming number of people supporting change turned out at Thursday's hearing. The count among the nearly 45 witnesses was 5-to-1 in favor of loosening the term limits imposed by the City Charter.

But Garza said, "given the significance of the issue,"

he expected a larger turnout on the proposition.

The mayor also noted that supporters of change were primarily from District 1, which covers the area in and around downtown, and not the city's outlying districts.

Garza said he wants to meet with each council member individually to see if he or she is prepared to aggressively campaign for extending term limits to ensure that the campaign will succeed. Two and a half months is not much time to organize and carry out a comprehensive campaign like the one needed for term limits reform, Garza said.

Garza also said he wants to share with council members the results of recent polling regarding term limit restrictions. He would not divulge the numbers publicly Friday but said they, not surprisingly, show the public is split on the issue.

Supporters of existing limits contend they have reduced the influence of special interests and saved the city money, while opponents contend they have made council less effective and increased the influence of non-elected staff members.

Councilmen Bobby Perez, Carroll Schubert and David A. Garcia, who are among the faction calling for a vote in November, said they want to hear the mayor's concerns but will need strong evidence supporting a delay to change their minds.

The City Council is unanimous in its support for modifying term limits, but opinions differ on when is the best time to bring the issue to a vote of the public.

November is the next date available for a vote, and supporters contend the public does not need any more time to weigh the pros and cons of a restriction that has been in effect for 10 years.

Councilmen Julian Castro and Enrique Barrera are among the minority that is not on the November bandwagon. They are concerned about the short amount of time the city has to prepare for the vote and about the impact that a divisive term limits battle would have on a vote for a new human development tax next year.

UTSA political science professor Richard Gambitta said polling involving term limits in the past has shown clear support for retaining some type of limits.

Backers of change have thus far not agreed on a specific proposal to offer voters. The current limits say no council member can serve more than two two-year terms, unless he or she is elected mayor, in which case another two terms of two years each are available.

Some council members want to expand the maximum number of terms to four while others want to change the length of terms to four years and keep the two-term cap. Multiple, three-year terms also have their proponents as does the proposition of lifting the current lifetime ban on additional service once the maximum number of terms have been served.

Term limits and other issues are expected to be discussed and voted upon next week by the city's five-member, charter revision subcommittee.

That subcommittee, which is chaired by the mayor, has endorsed three proposed charter revisions that would eliminate civil service protections for more than 90 city positions, give council control of the city auditor's office and extend council's control over the city attorney's office.

Even if the subcommittee refuses to include term limits in its recommendation, it could go to council for a vote through the six-signature memo process that council members use to schedule action.

wpack@express-news.net

LOAD-DATE: August 5, 2001

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San Antonio Express-News

July 29, 2001, Sunday , METRO

SECTION: EDITORIAL; Our Turn ; Pg. 2G

LENGTH: 629 words

HEADLINE: No perfect time for term limits vote

BYLINE: Bruce Davidson

BODY: An attempt to win voter approval of changes in San Antonio's strict City Council term limits is inevitable.

The only question is timing. Several council members want to put the issue on the ballot in November with Mayor Ed Garza's accountability measures.

A public debate hearing on the issue is set for Thursday at 6 p.m. City Council must decide by Aug. 16 whether term limits will be on the November ballot.

San Antonio has the most restrictive term limits in the nation, and the city's draconian rule - two terms of two years each - has been a disaster at City Hall.

Inexperienced council members come and go in rapid succession while city staff has gained power. As a result, voters have less direct impact on policy, and the number of controversies over contracts and staff performance has increased dramatically.

Staff isn't necessarily pleased with the situation either. Former City Manager Alex Briseo said his people were burdened by the constant need to train new members.

"Most of them don't really know what they're getting into and how hard they're going to have to work," Briseneno said. "I don't think the citizens in the community really know what these folks do."



Garza is planning to offer voters a couple of ways to improve accountability in November. The mayor intends to seek voter approval of an internal auditor who monitors city business and reports directly to the council instead of the city manager, and he wants to give council some control over the city attorney.

Councilman Bobby Perez argues that extending the length of council terms to allow a total of eight years is merely another step to improve city government.

In the last two elections, almost every city candidate has advocated adding time to the four-year maximum that council members are allowed to serve under the Charter amendment approved by voters in 1991.

And voters who are interested enough to attend neighborhood meetings and other forums are increasingly supportive of the idea. Councilman Carroll Schubert said when he was meeting with voters during this spring's campaign everybody was talking about changing term limits.''

Perez said, "I think it's time for people to quit talking about it. Let's take some action.'"

Mayor Ed Garza has expressed concerns about putting the issue before voters in November. Garza says he doesn't want to damage the prospects of the Better Jobs initiative, which he intends to put on the May ballot.

Perez said he sees no connection. A voter's position on term limits does not dictate his feelings about the Better Jobs initiative, he said.

"Term limits have been discussed (thoroughly). The only people opposed (to modification) are the same people that hate everything," Perez said.

Since Better Jobs involves a tax increase, it may be more controversial than modifying term limits.

Still, a sticking point could come when details are discussed. Perez wants to move forward with a proposal adding two terms, for a maximum of four two-year terms.

Others favor two four-year terms.

For those who support the change, a heavy dose of caution is mixed with hope.

Two of the last three mayors wanted to change term limits, but they never did. They lost big votes on other issues, they focused on other goals and, of course, they ran out of time because of term limits.

Garza has said he wants to get a slam-dunk election under his belt with accountability issues, and a vote on term limits could complicate that.

But several of his colleagues are convinced term limits has enough support to pass.

The decision is less than three weeks away. But if council members wait for a perfect time, they'll never find it.

LOAD-DATE: July 29, 2001

Charter Amendment

DATE: September 5, 2011

To: Charter Commission Members

Fr: Kay Okamoto

Problem : Charter commission does not have adequate time to truly study all of the issues that are presented regarding changing the way we do business in Maui County.

Article 14 Section 14-3

Change date of appointment to Jan. 1 or Feb. 1 and give the commission 18 months to complete their work. Put in language that says the first meeting of the commission will be the start of the 18 month time limit. If the time limit does not coincide with the regular election, then the proposed amendments shall go to the next regular scheduled election.

Discussion: We did not have our first meeting until May and we are being asked to complete our work by March to go to the council. We need to provide more time to truly study the issues. The Charter does not say (at least that I found) that our work needs to go to the council before it goes to the County Clerk. We need to strengthen this section or every subsequent commission will have the same problems.

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091211- Item No. II.F. pg. 1-1

**Sherry P. Broder**

**Jon M. Van Dyke**

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September 1, 2011

Chair Joshua A. Stone and Charter Commission Members  
Maui County Charter Commission  
200 High Street, 3<sup>rd</sup> Floor  
Wailuku, HI 96793

Dear Chair Stone and Charter Commission Members,

We have enclosed the matrix of the proposals. We have numbered them to be consistent with the articles that may be affected by the proposals. In the case of the County Departments, where there are chapters as well as articles, we have further clarified with a number for the article and a second number for the chapter. Totally new articles at the end were given an alphabet as their identifier.

There were many duplicative proposals. We have not listed a proposal more than one time. There were some proposals that clearly could not be adopted because they would be in conflict with state or federal law and so they were not listed either.

The materials were voluminous and as you can see there were many proposals. We made every effort to be complete.

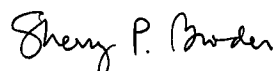
Should any Commissioner identify any additional proposals, please bring it to our attention, and we can amend the matrix. The format we developed is amenable to additions and deletions.

Please do not hesitate to contact us should you have any questions.

091211 - Item No. V.A. pgs. 1-21

We apologize that neither one of us will be able to be present at the meeting on September 12, 2011. Thank you and Mahalo for this very important and interesting assignment.

Sincerely,

A handwritten signature in black ink that reads "Sherry P. Broder". The script is cursive and fluid.

Sherry P. Broder  
Jon M. Van Dyke

cc: Lisa Kahuhu, Supervising Law technician  
Edward S. Kushi, Jr., Deputy Corporation Counsel

**MATRIX**  
**PROPOSALS FOR SUBSTANTIVE CHANGES TO THE**  
**MAUI COUNTY CHARTER**  
**September 2, 2011**

**Sherry P. Broder, Esq. and Jon M. Van Dyke, Esq.**

**Preamble**

**#0.1 - Proposal to amend the Purpose Clause**

Amend Preamble to add a general statement about the purpose of establishing a County Government and to include the following: preserve and protect the rights of persons and property, to protect the beauty of Maui, to provide recreational facilities, to provide adequate and safe water, among other things

**Article 1, Incorporation and Geographical Limits**

**#1.1 - Amend Section 1-2, Geographical limits to include the area known as the Kalaupapa Settlement as part of the County of Maui.**

**Article 2, Powers of the County**

**#2.1 - Create a new section to declare that the Maui County government is non-partisan**

**Article 3, County Council**

**#3.1 - Proposal to Establish an Apportionment Commission to create a new nine-district Council Election system based on equally proportioned districts.**

This would replace the language in Section 3.1, Composition, that establishes the current at-large election system composed of nine equally proportioned single-member districts.

**#3.2 - Proposal to Implement Single Member Districts**

Amend Section 3-1, Composition, to change the composition of the Maui County Council to Nine Single Member Districts

**#3.3 - Single Member Districts Proposal with Lanai and Molokai in Separate Districts**

Amend Section 3-1, Composition, to change the composition of the Maui County Council to Nine Single Member Districts but do not place Lanai and Molokai in the same council district



**#3.4 - Single Member Districts Proposal with Self-Rule for Lanai and Molokai**

Amend Section 3-1, Composition, to change the composition of the Maui County Council to Nine Single Member Districts and grant Lanai and Molokai self-rule

**#3.5 - Proposal to Create 3 Single Member Districts and 3 Geographic Districts for Lanai, Molokai and Maui**

**#3.6 - Proposal to create Island Boards for the Islands of Lanai and Molokai.**

These would be elected bodies of five (Lanai) to seven (Molokai) members who would (1) replace and would take on the responsibilities of the appointed planning commissions (2) and in addition have authority over all other land use approvals on the island, including zoning and variances. These bodies would also (3) be the official voice of their communities, at the County, State and national levels.

**#3.7 - Single Member Districts Proposal with Lanai, Molokai and Hana in one district together**

Amend Section 3-1, Composition, to change the composition of the Maui County Council to Nine Single Member Districts and grant Lanai and Molokai self-rule

**#3.8 - Proposal to Retain At-large Districts with Geographic Residency**

Do not amend Article 3, County Council, Section 3-1, Composition

**#3.9 - Proposal to Expand the Number of Council Members to 13**

**#3.10 - Proposal to have 3 council members in each of 3 districts**

**#3.11 - Proposal to have 6 council districts with equal population plus 3 at large council districts**

**#3.12 - Proposal to Delete Subsections 1), (2), (3), and (4) of Article 3, County Council, Sections 3-2 Election of Council and Term of Office, and Add new language to enact Instant Run-Off Voting, similar to San Francisco, California**

Instant-runoff voting (IRV), also known as preferential voting, the alternative vote and ranked choice voting, is a voting system used to elect one winner. Voters rank candidates in order of preference, and their ballots are counted as one vote for their first choice candidate. If a candidate secures a majority of votes cast, that candidate wins. Otherwise, the candidate with the fewest votes is eliminated. A new round of counting takes place, with each ballot counted as one vote for the advancing candidate who is ranked highest on that ballot. This process continues

until the winning candidate receives a majority of the vote against the remaining candidates.

**#3.13 - Proposal to Return to a Closed Primary System**

**#3.14 - Proposal to Abolish Nonpartisan Elections for County Council**

Amend Article 3, County Council, Section 3-2, Election of Council and Term of Office, to delete nonpartisan elections and implement a system of partisan elections in the primary and general elections

**#3.15 - Residency Requirements for County Council Members Proposal;**

Amend Section 3-3, Qualifications, to require that candidates have lived in and voted in the district in the previous election for which they are currently running

Amend Section 3-3, Qualifications to require that candidates have lived in the district for one year

**#3.16 - Proposal to adopt a Five-Year Residency Requirement for County Council Members Proposal**

Amend Section 3-3, Qualifications, to require that candidates have lived in the district for which they are running for at least 5 years.

**#3.17 - Proposal for Eight-Year Term Limits**

Amend Section 3-2 (5), Election of Council and Term of Office, to limit a council member to 2 terms of 4 years or 4 terms of 2 years for a total of 8 years altogether and, after the 8 years have been exhausted, to prohibit the individual from ever serving on the Council again

**#3.18 - Three-Term 4 year Term Limits Proposal**

Amend Section 3-2 (5), Election of Council and Term of Office, to limit a council member to 3 terms of 4 years

**#3.19 - Two-Term 4 year Term Limits Proposal**

**#3.20 - One-Term 4 year Term Limit Proposal**

**#3.21 - Proposal to change the present system of five two year terms of council members to three full four year terms, whether consecutive or not and require that terms of council members to be staggered.**

**#3.22 - Proposal to Amend Term of Office for Council Members from a Two (2) Year Term to a Four (4) Year Term, Stagger the Terms, and Limit the Number of Terms**

Amend Section 3-2, Election of Council and Term of Office from a two (2) year term to a four (4) year term, stagger the terms by implementing for the first election the highest 4 vote getters will serve 4 year terms and the bottom 5 vote getters will serve 2 year terms, limit the terms to 2 consecutive terms and a total of 12 years or 3 full terms.

**#3.23 - Proposal to Retain Article 3, Section 3-2 (5), Term of Office for Council Members for a 2 year term**

**#3.33 - Proposal to Amend Section 3-6, Powers of the Council to Require that the Council approve the appointments of all department heads**

In the alternative, require that the Council approve the appointments of Planning Director and the Director of the Department of Finance

**#3.34 - Proposal to Establish an Office of Legislative Attorney for the County Council**

Amend Article 3, County Council, to add a new section to establish a separate Office of Legislative Attorney assigned solely to the County Council

**#3.35 - Proposal to Require an Apportionment Commission Every 10 Years**

Amend Article 3, County Council, to add a new section to establish a county reapportionment commission to establish district boundaries, to consist of 9 members appointed by the Mayor and confirmed by the Council, to be constituted in 2011 and every 10 years thereafter, to be composed of members selected from House Districts with no more than a bare majority from one political party, to have services from the County Clerk, and to have specific criteria in the establishment of the boundaries of the council districts

**#3.36 - Proposal to delete Section 3.3-8 (because the Council approves the appointments of the Mayor).**

**Article 5, County Clerk**

**#5.1 - Proposal to Designate County Clerk to be the Official Custodian of all County records**

Amend Article 5, County Clerk, Article 5-3, Powers, Duties and Functions, to add a new section to make the County Clerk the official custodian of records of the

County of Maui, including but not limited to the financial reports of elected officials

## **Article 7, Office of the Mayor**

### **#7.1 - Proposal to Require Transparency in Appointments to Boards and Commissions**

Amend Section 7-5, Powers, Duties and Functions, to require the Mayor to make the public the names of those who have volunteered to serve on Boards and Commissions

### **#7.2 - Proposal to Make the Office of the Mayor Ceremonial and Implement an Appointed County Manager as Chief Executive Officer**

Amend Section 7-5, Powers, Duties and Functions, to change the powers of the Mayor to be ceremonial, to include accepting service of process and to be recognized by the Governor for civil defense and military purposes and to allow the County Council to appoint an interim mayor in the event of a vacancy

Amend Article 8, County Departments, Chapter 1, Department of the Management, Section 8-1.1 Organization, [1] to change the title of this section to Office of the County Manager, [2] to provide that the County Manager will be selected by the County Council, [3] to require that the County Manager have proven administrative qualifications, [4] to require residency in Maui only after selection, [5] to set forth a procedure for removal from office that includes the conduct of a hearing, and [6] to provide the County Council with final authority for removal and [7] to Amend Section 8-1.3, Powers, Duties and Functions, to enumerate the duties of the County Manager and make other conforming changes in Article 8

### **#7.3 - Proposal to Require the Mayor to include a balance sheet in the Mayor's Annual Report**

Amend Section 7-5, Powers, Duties and Functions to require the Mayor to include a balance sheet in the Mayor's Annual Report

## **Article 8, County Departments**

### **Chapter 1, Department of Management**

#### **#8.1.1 - Proposal to Amend Section 8-1.1, Organization, to specify that there shall be a deputy managing director**

#8.1.2 - Proposal to Amend Section 8-8.3(6) to require an audit every 5 years of projects that received conditional zoning approval

### **Chapter 3, Department of Prosecuting Attorney**

#8.3.1 - Proposal to Section 8-3.3 Powers, Duties and Functions, to clarify that the investigators in the prosecuting attorney's office have all the powers and privileges of a police officer of the county

#8.3.2 - Proposal to Section 8-3.3 Powers, Duties and Functions, to clarify that the County Prosecuting Attorney prosecutes offenses against the law of the State of Hawaii under the authority of the Attorney General of the State of Hawaii.

### **Chapter 4, Department of Finance**

#8.4.1 - Proposal to Require all Finance Reports to Be Available to the Public

Amend Section 8-4.3, Power, Duties and Functions, to add a new section that requires the Director to make available to the public all financial reports in an electronic form on the county website

### **Chapter 5, Department of Public Works and Environmental Management**

#8.5.1 - Proposal to Require Expeditious Processing of Building Permits

Amend Section 8-5.3, Powers, Duties and Functions, to add a new subsection to require the Department of Planning to process building permit applications within 90 days or less

#8.5.2 – Proposal to Amend Section 8-14.1, Department of Transportation, to delete the section and merge the department of transportation to be under the powers duties and function fo the director of public works – see section 8-5.3

### **Chapter 7, Department of Fire and Public Safety**

#8.7.1 - Proposal to Abolish Department of Fire and Public Safety, Require Fire Chief to Report to Mayor, and Set Minimum Qualifications for Fire Chief and Other High Ranking Fire Officials

Delete Section 8-7.2 Fire and Public Safety Commission, and amend Section 8-7.3, Fire Chief, to give the Mayor the authority rather than the Fire and Public Safety Commission to appoint the Fire Chief, and require the Fire Chief and Assistant Chief to have a 4 year college degree and the Battalion Chief to have a 2 year college degree as one of the minimum requirements

#8.7.2 - Proposal to give the Mayor the authority to in the selection and removal of the Fire Chief.

Amend Section 8-7.3 to require approval of the Commission recommendation by the Mayor

Amend Section 8-7.3 to require that the Mayor initiate and the Commission approve the request to remove by a majority vote

#8.7.3 - Proposal to Amend Chapter 7, Department of Fire and Public Safety, to change the name of the Department of Fire and Public Safety and delete the term Public Safety in order to more accurately reflect the duties of the Fire Department, and to conform other provisions of the charter to reflect the new name

Suggested new name - Fire Protection and Prevention and Rescue

#8.7.5 - Proposal to Amend Chapter 7, Department of Fire and Public Safety, Section 8-7.2, Fire and Public Safety Commission, to delete the current language and to add new language on a Statement of Policy as follows:

It is hereby declared to be the purpose of this chapter of the charter to establish in the county a system of fire protection and prevention, emergency rescue, and emergency services which shall be based on qualified and professional leadership and personnel In order to achieve this purpose, the Maui County INSERT NEW NAME OF DEPARTMENT shall be operated in accordance with the following:

The goal of the county shall be to have qualified and professional leadership and personnel in this department

Standards for recruitment shall be designed to attract into the department persons with high degrees of education, intelligence, and personal stability

Promotions and other personnel actions shall be in accordance with all applicable laws and based upon fair and appropriate standards of merit, ability and work performance

Appropriate training shall be provided to the maximum extent possible and practicable

#8.7.6 - Proposal to Amend Section 8-7.2, Fire and Public Safety Commission to have one member from each council district, to expand the powers of the commission to appoint such staff as it needs and to engage consultants as necessary for the performance of its duties and to add that the appointment of commission members



appointed by the mayor and confirmed by the council to be done so in the manner prescribed in Section 13-2.

#8.7.7 - Proposal to Amend Section 8-7.2, Fire and Public Safety Commission to expand and clarify the powers, duties and functions of the commission to do one or more of the following:

Expand the authority of the commission to review rules for the administration of the department.

Add to subsection 4 - publish a summary of the charges filed against officers and the disposition of each charge to be included in the annual report of the commission.

Review personnel actions within the department for conformance with the policies under the statement of policy.

Review and recommend on the strategic plan for the fire department or other similar type of plans

Add to subsection 5 regarding the annual evaluation of the fire chief that the commission shall at least annually compare the actual achievements in the strategic or other similar types of plans or latest update submitted by the fire chief

Submit and annual report to the mayor and the council on its activities.

#8.7.8 - Proposal to Amend Section 8-7.2, Powers, Duties and Functions of the commission to require that a summary of the charges filed and their disposition shall be included in the annual report of the commission.

#8.7.9 - Proposal to Amend Section 8-7.4, Fire Chief, Powers, Duties and Functions to add the following:

Prepare and, when deemed necessary, update a strategic or other similar type of plan of goals and objectives for the Maui County NEW NAME OF FIRE DEPARTMENT. The chief shall submit the plan and each update to the commission for review and recommendations.

#8.7.10 - Proposal to Amend Section 8-7.4 (4), Powers, Duties, and Functions to Add and Assign Ocean Safety and Rescue to the Department of Fire and Public Safety

#8.7.11 - Proposal to Amend Section 8-7.4 (4), Powers, Duties, and Functions to Clarify that Reserve Fire Fighters and Emergency Rescue Personnel can be trained and utilized, when needed.

#8.7.12 - Proposal to Delete Section 8-7.2 to eliminate the Fire and Public Safety Commission

## **Chapter 8, Department of Planning**

#8.8.1 – Proposal to Change Planning and Variance Process to Create Elected Community Boards for Every Community Plan Area on Maui, Molokai and Lanai

Amend Chapter 8, Department of Planning, to require Planning Commission members to be elected by Community Board Members and to include one nonvoting representative on the Maui Planning Commission appointed to represent Kahoolawe

#8.8.2 - Proposal to Create Planning Commissions for Each Community

Amend Chapter 8, Department of Planning, to require that each island have its own planning commission, Each of the 6 community plan districts on Maui Island shall have its own permanent advisory board (such as the advisory board that already exists in Hana). The 6 Advisory boards would make recommendations to the County Council, the Maui Planning commission and where applicable to other county boards and commissions. Each Advisory Board shall have 11 members. Members selected by the Mayor and one selected by each council member. Members will serve to 3 years, and may be reappointed twice.

#8.8.3 - Proposal to Amend Chapter 8, Department of Planning, Section 8-8.1, Organization, to add a new section to establish a Hana Planning Commission

#8.8.4 - Proposal to retain Hana Advisory Committee and make no changes to Chapter 8, Department of Planning.

#8.8.5 - Proposal to amend Section 8-8.1, Organization, to reduce the number of commissioners for the Molokai and Lanai Planning Commissions from 9 to 7 members.

#8.8.6 - Proposal to amend Section 8-8.4, Planning Commission, to allow outgoing board members of the Molokai Planning Commission to retain their membership on the board until their terms expire or their replacement member is confirmed, whichever is later.

#8.8.7 - Proposal to Amend Section 8-8.4, Planning Commissions, to expand the jurisdiction and powers of the Molokai Planning Commission

Amend Section 8-8.4, Planning Commissions, to expand the jurisdiction and powers of the Molokai Planning Commission so that it will have all the powers of the Board of Variances and Appeals for Molokai, to grant all permits (SMA,

building, business, etc.) and provide that appeals from any variance granted shall be heard and determined by the Maui County Council, provided that a 2/3rds vote would be required to overturn any variance granted within 30 days

**#8.8.8 - Proposal to Make No Changes to Planning Commission**

Retain Article 8, County Departments, Chapter 8, Department of Planning, Section 8-8.4, Planning Commission in its current form

**#8.8.9 - Proposal to Provide Adequate Time for Planning Commissions to Act**

Amend Section 8-8.4, Planning Commission, Second Subsection 3, to extend the time from 120 days to 180 days for the Planning Commissions to transmit findings and recommendations of ordinances to the Council

**#8.8.10 - Proposal to Provide Adequate Time for Planning Commissions to Act**

Amend Section 8-8.6, Adoption of General Plan and Other Land Use Ordinances, Subsection 2, to give the Planning Commissions 180 days after the final public hearing to transmit ordinances with their findings and recommendations to the Council

**#8.8.11 - Proposal to Combine Board of Code Appeals with Board of Variances and Appeals**

Delete Section 8-8.7, Board of Variances and Appeals, to combine the Board of Code appeals and all its functions and powers with the Board of Variances and Appeals

**#8.8.12 - Proposal to Protect the Right of Citizens to Use Their Residence for Economic Activity**

Amend Article 8, County Departments, Chapter 8, Department of Planning, to add a new section to provide that the use of the home for small business or rental for any period of time shall not be infringed upon except in cases of health, safety, welfare and nuisance

**#8.8.13 Proposal to Establish Elected Island Boards for Molokai and Lanai**

Amend Article 8, County Departments, Chapter 8, Department of Planning to add a new section for Elected Island Boards for Molokai and Lanai, to have 5 or 7 members, to replace the Planning Commissions and all their functions and take over the variance and zoning functions of the County Council for those islands

**#8.8.14 - Proposal to create an Implementation Unit within the Department of Planning's Long-Range Division**

Amend Article 8, County Departments, to add a new section for an Implementation Unit within the Department of Planning's Long-Range Division to proactively implement and coordinate the General Plan and coordinate with the Enforcement Unit to vigorously enforce the provisions of these plans.

**Chapter 9, Department of Personnel Services**

**#8.9.1 - Proposal to Amend Article 8, County Departments, Chapter 9, Department of Personnel Services, Section 9.4, Civil Service Commission with a housekeeping measure to align the Maui County Charter with the Hawaii Revised Statutes regarding recent changes to the civil service law .**

**Chapter 11, Department of Water Supply**

**#8.11.1 - Proposal to Eliminate the Board of Water Supply**

Delete Section 8-11.3, Board of Water Supply and Section 8-11.4 Powers Duties and Functions, in order to eliminate the Board of Water Supply.

**#8.11.2 - Proposal to Amend Article 8, County Departments, Chapter 11, Department of Water Supply, Section 8-11.3 Board of Water Supply and Section 8-11.4 Powers Duties and Functions to Strengthen the independence of the Board of Water Supply and to Establish It as a Semi-autonomous Entity and to have some or all of the following powers:**

issue revenue bonds

hire its own legal counsel and not use the Corporation Counsel

set rates

promulgate rules and regulations

set its own budget

appoint the Director of the Department of Water Supply

use model of the provisions in the Charter of the City and County of Honolulu

use model it after the provision proposed by the 2001 Maui County Charter Commission

complete and independent authority for rules, budget, fees and rates

#8.11.3 - Proposal to amend Section 8-11.5, Powers Duties and Functions [of Director of Water Supply] to increase his or her powers

report to either the council or the board of water supply on all issues to eliminate piecemeal authority

#8.11.4 Proposal to delete the requirement in Sec. 8.11 -5 that Director of Water Supply be confirmed by the County Council

## **Chapter 12, Department of Police**

#8.12.1 - Proposal to Establish Mayor as Appointing Authority for Police Chief

Amend Section 8-12.3, Chief of Police, to have the Mayor appoint and remove the Chief of Police at will and delete the power of the Police Commission to do so, and to add the requirements of a notice and hearing

#8.12.2 - Proposal to Make No Changes to Article 8, County Departments, Chapter 12, Department of Police

#8.12.3 - Proposal to Amend Article 8, County Departments, Chapter 12, Department of Police, Section 8-12.4 (4), Powers, Duties, and Functions of the Chief of Police to Clarify that Reserve Police Officers can be trained and utilized, when needed.

#8.12.4 - Proposal to amend Section 8-12.2, Police Commission, to add a new subsection to require that the Police Commission hold public meetings in truly public venues in different parts of the County four times a year.

## **Chapter 13, Department of Liquor Control**

#8.13.1– Proposal to Abolish the Liquor Adjudication Board

Amend Article 8, County Departments, Chapter 13, Department of Liquor Control, to abolish the Liquor Control Adjudication Board and Transfer its Function to the Liquor Control Commission

#8.13.2 - Proposal to make no changes to Liquor Adjudication Board

## **Chapter 14 – Department of Transportation**

#8.14.1– Delete Department of Transportation

#8.14.2 - Delete Department of Transportation and create a Deputy Transportation position in the Department of Public Works

## **Chapter 15 – Department of Environmental Management [2006 Charter Amendment]**

#8.15.1 - Proposal to Amend Article 8, County Departments, Chapter 15, Department of Environmental Management to Add the Function of Sustainability to the Department of Environmental Management and change the name of the department to Department of Sustainability and Environmental Management, create a new department entitled the Department of Sustainability and Environmental Management :

Add specific language to include the function of sustainability as follows:

Guide efforts to maximize opportunities for natural resource protection, conservation, and restoration.

Coordinate and develop policies and initiatives that integrate sustainable resource development, support local food and energy production, and establish partnerships with agencies and organizations to implement programs, policies, and projects that promote sustainability.

## **Chapter 16 –Cost of Government Commission**

#8.16.1 - Proposal to Amend Article 8-16.2, Cost of Government Commission, to require that annual appropriation not be less than the year before, and that the commission decide the compensation of elected officials, appointed directors and deputy directors of all departments, consulting with the boards and commissions which have appointing authority for department heads.

#8.16.2 - Proposal to Amend Article 8-16.3, Term of Commission from a Two (2) Year Term to a Four (4) Year Term and Limit the Number of Terms

#8.16.3 – Proposal to Amend Article 8-16.3, Term of Commission from a two (2) year term to a five (5) year term and limit the terms to 2 consecutive terms for a total of 10 years.

#8.16.4 – Proposal to Amend Article 8-16.3, Term of Commission from a two (2) year to a six (6) year term and must be a resident of Maui for at least one year preceding the filing of nomination papers and have voted in the last election and must continue to reside on Maui for his or her elected term. Vacancy in office shall be filled at the next special election, unless it is more than 6 months before, and then the Mayor shall make the appointment to serve until the next special election.



#8.16.5 – Proposal to Amend Article 8-16.3, Term of Commission to have 3 members, elected for 6 years, whose terms shall be staggered every 2 years. Longest serving commissioner shall serve as temporary chair until the commission elects a permanent chair.

#8.16.6 – Proposal to Amend Article 8-16.3, Term of Commission to have commission members elected in a nonpartisan special election, with a second special election where necessary.

## **Chapter 18 – Salary Commission**

#8.18.1 - Proposal to Amend Section 8-17.1 to add the following language:  
Notwithstanding any law to the contrary, in setting the salary of each appointed department head, the salary of each appointed department head shall not be less than any base salary of any of the appointed department head's subordinate; and the salary of any first deputy for first assistant to the appointed department head of any department shall not exceed a sum equal to ninety-five percent of the salary of such appointed department head, pursuant to HRS sec 4-24, as amended.

## **New Chapters to be designated in Article 8, County Departments**

#8.New.1 - Proposal to Establish an Independent Office of County Hearings Officers

Amend Article 8, County Departments, to add a new section establishing an Independent Office of County Hearings Officers to conduct all contested cases and to make findings and to recommend action to officials, boards, and commissions, to be administered by the Office of Finance

#8.New.2 – Proposal to establish Elected Community Boards

Amend Article 8, County Departments, to add a new section for Communities and Community Boards and mandate that each Community Plan Area have an elected Community Board of nine at-large members, whereby each member would run in a nonpartisan special elections conducted at the same time as the special election for Council and the two candidates receiving the most votes would run in the General Election, with the terms limited to two four-year terms, designating a separate Community Board for Maui, Molokai and Lanai, with additional conforming amendments regarding vacancies, the conduct and scheduling of meetings, the powers of the Board, the replacement of Citizen Advisory Committees, with Community Boards in the Community Plan Process and the authority to appoint a member to the Board of Variances and Appeals

**#8.New.3 - Proposal to Create an Office of Independent Counsel for Boards and Commissions**

Amend Article 8, County Departments, to add a new section to create an Office of Independent Counsel separate from the Department of Corporation Counsel to provide independent legal advice to County Boards and Commissions

**Article 9, Financial Procedures**

**#9.1 - Proposal to Amend Article 9, Financial Procedures, Section 9-2, Preparation and Submission of Budget and Capital Program to Change from an Annual Budget to a Biennial Budget to Commence in a Non-election Year.**

**#9.2 - Proposal to Amend Article 9, Financial Procedures, Section 9-2, Preparation and Submission of Budget and Capital Program to Change from an Annual Budget in odd years for the operating budget and even years for the CIP budget.**

**#9.3 - Proposal to Amend Article 9, Financial Procedures, Section 9-13, Audit, to shorten the time for each department to prepare its reports from 6 months to 3 months after the close of the year.**

**#9.4 - Proposal to Delete Section 9-20, Affordable Housing Program [amended 2010].**

**#9.5 - Proposal to Add a New Section to Prohibit the County from Giving Money to Non-profits.**

**Article 10, Code of Ethics**

**#10.1– Proposal to Require Simultaneous Filing of Candidate Financial Disclosures**

Amend Article 10, Code of Ethics, Section 10-3, Financial Disclosures, to add a provision that requires [1] the filing of a financial disclosure statement with the County Clerk at the time a candidate files his or her nomination papers for office, [2] the submission of the financial disclosure statement to the Mayor by the County Clerk and from the Mayor to the Ethics Commission, and [3] the convening of a public meeting by the Ethics Commission to discuss any conflicts of interest entries on the form

NOTE – Corporation Counsel indicated at the June 27, 2011 meeting, Transcript page 99, that “there is nothing for the Commission to do” on the issue of concurrent filing of a financial statement and that “State law has been changes and we changed the Charter, now we’re changing the ordinance”.

**#10.2 – Proposal to Define Ethics to Prohibit Making False Statements**

Amend Article 10, Code of Ethics, Section 10-1, Declaration of Policy, to add a provision to define "ethics" to prohibit the making of false statements

#10.3 - Proposal to Amend Article 10, Code of Ethics, Section 10-3 (1), Financial Disclosure to specify that financial disclosure be as required by provisions of Article 10 of the Maui County Charter, Maui County Code and Maui County Rules of the Board of Ethics.

#10.4 - Proposal to Amend Article 10, Code of Ethics, Section 10-4, Prohibitions, subsection 2 (a), to extend the time from one year to a longer time after termination of service of employment with the county for former county employees, Mayors and Councilmember before one can appear for compensation before any agency of the county.

#10.5 - Proposal to penalize those candidates who do not file timely financial statements by disqualifying them for County office.

#### **Article 11, Initiative**

#11.1 - Proposal to Reduce Number of Signatures Required for Initiative Petition

Amend Section 11-3(2), Petitions, to reduce the percentage of signatures required from 20% to 10% of voters, and to amend the definition of voters from those that were registered to those that voted

#11.2 - Proposal to Require Explanation of the Effect of Blank Votes on Ballot Initiative

Amend Article 11-6(2), Action on Petitions, to add a new section to require an explanation on the ballot itself of the consequence of leaving the vote blank

#### **Article 12, Recall**

#12.1– Proposal to Reduce Number of Signatures Required for Recall Petition

Amend Section 12-3(2), Petitions, to reduce the percentage of signatures required from 20% to 10% of voters, and to amend the definition of voters from those that were registered to those that voted

#12.2 - Proposal to Extend Time to File Papers for Recall Petition

Amend Section 12-4, Filing and Certification, to extend the date for filing all papers comprising a recall petition from 30 days to 180 days after the affidavit filing (the same as an initiative requirement).

#12.3 - Proposal to Reduce Number of Votes Required to Recall

Amend Section 12-6, Recall Election, to change the definition of voters from those that were registered to those that voted

**#12.4 – Proposal to Require Explanation of Blank Vote on Ballot for Recall**

Amend Section 12.7, Ballots, to add a new section to require an explanation on the ballot itself of the consequence of leaving the vote blank

**Article 13 – General Provisions**

**#13.1 - Proposal to Amend Section 13-2 (16), Subsection 17 to clarify that the 30 days for the Mayor to submit to the Council the name of the Mayor's nominee to fill the vacancy commences upon the date of informing the Council of a vacancy.**

**#13.2 - Proposal to Remove the Council's power to nominate and approve Board and Commission Members under Sections 13.2-16 and 13.2-17**

**#13.3 - Proposal to Require Interactive Communications Access for the Public to All County Public Meetings and to County Departments**

Amend Article 13, General Provisions, to add a new section to require interactive communications access for the public to all County Public Meetings and to County Departments

**#13.4 - Proposal to Add a New Paragraph to require that all county boards and commissions post on the county website [1] the minutes of any public meeting or hearing within a certain number of days after the meeting and [2] any and all internal policies of any and all departments**

**#13.5 - Proposal to Amend Article 13, General Provisions to create a new section to require Telecommunications Access for the Hana, Lanai and Molokai residents to all County Public Hearings with the capability for Hana, Lanai and Molokai residents to testify remotely at all County Public Hearings**

**#13.6 - Proposal to Amend Article 13, General Provisions Create a new section to establish a Blue Ribbon Committee to make recommendations to the Mayor for Appointments to Boards and Commissions**

Amend Article 13, General Provisions, to add a new section to require the creation of a Blue Ribbon Committee to make recommendations to the Mayor for Appointments to Boards and Commissions, 3 to be appointed by the Mayor and 3 to be appointed by the Council, to serve for 2 year terms that can be renewed one time. Recommendations shall be revealed to the Mayor only and the Mayor shall make every effort to utilize the Committee's recommendations.

#13.7 - Proposal to Amend Article 13, General Provisions, to add a new section entitled reports to make available all reports required by Charter, Code or Ordinance to be posted and available to the public at no cost.

#13.8 - Proposal to delete Section 13.2, Boards and Commissions, Subsection 2, which requires that no more than a majority of the members of a board or commission can belong to the same political party

#13.9 - Proposal to Amend Section 13-2 (3) Boards and Commissions to require that each board or commission include a qualified resident of Lanai and Molokai.

#### **Article 14, Charter Amendments**

#14.1– Proposal to Delete Power of County Council to Amend Maui Charter

Amend Sections 14-1, Initiation of Amendments, Subsections (1) and (2), to remove power of the County Council to amend the Maui Charter on its own, and to make conforming changes

#14.2 - Proposal to Delete Power of County Council to Amend Maui Charter

Amend Sections 14-1, Initiation of Amendments, Subsections (1) and (2), to completely remove power of the County Council to amend the Maui Charter

#14.3 - Proposal to Amend Article 14, Charter Amendment, Sections 14-1, Initiation of Amendments, Subsections (1) and (2), to delete Power of County Council to Amend Maui Charter during the time that a Charter Commission is constituted

Amend Sections 14-1, Initiation of Amendments, Subsections (1) and (2), to remove power of the County Council to amend the Maui Charter on its own, and to make conforming changes

#14.4 - Proposal to Amend the Charter Commission Appointment Process, Sec. 14.3, so that it follows the time requirements for regular Maui County boards and commissions in Sec. 13.2 -16.

#14.5 - Proposal to Reduce the Number of Votes Required for Charter Amendment Petition

Amend Section 14-2(3), Initiation of Amendments, to reduce from 20% to 10% the percentage of voters required to sign a petition to change the County Charter, and amend the definition of voters from those that were registered to those that voted

**#14.6 – Proposal to Require a Charter Commission Every 10 Years**

Amend Article 14 Charter Amendment, Section 14-3, Mandatory Review, and delete the section which refers only to a Charter Commission appointed in 2001 and draft a new section mandating the appointment of a Charter Review Commission every 10 years

**#14.7 – Proposal to Require an Estimated Cost on the Ballot for Every Charter Amendment**

Amend Article 14, Charter Amendment, to add a new section to require that every charter amendment proposed to the voters include an estimated cost on the ballot

**#14.8 – Proposal to Eliminate the Charter Commission**

Delete Article 14, Charter Amendment, Section 14-3, Mandatory Review

**NEW ARTICLES PROPOSED**

A. Proposal to Establish an Office of County Auditor to establish an Office of County Auditor to include or not include none or one or more of the following:

- \*independent of both the Mayor and Council/complete autonomy
- \*perform all financial and operational audit functions
- \*coordinate with the COGC or otherwise work with COGC
- \* complete discretion to prioritize assignments
- \*administrative assigned to the Council
- \*possible appointment by the Judiciary
- \*possible appointment by a committee
- \*county auditor could be removed only by a 2/3rds vote of the council [as in Honolulu Charter]
- \* model powers and duties after the Auditor for the City and County of Honolulu

B. Proposal to Establish a new office of Hearings Officers.

# **COUNTY OF MAUI**



## **COST OF GOVERNMENT COMMISSION ANNUAL REPORT 2010 – 2011**

# **COST OF GOVERNMENT COMMISSION COUNTY OF MAUI**

## **Report of Findings and Recommendations for Commission Term 2010 – 2011**

*It is declared to be the policy of the County to promote economy,  
efficiency and improved service in the transaction of the public business in the  
legislative and executive branches of the County.*

Ann M. Moe, Chair  
Yarrow Flower, Vice Chair  
Harold Davis, Member  
Frank De Rego, Jr., Member  
Bradford Ing, Member  
Ronald Kawahara, Member  
Rebecca Kikumoto, Member  
Ivan Lay, Member  
Jody Yoshida, Member



# **COST OF GOVERNMENT COMMISSION ANNUAL REPORT OVERVIEW**

## **I. INTRODUCTION**

The Cost of Government Commission ("Commission") is charged with studying and investigating ways to "promote economy, efficiency, and improved service in the transaction of the public business in the legislative and executive branches of the County." Charter, County of Maui, Sections 8-16.1–2 (2006). The Commission applauds former Mayor Charmaine Tavares and the Maui County Council for establishing fiscal discipline and producing a Fiscal Year 2011 budget with significant reductions in expenditures, some of which were painful for both County employees and constituents. Because the Fiscal Year 2011 budget was so stringent, the Commission's work in 2010-2011 was severely constrained in finding new or additional cost savings that were immediate and significant. As a result, the members of the Commission turned their attention to areas where greater efficiencies and effectiveness, as well as cost savings could be realized.

The Commission met with former Mayor Tavares and Councilmember Joseph Pontanilla to review the Commission's 2009–2010 Annual Report and discuss potential areas of study for the Commission's 2010–2011 term. Informed by their input, the Commission established two subcommittees to study and make recommendations regarding (1) boards and commissions, and (2) the Waiehu Golf Course.

The subcommittees completed their investigative review and presented their final reports to the full Commission, which approved their findings and recommendations unanimously.

The Commission encourages County leaders to consider implementing the Commission's recommendations—and proposed bills where relevant—as they deliberate over the Fiscal Year 2012 budget in the coming months. The Commission's recommendations, if implemented, can provide immediate savings and/or greater revenue to the County, as well as result in greater efficiencies overall.

***The potential soft dollars savings identified by the Boards and Commissions Subcommittee are estimated at \$2.9 million over five years from changes to or the elimination of selected boards and commissions.***

***Recommendations by the Waiehu Golf Course Subcommittee, which include modest increases to green fees and the establishment of a concierge service program, could increase Waiehu Golf Course revenues by an estimated \$423,000, thereby reducing the amount of General Fund subsidies the Waiehu Golf Course currently receives.***

## **II. GENERAL COMMENTS**

In addition to the executive summaries and full subcommittee reports that follow, the Commission wishes to call attention to its 2009–2010 Annual Report, which included recommendations that remain timely and can result in significant savings in the short- and medium-term. Issues covered in last year's report that should be considered include:

A. Department of Management Subcommittee

- A Charter Amendment to allow the executive branch, with approval of the legislative branch, to create additional departments as the needs of the County evolve.
- Reorganization of the Department of Management by dividing the Department into two separate departments.

B. Energy Subcommittee

- The development and implementation of a County-wide fleet management program, including centralized data collection and recordkeeping in the Department of Finance, a two-year cost-reduction plan, fleet retention policies, and increased oversight to control misuse of County vehicles.

### III. SUBCOMMITTEE EXECUTIVE SUMMARIES

A. Boards and Commissions Subcommittee

The Boards and Commissions Subcommittee ("Subcommittee") identified 13 Maui County boards, commissions, committees, and councils for study (from a total of 37) with the goal of eliminating or refocusing these entities. The criteria for investigating these 13 boards and commissions were based on the initial perception that these entities:

- did not perform a function vital to running County Government, and/or
- represented an opportunity to increase County revenues, efficiency, or both by their elimination or change of focus, and/or
- duplicated services offered by not-for-profit or private sector entities, and/or
- no longer served a relevant function.

Members of the Subcommittee met in person and had follow up contact with key staff members of the departments that work closely with the selected entities. The Subcommittee also compared the Maui entities with other jurisdictions, particularly the City and County of Honolulu and the County of Kauai.

***The Subcommittee concluded that enacting its recommendations, set forth below, would represent an estimated savings to the County of \$2.9 million in soft dollar costs over five years, or \$580,000 per year.***

The major soft dollar savings are a result of not having to complete the recruitment and appointment process for an estimated 44 open positions during that period. In contrast, the direct soft dollar costs for staffing and operating the boards and commissions are modest because many of these entities meet infrequently or not at all.

The Subcommittee offers the following specific recommendations based on its review.

1. Recommendations for Change in Certain Boards and Commissions

a. Real Property Tax Appeal Board

The Subcommittee supports the passage of a proposed bill to amend Titles 2 and 3, Maui County Code, relating to Real Property Tax Reviews, that passed first reading by the County Council on December 17, 2010, and is currently scheduled for second and final reading on February 18, 2011. The purpose of the proposed bill is to establish up to three Real Property Tax (RPT) Review Boards to assist with the backlog and timely processing of RPT appeals, which are currently being heard by a single RPT Board.

b. Maui Redevelopment Agency

The Subcommittee recognizes opportunities to use the Maui Redevelopment Agency to revitalize communities in the County and recommends the creation of a broad-based panel, which would include a Cost of Government Commission representative, to study regional development issues and make recommendations.

c. Commission on Persons With Disabilities *and* Council on Aging

The Subcommittee recommends that the Commission on Persons with Disabilities and the Council on Aging be combined based on models provided by federal departments, commissions in other states, and non-profit organizations. These models reflect a growing awareness of the similar issues faced by seniors and persons with disabilities that warrant new approaches to policy development and service delivery.

d. Committee on the Status of Women

The Subcommittee recommends that the role of the Committee on the Status of Women be one of advising the County and the State Commission on the Status of Women on policy as it relates to the needs and aspirations of women in Maui Nui. The duties of this Committee would include publishing an annual report on the Status of Women in Maui County and engaging in other activities that highlight the needs, challenges, and opportunities for women in Maui Nui.

e. Board of Code Appeals

The Subcommittee recommends no change to this entity, but advises raising the application fee to reflect the actual costs of the appeals process.

2. Recommendations for Elimination of Certain Boards and Commissions

- a. Affirmative Action Advisory Council
- b. Animal Control Board
- c. Commission on Naming Streets, Parks, and Facilities
- d. Commission on Children and Youth
- e. Commission on Culture and the Arts
- f. Outdoor Lighting Standards Committee
- g. Subdivision Engineering Standards Committee

3. Recommendations Related to the Recruitment and Appointment Process

The Subcommittee encourages the Mayor's Office to establish and communicate clear expectations for all present and potential members of boards, commissions, committees, and councils. Toward this end, the Subcommittee recommends the following:

- a. that basic information about the duties, meeting times, and attendance policies of each entity be made available on the Boards and Commissions website that is clear and easy to find; and
- b. that a document be included in the orientation packet for new members outlining attendance policies and other expectations that is then signed by the member and returned to the Mayor's Office.

B. Waiehu Golf Course Subcommittee

The mission of the Department of Parks and Recreation is to "[p]rovide safe, satisfying and cost effective recreational opportunities for the residents of and visitors to Maui County." At the same time, the Department must balance its mission with the fiscal demands currently being placed on the County of Maui's budget by the Waiehu Golf Course, which the Department oversees. The Cost of Government Commission's Waiehu Golf Course Subcommittee evaluated the Waiehu Golf Course with these two primary concerns (cost-effective recreational opportunities v. fiscal constraint) in mind and offers the following recommendations.

1. Increase Course Fees

The most efficient way to provide a savings to the County's General Fund, which subsidizes the golf course, is to increase course fees, thereby making the Waiehu Golf Course more self-sufficient, as required by Maui County Code Section 13.16.040. A modest increase in course fees could result in increased revenue in the amount of \$405,281 annually, which would in turn reduce or eliminate the current subsidies the Golf Course Fund receives from the County's General Fund.



2. Immediately Set Up a County Program to Operate Golf Cart Rentals

The Subcommittee recommends that the County set up its own program to provide golf cart rentals at the Waiehu Golf Course. The Subcommittee also recommends that the Waiehu Golf Course lease the carts (as opposed to purchasing them), and that any lease with a golf cart equipment provider include a maintenance program whereby the provider maintains the carts. Instituting such a program will enable the County to realize profit from golf cart rentals and reduce its potential liability for any accident or injury that might result from faulty or poorly-maintained golf carts. The Department should be required to provide the additional service without increasing staff.

3. Actively Advertise and Market the Waiehu Golf Course to Residents and Visitors

The Subcommittee recommends that a strategic marketing plan become a permanent part of the budget and operations of the Waiehu Golf Course. The Subcommittee also recommends that the Waiehu Golf Course consider establishing a concierge service program, whereby the Waiehu Golf Course receives a commission for each booking made by a hotel or other concierge service. Such a program could conservatively bring in \$17,280 annually in revenue to the County.

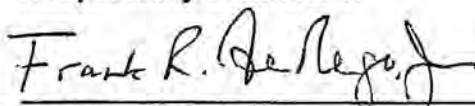
#### IV. ACKNOWLEDGMENTS

The Cost of Government Commission would like to thank members of the Tavares Administration for responding promptly and professionally to requests for information and other inquiries.

The Commission would also like to thank Shelley Pellegrino, Executive Assistant to the Mayor, and Jeff Ueoka, Deputy Corporation Counsel, for their advice and assistance during the term.

We also wish to thank Aulani Delatori and Michelle Estaban, both Secretaries to the Commission, for their help and support during the past year.

Respectfully submitted:

  
for ANN M. MOE, Chair

1/27/11  
Date

  
YARROW FLOWER, Vice Chair

1/27/11  
Date

January 2011  
Cost of Government Commission  
Boards and Commissions Subcommittee  
Ann Moe, Chair  
Frank De Rego, Jr., Member  
Ivan Lay, Member  
Jody Yoshida, Member

**COST OF GOVERNMENT COMMISSION  
BOARDS AND COMMISSIONS SUBCOMMITTEE  
FINAL REPORT**

**I. INTRODUCTION**

The Cost of Government Commission's ("Commission") Boards and Commissions Subcommittee ("Subcommittee") focused on 13 of the County of Maui's 37 boards, commissions, committees, and councils ("boards and commissions") for review. The criteria for investigating these 13 boards and commissions were based on the initial perception that these entities:

- did not perform a function that is vital to running County Government, and/or
- represented an opportunity to increase County revenues, efficiency, or both by their elimination or change of focus, and/or
- duplicated services offered by not-for-profits or private sector entities, and/or
- no longer served a relevant function

The entities studied in alphabetical order are:

Affirmative Action Advisory Council  
Animal Control Board  
Board of Code of Appeals  
Commission on Children and Youth  
Commission on Naming Streets, Parks and Facilities  
Commission on Culture and the Arts  
Commission on Persons with Disabilities  
Committee on the Status of Women  
Council on Aging  
Maui Redevelopment Agency  
Outdoor Lighting Standards Committee  
Real Property Tax Review Board  
Subdivision Engineering Standards Committee

## II. METHODOLOGY

Subcommittee members met in person and had additional conversations with the following individuals.<sup>1</sup> Notes from these conversations are included as Exhibits C-1 to C-10 of this report.

### Corporation Counsel

Brian Moto, Corporation Counsel  
Traci Fujita Villarosa, First Deputy Corporation Counsel  
Kimberly A.B. Sloper, Deputy Corporation Counsel  
David A. Galazin, Deputy Corporation Counsel  
Michael Hopper, Deputy Corporation Counsel  
Jeffrey Ueoka, Deputy Corporation Counsel

### Department of Finance

Kalbert Young, Director

### Department of Personnel Services

Lance Hiromoto, Deputy Director, Department of Personnel Services  
Cheryl Kelly, Equal Employment Opportunity Specialist

### Department of Public Works

Michael Miyamoto, Deputy Director  
Jarvis Chun, support to the Board of Code Appeals  
Anthony Crook, support to the Commission on Naming Street, Parks, and Facilities  
Cary Yamashita, support to the Outdoor Lighting Standards Committee  
Lesli Otani, support to the Subdivision Engineering Standards Committee

### Department of Housing and Human Concerns

Lori Tsuhako, Director  
Jo-Ann Ridao, Deputy Director  
Kimberly Ferguson, support to the Animal Control Board  
Deborah Arendale, Executive for Office on Aging  
Liane Tanaka, support to the Council on Aging  
Melvin Dadez, support to the Commission on Children and Youth  
Roberta Souza, support to the Commission on Culture and the Arts  
Jan Roberson, support to the Commission on Persons with Disabilities  
Wendy Stebbins, Volunteer Advisory Board

### Office of the Mayor

Marian Feenstra, Senior Executive Assistant  
Darlene Endrina, Executive Assistant  
Shelley Pellegrino, Executive Assistant, support to the Committee on the Status of Women

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<sup>1</sup>Note that all meetings took place in 2010. Many of the individuals with whom the Subcommittee met held appointed positions with the former Mayoral Administration. These individuals may no longer be employed by the County or may be employed in a different capacity in 2011.

Maui Redevelopment Agency  
Erin Wade, AICP, Small Town Planning Director

Office of the Mayor, City and County of Honolulu  
Jay Ishibashi, support for boards, commissions, councils and committees

Office of Boards and Commissions, County of Kauai  
John Isobe, Director

The Subcommittee also communicated with representatives from the City and County of Honolulu and the County of Kauai regarding their boards and commissions. Based on these conversations and further research, the Commission put together a document comparing the boards and commissions in these two counties with those on Maui. See Exhibit B.

The Subcommittee decided not to include Hawaii County in its comparison because Hawaii County has more boards and commissions than Maui County, many of which are planning-related. In addition, Maui County has a number of boards and commissions that do not exist in Hawaii County. However, the Subcommittee did consult with Hawaii County on how it handled appeals related to "dangerous dog" designations. The information regarding Hawaii County's experience and that of Honolulu and Kauai are included in the Animal Control Board discussion below.

Finally, and most importantly, the Subcommittee wants to highlight the ten (10) draft proposed bills that accompany this report. See Proposed Bills I to X. In cooperation with the Department of the Corporation Counsel, through the deputy assigned to the Cost of Government Commission, the Subcommittee offers these proposed bills to expedite the consideration and implementation of the Cost of Government Commission's recommendations.

### **III. GENERAL FINDINGS AND RECOMMENDATIONS**

#### **A. Findings**

1. Soft dollar costs for the process of recruitment through to appointment constitute the major expense for the County in support of boards and commissions. The Subcommittee estimates the costs for this process to be approximately \$77,000 for a new member and \$15,000 for a returning member. See Exhibit E. These estimates do not reflect the time spent on recruiting for positions that have specific requirements such as a veterinarian (Animal Control Board) or an astronomer or space surveillance expert (Outdoor Lighting Standards Committee).
2. The key factors influencing the costs of the process include the following:
  - a. Some entities require skills of people who are committed to their own businesses and cannot participate;
  - b. The appointment process includes extensive involvement of the staff of the Office of the Mayor and the Mayor; and



- c. The appointment process involves the County Council Committee of the Whole, the Corporation Counsel, representatives of the Office of Mayor, and other related County and County Council staff members.
3. Costs for staff and other support were found to be inconsequential because many of the entities were not active. Where applicable, per diem costs for those who travel from Lanai, Molokai, and Hana are generally around \$350 per meeting and are incurred only when there is a meeting.
4. The Mayor's Office does take steps to ensure that potential appointees understand the duties and time commitments involved as a member of a board or commission. However, in spite of these precautions, some appointees do not actively participate.
5. Most boards and commissions have an attendance policy in its rules and procedures. See Exhibit D (examples of attendance policies). However, of the 37 boards and commissions listed on the County of Maui website, only 28 — or 76% — have posted their rules and procedures online.
6. Several entities report the problem of assembling a quorum. This pattern of irregular or infrequent attendance impairs the ability of the entity to deliver on its mission and discourages the more engaged members.

B. Recommendations

1. The Subcommittee recommends that a link to the rules and procedures for every entity be included on the Maui County website page that describes in detail each board and commission. This ensures that individuals who are interested in applying for an open position have access to information about the expectations and attendance requirements.
2. The Subcommittee recommends that information on each board and commission on the Maui County website indicate: 1) the usual meeting dates and times if appropriate; 2) a brief statement of expectations regarding time spent in and out of meetings; and 3) expectations on attendance. The Subcommittee offers the following example:

Cost of Government Commission

- *Scheduled Meeting: second Thursday of every month.*
- *Scheduled time: 9 a.m. to 11 a.m.*
- *Members spend an additional 25% of time in subcommittee work.*
- *Members should attend all meetings with the understanding that four unexcused absences may result in the removal of the member from the commission.*

The Subcommittee submits that this practice will reduce the number of applications from people who would not be able to attend meetings on a regular basis.

3. The Subcommittee recommends that a new or returning member who has been appointed to a new term must complete and sign an oath of office prior to or on the first date of service for his or her term. The Subcommittee also strongly recommends that the member be required to sign a document that acknowledges that he or she has read and understands the attendance requirements and expectations as included in the rules and procedures for the entity.

#### **IV. RECOMMENDATIONS FOR CHANGE IN CERTAIN BOARDS AND COMMISSIONS**

##### **A. REAL PROPERTY TAX APPEAL BOARD**

###### **1. Findings**

- a. Property assessments that determine taxes due on real estate are based on property valuations from the previous year and thus lag the market.
- b. At the October 2010 meeting of the Real Property Tax (RPT) Review Board there were 75 appeals of 2009 assessments and 102 appeals from a single commercial property owner. Due to the nature of property assessment valuations and assuming a flat real estate market at best in the near to medium term, the problem of an increasing number of appeals likely will not diminish.
- c. Property taxes under appeal must be paid, but are not accessible to the County to cover expenditures. The estimate as of October 2010 is a range of \$12 to \$19 million or an average of \$15 million. The practical effect of the present situation is that the aggregate weight of so many unresolved appeals results in a de facto budget cut.
- d. The County needs to process more appeals at a faster pace. However, current budget constraints limit hiring the number of staff needed to process case settlements, each of which takes time to prepare.
- e. At present, the Maui County Code provides for one RPT Review Board. The current Board is now meeting twice a month and has the capacity to handle more cases. An ordinance change is required to add additional boards.

- f. The County of Kauai has hired appraisers on a contract basis to do the "field work," which is then reviewed by County appraisers who are familiar with the local market. This has increased the speed at which Kauai County has been able to deal with the extensive back log.
- g. The City and County of Honolulu has increased the number of RPT Appeals Boards to five. The Honolulu City Council passed an ordinance that improves the chances for a quorum by allowing members of one tax appeal board to contact members of another tax appeal board to attend meetings.
- h. It is difficult to recruit board members for the RPT Review Board because of the demands on the members' time. This is particularly true now that there are two board meetings scheduled every month with each usually lasting several hours.

## 2. Recommendations

*Note: The Subcommittee was in the process of finalizing its findings and recommendations for the Real Property Tax Review Board ("Board") when the County Council, on December 17, 2010, passed on first reading Bill 97, "A Bill for an Ordinance Amending Titles 2 and 3, Maui County Code, relating to Real Property Tax Reviews." The purpose of the proposed bill is to establish up to three RPT Review Boards to assist with the backlog and timely processing of RPT appeals.*

*At the County Council's January 21, 2011 meeting, in which Bill 97 was scheduled for second and final reading, the County Council heard testimony from the Chair of the RPT Review Board, who opposed the bill's passage. The Council decided to defer decision making on the bill until its February 18, 2011 meeting.*

*As set forth in the recommendations below, the Subcommittee supports passage of Bill 97.*

- a. The Subcommittee supports the passage of Bill 97. In theory, the ability to increase the number of boards (the proposed bill allows up to three boards) should increase the throughput of appeals, but this will be contingent on the number of cases ready for adjudication. The Subcommittee recognized that increasing the number of boards will also increase the number of persons needed to fill these positions. That fact notwithstanding, the Subcommittee believes it will be easier to recruit members to two boards that meet once a month over a single board that is expected to meet twice a month for several hours at a time. Two long meetings per month for volunteers are not sustainable over the medium term.

- b. Increasing the number of boards also provides an opportunity for specialization, with one board focusing on residential properties and the other on commercial properties. The overall result will be increased efficiency through an increase in the number of appeals being processed.
- c. To increase the number of cases ready for adjudication without significantly increasing staff, the Subcommittee recommends that the County of Maui and the Real Property Tax Division investigate the feasibility of hiring an outside appraisal firm to complete initial appraisals. The Subcommittee believes the result of this action would be an increase in the number of processed appeals at a reasonable cost, without the long-term commitment to increased staff. One strategy to consider is the use of the outside firm to execute appraisals on the many less-complicated appeals, thereby freeing up time for County staff to focus on the more complex cases.

## B. MAUI REDEVELOPMENT AGENCY

### 1. Findings

- a. The enabling legislation<sup>2</sup> (HRS Section 53-5) for this entity has defined its authority in fairly narrow terms in contrast to the Hawaii Community Development Authority that funded and redeveloped the Kakaako area in Honolulu. See Exhibit C-2.
- b. Although the Maui Redevelopment Agency has made commendable progress recently, the concept of a progressive development authority in Wailuku and other communities in the County has not reached its full potential.

### 2. Recommendation

The Subcommittee recommends that the Maui Redevelopment Agency craft a more aggressive long-term plan. More specifically, the Subcommittee recommends the creation of a Community Working Group consisting of representative(s) from the Cost of Government Commission, along with community, civic, and business leaders from different regions of the County. The panel will collaborate in a two-year study to revitalize the agency and suggest more aggressive and productive renewal of certain areas in the County.

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<sup>2</sup> See Exhibit A for a complete list of the 37 County boards and commissions and the enabling legislation (e.g., Hawaii Revised Statutes, County Code, County Charter) governing each. In some instances, additional citations to laws governing a board or commission generally are also included.



C. — COMMISSION ON PERSONS WITH DISABILITIES *and* COUNCIL ON AGING

1. Findings

- a. For any commission, the number of people required to fill positions in the next five years will vary based on the staggered nature of members' terms, resignations, or the incapacity to serve. The Commission on Persons with Disabilities has nine positions, with a potential of seven (7) to nine (9) open positions over the next five years. The Council on Aging has 15 positions, with the potential of 13 to 17 open positions over the next five years. The guidelines for appointment to the Council on Aging require that members be 60 years of age or older. While this is appropriate, the limitation tends to increase the cost of recruitment due to the limited pool of potential applicants.
- b. The Council on Aging and the Maui County Office on Aging qualified Maui to receive \$1.1 million in federal funding in Fiscal Year 2010, up from \$926,000 in Fiscal Year 2009, for sponsorship of programs on nutrition and healthy aging.
- c. Issues related to senior citizens and persons with disabilities (e.g., accessibility) affect both populations. It has become an increasingly common practice for government and not-for-profit organizations representing persons with disabilities and seniors in our communities to be funded and managed through one entity. Examples of federal programs include the Veterans Administration and the Aging and Disabilities Resource Centers. The Maui County Aging and Disabilities Resource Center, a federally-funded program executed locally, will be managed out of the Department of Housing and Human Concerns. Finally, many state commissions in the U.S. are focusing on issues related to aging and disabilities.
- d. There are substantial resources in the community for services focused on senior citizens and persons with disabilities. See, e.g., [Mauico.hawaiiadrc.org/portals/32/maui%20directory\\_2007.pdf](http://Mauico.hawaiiadrc.org/portals/32/maui%20directory_2007.pdf).
- e. In Fiscal Year 2011, the County of Maui awarded grants in the amount of \$856,000 to organizations that serve both senior citizens and persons with disabilities.

2. Recommendations

- a. The Subcommittee recommends that the County pass a bill, a draft of which is attached to this report, combining the Commission on Persons with Disabilities and the Council on Aging. See Proposed Bill I. The proposed bill would establish a nine-member Commission on Aging and Disabilities and require representation from seniors and those citizens with disabilities in the County.

***By reducing the combined number of positions from 24 to 9, the County could save an estimated \$1,155,000 in soft dollar costs over five years (\$231,000 per year) by eliminating the staff time needed to recruit and secure appointments for 15 positions. See Exhibit F.***

- b. The Subcommittee recommends that the proposed commission on Aging and Disabilities advise the County on the needs of senior citizens and persons with disabilities, focusing especially on conditions over which the County exercises direct control or influence. The proposed commission may also advise the County on the use of money from federal and state sources.

D. COMMITTEE ON THE STATUS OF WOMEN

1. Findings

- a. A commission, committee, or council on the status of women is required by Hawaii State law. A representative from the State Commission serves as an ex officio member of the Maui County Committee on the Status of Women ("Committee"). See Exhibit A.

The current Committee has been very engaged and taken on specific projects. It developed a wallet-sized card with advice on dealing with stress and updated its Women's Resource Guide. The Committee also celebrated the contributions of 55 women to Maui as part of Women's History Month. See Exhibit C-5.

- b. There was no funding from the County for projects for Fiscal Year 2011, so the Committee sought funding for its projects through the State Commission. There had been small amounts of funding coming from the Office of the Mayor's budget in the past.
- c. Maui has a broad range of not-for-profit and government organizations that offer support to women and families. The Women's Resource Guide produced by the Committee lists 126 entities and demonstrates the strong community support for women through not-for-profit organizations, many of which are Maui County grant recipients. See Exhibit C-5.

2. Recommendations

- a. The Subcommittee recommends that the role of the Committee on the Status of Women be one of advising the County and the State Commission on the Status of Women on policy as it relates to the needs and aspirations of women in Maui Nui. See Proposed Bill II.
- b. The Subcommittee recommends that the duties of the Committee include publishing an annual report on the Status of Women in Maui County and engaging in other activities that highlight the needs, challenges, and opportunities for women in Maui Nui (e.g. Women's History Month; conference on Workplace Flexibility in cooperation with the Maui Economic Development Board, Inc. and the Women's Bureau of the U.S. Department of Labor; Women's Health Month). The Subcommittee admires the activity and enthusiasm of the current Committee members and believes this change will help focus the activity of the Committee while being consistent with what the Commission understands as the intent of State law.

**V. RECOMMENDATIONS FOR ELIMINATION OF CERTAIN BOARDS AND COMMISSIONS**

The Subcommittee recommends the elimination of seven boards and commissions, listed in alphabetical order below. See Proposed Bills III to VIII.

1. AFFIRMATIVE ACTION ADVISORY COUNCIL

1. Findings

- a. The Affirmative Action Advisory Council ("Council") was established 33 years ago and was seen as a progressive action. The Council is not required by State or Federal law.
- b. Neither Honolulu nor Kauai has an entity focused on affirmative action issues.
- c. The Department of Personnel Services has an Equal Employment Opportunity Specialist on staff who handles employee complaints and manages the development and dissemination of the County's Equal Opportunity Policy and advises on County goals and strategies.
- d. There are other processes available to employees and/or applicants who want a review of the policies and practices of the Department of Personnel Services. They include the Civil Service Commission, which is required by State law, and union representation.

- e. There is no civil rights expertise on the Council. The Council is advisory only, has no adjudicatory role, and cannot set policy or view confidential information.

2. Recommendation

The Subcommittee recommends that the Affirmative Action Advisory Council be eliminated. See Proposed Bill III. It no longer plays a major role in the development and implementation of the County's Affirmative Action Policy which is led by an experienced Equal Opportunity Specialist.

***By eliminating the recruitment and appointment costs for open positions over the next five years, the County will save an estimated \$444,000, or an average of \$88,800 per year. See Exhibit F.***

2. ANIMAL CONTROL BOARD

1. Findings

- a. The function of the Animal Control Board ("Board") is to hear appeals on the designation of a "dangerous dog." The Board's ruling is final.
- b. The Animal Control Board meets only for appeal hearings. There were four appeal hearings on designations of a "dangerous dog" through August 2010, three in 2009, and nine in 2008. Each appeal requires the preparation of a legal case by County staff and witness testimonies. Preparation for cases takes several days.
- c. The Animal Control Board is not involved in the "designation of dangerous dog" appeals or complaints on Lanai and Molokai. None of the other counties has an animal appeal or adjudicatory board. On Kauai, the County refers all complaints about animals to the Kauai Humane Society. The City and County of Honolulu does not have an appeals board but does have a pound master. The County of Hawaii does not have an appeals board.
- d. The County Code requires that at least one member of the board be a licensed veterinarian. This board requirement has been historically difficult to fulfill because licensed veterinarians are generally unable to leave their practice for long meetings. In mid-2010, a licensed veterinarian agreed to serve on the Board.



- e. Maui Humane Society (MHS) currently handles animal rescue and related issues including designating an animal a “dangerous dog.” In contrast to the tremendous soft dollar costs necessary for the recruitment and appointment of board members, a minimal grant to the MHS would suffice to handle the small number of appeals that arise each year — on average two to three cases a year.

2. Recommendations

- a. The Subcommittee recommends that the Animal Control Board be eliminated. See Proposed Bill IV.

***The estimated savings in soft dollar costs through eliminating the recruitment and appointment process for open positions is estimated at \$370,000 over five years, or an average of \$74,000 per year. Staff support costs are limited because of the small number of appeals and infrequent meetings. See Exhibit F.***

- b. The Subcommittee also recommends that the County secure an agreement with the Maui Humane Society to handle appeals and that the transition be made as soon as possible.

3. COMMISSION ON NAMING STREETS, PARKS, AND FACILITIES

1. Findings

- a. The Commission on Naming Streets, Parks, and Facilities (“Commission”) meets on an irregular basis and convenes only when an application for approval is made, usually by a developer. The commission met three times between January and August 2010.
- b. The Commission ensures that an application contains no existing street names or names that are similar enough to create confusion for police, fire, and other emergency services. The list of street names submitted to the Commission for approval is compared to a current list of streets provided by the Department of Public Works. Pursuant to Maui County Code Section 2.38.060, street names must be either in the Hawaiian language or have an appropriate meaning, and whenever possible, relate to the area's historic significance or follow a uniform theme (e.g., flowers, fish, people). The Commission's recommendations are presented to the County Council for final approval. The Commission rarely, if ever, names parks or facilities. The prerogative of naming parks and facilities is usually exercised by the County Council.

- c. The costs to staff this Commission are minimal, at less than \$250 per meeting. See Exhibit C-8.
- d. The Commission does fulfill a function that the department cannot do alone because the Department of Public Works lacks the Hawaiian cultural resources personnel.

2. Recommendations

- a. The Subcommittee recommends that the Commission on Naming Streets, Parks, and Facilities be eliminated (see Proposed Bill V) and that the responsibilities for naming streets, parks, and facilities be transferred to the Maui County Cultural Resources Commission (see Proposed Bill VI), in collaboration with the Department of Public Works. The membership requirements for the Cultural Resources Commission should be changed to reflect the requirements necessary to perform these functions (i.e., requiring knowledge of the Hawaiian language and the cultural/historical significance of particular locations).
- b. The Subcommittee also recommends that the other duties of the Commission on Naming Streets, Parks, and Facilities that focus on public safety (i.e., that all street name applications contain no existing street names or names that are similar enough to create confusion for police, fire, and other emergency services) be assigned to the Cultural Resources Commission.

***Eliminating the Commission on Naming Streets, Parks, and Facilities and transferring its responsibilities to the Maui County Cultural Resources Commission would eliminate the need to fill six positions over five years for a savings in soft dollar costs of nearly \$592,000, or \$118,400 per year. See Exhibit F.***

4. COMMISSION ON CHILDREN AND YOUTH

1. Findings

- a. The Commission on Children and Youth has had few meetings over the past few years. Many meetings have been canceled due to the absence of a quorum.
- b. The major work product or value has most recently been a Youth Fair and participation in, but not sponsorship of, the Keiki Fest. The Commission no longer puts on the Youth Fair.
- c. As demonstrated by the Women's Resource Guide (see Exhibit C-5), the County has a large number of not-for-profit groups that support children and youth and their families.

d. The County has strongly supported local not-for-profit organizations. The County's Fiscal Year 2011 budget allocated \$2.6 million for early childhood and youth center programs. See Exhibit C-6.

e. The Commission is not required by State or Federal law.

2. Recommendation

The Subcommittee recommends that the Commission on Children and Youth be eliminated. See Proposed Bill VII.

***Without the need to fill seven positions over five years, soft dollar savings are estimated at \$666,000, or an average of \$133,200 per year. Savings in staff expense costs are minimal because this entity meets so infrequently. See Exhibit F.***

5. COMMISSION ON CULTURE AND THE ARTS

1. Findings

- a. The primary work product of the Commission on Culture and the Arts historically has been Art on Wheels (a mobile art display) and participation in, but not sponsorship of, the Culture and Arts Day.
- b. Many meetings have been cancelled due to lack of a quorum.
- c. There is a vibrant arts community on Maui. Maui County has actively supported not-for-profit organizations and has allocated \$64,000 in support of the arts in the FY 2011 budget. In addition, culture and arts organizations can participate in County Community Partnership grants budgeted at \$1.1 million for Fiscal Year 2011. See Exhibit C-6.

2. Recommendation

The Subcommittee recommends that the Commission on Culture and the Arts be eliminated. See Proposed Bill VIII.

***The cost savings of not filling new positions is estimated at \$370,000 over five years, or an average of \$74,000 per year. See Exhibit F.***

## 6. OUTDOOR LIGHTING STANDARDS COMMITTEE

### 1. Findings

- a. The Outdoor Lighting Standards Committee's ("Committee") mission is to investigate, survey, give advice, and make recommendations to the Department of Public Works on all matters pertaining to outdoor lighting.
- b. The Committee meets on an irregular basis and convenes only when an application is made to the Department of Public Works for approval of new outdoor lighting in an area. The Committee met three times between January and August 2010.
- c. In 2007, the County Council approved an ordinance amending Section 2.40.030, repealing Chapter 12.17, and amending Title 20 of the Maui County Code relating to Outdoor Lighting Standards. The ordinance established new standards for outdoor lighting and created the "Outdoor Lighting Standards Committee" with more stringent and comprehensive membership requirements than the previous "Street Lighting Committee."
- d. The Committee must include a representative of the visitor industry, an astronomer or space surveillance specialist, a wildlife biologist, and a landscape architect or illuminating engineer. The specific requirements make it difficult and costly to fill open positions.
- e. The Committee often serves as a forum in which the often conflicting views of public safety advocates (who prefer well-lighted streets) and those concerned with light pollution (who prefer "dark skies") can be heard.
- f. The Committee makes recommendations on outdoor lighting to the Director of the Department of Public Works, who then makes the final decision. However, County Council members can pass an ordinance related to specific lighting requests.

### 2. Recommendations

- a. The Subcommittee recommends that the Outdoor Lighting Standards Committee be eliminated. See Proposed Bill IX.

- b. The Subcommittee further recommends that the Department of Public Works be mandated to develop a process to gather both general and professional input when the addition of new street lights is proposed.

***The cost savings of not filling new positions is estimated at \$518,000 over five years, or an average of \$103,600 per year. See Exhibit F.***

## 7. SUBDIVISION ENGINEERING STANDARDS COMMITTEE

### 1. Findings

- a. The function of the Subdivision Engineering Standards Committee ("Committee") is to review all engineering standards and specifications relating to subdivisions, which are adopted and kept on file by the Departments of Public Works. The items sent to the Committee are typically revisions to the Maui County Code and rules governing engineering design or construction standards for residential subdivisions.
- b. Because all changes to the County Code are reviewed by the County Council, in practice, the public has two opportunities for public testimony on proposed changes.
- c. No less than three members of the Committee must be professional engineers. This makes it difficult to recruit members. In many instances, the expertise needed to make informed advisory opinions is unavailable.
- d. The Committee provides advisory opinions to the Department of Public Works and the Department of Water Supply.
- e. The Committee met four times between January and August of 2010.
- f. If the Committee were eliminated, advisory opinions could be managed by sending a copy of a proposal for review and comment by local professional associations—specifically, the Maui Chapter of the Hawaii Society of Professional Engineers, the Maui Contractors Association, and the Maui Chapter of the American Institute of Architects. The issuance of advisory opinions would also serve as a means to notify the groups most impacted by any potential changes in the County Code.



2. Recommendations

- a. The Subcommittee recommends that the Subdivision Engineering Standards Committee be eliminated. See Proposed Bill X.

***The cost savings of not filling new positions is estimated at \$518,000 over five years, or an average of \$103,600 per year. See Exhibit F.***

- b. The Subcommittee recommends that the advisory work currently undertaken by the Committee be accomplished via outside professional review. In addition, because stakeholders still could be involved early in the process, they could make suggestions and revisions prior to the issue coming before the County Council. This would decrease the elapsed time between the review and approval of new ordinances related to engineering standards.
- c. The Subcommittee recommends that the Department of Public Works provide notice (for example, on the Department's website) of any proposed changes to the County Code's subdivision engineering standards to allow interested parties ample time to review the proposal and/or voice their concerns to the Department or the County Council.

VI. **RECOMMENDATIONS THAT CERTAIN BOARDS AND COMMISSIONS REMAIN UNCHANGED**

A. **BOARD OF CODE APPEALS**

1. Findings

- a. The function of the Board of Code Appeals ("Board") is to approve new and/or innovative building materials and processes that are not covered by State or County building codes.
- b. This board meets on an irregular basis and convenes only when a contractor or developer makes an application. According to the County website, and the agendas posted therein, the Board has not met for two years.
- c. The Board has adjudicatory powers and produces findings of fact, decisions, and orders which, in effect, become part of the County Building Code. The Department of Public Works cannot overrule or overturn a decision made by the board.
- d. The Board has considerable value and relevance because it is the only venue to consider applications for new construction materials and processes.

- e. Both the City and County of Honolulu and the County of Kauai have boards comparable to the Board of Code Appeals.
- f. Maui County charges applicants \$550 to submit their Code appeal. The actual cost to the County to review an appeal is estimated by the Department of Public Works to be \$2,401. See Exhibit C-8.

2. Recommendations

- a. The Subcommittee recommends that the Board of Code Appeals be retained because there is no entity or process that can adequately and efficiently accomplish its mission.
- b. The Subcommittee recommends raising the application fee so that it more accurately reflects the County's actual costs to review an appeal.
- c. The Subcommittee recommends that the meeting dates and times for the Board be designated "as needed," and that any actual meeting date and time be advertised thirty days and then one week prior to the scheduled meeting.

**VII. CONCLUSION**

Enacting the Subcommittee's recommendations set forth above, which include eliminating seven boards and commissions, represents an estimated savings to the County of \$2.9 million in soft dollar costs over five years, or \$580,000 per year.

**ENABLING LEGISLATION GOVERNING  
BOARDS, COMMISSIONS, AND COMMITTEES**  
County of Maui

**A. BOARDS, COMMITTEES, AND COMMISSIONS REQUIRING COUNCIL APPROVAL OR DISAPPROVAL WITHIN 60 DAYS OF NOMINATION BY THE MAYOR**

1. Affirmative Action Advisory Council
2. Animal Control Board
3. Board of Code Appeals
4. Board of Ethics
5. Board of Variances and Appeals
6. Board of Water Supply
7. Charter Commission
8. Civil Service Commission
9. Commission on Children and Youth
10. Commission on Culture and the Arts
11. Commission on Naming Streets, Parks, and Facilities
12. Cost of Government Commission
13. Council on Aging
14. Fire and Public Safety Commission
15. Hana Advisory Committee
16. Lanai Planning Commission
17. Liquor Control Adjudication Board
18. Liquor Control Commission
19. Maui County Commission on Persons with Disabilities
20. Maui County Cultural Resources Commission
21. Maui County Grants Review Committee
22. Maui County Outdoor Lighting Standards Committee
23. Maui Planning Commission
24. Molokai Planning Commission
25. Police Commission
26. Real Property Tax Review Board
27. Salary Commission
28. Subdivision Engineering Standards Committee



- B.   BOARDS, COMMITTEES, AND COMMISSIONS WITH NO TIME LIMITATION FOR APPROVAL OR DISAPPROVAL BY THE COUNCIL**
1.   Kula Agricultural Park Committee
  2.   Maui Redevelopment Agency
  3.   Urban Design Review Board
- C.   BOARDS, COMMITTEES, AND COMMISSIONS APPOINTED BY THE MAYOR WITH NOTICE TO, BUT WITHOUT APPROVAL BY THE COUNCIL**
1.   Committee on the Status of Women
  2.   Maui County Arborist Committee
  3.   Traffic Safety Council
- D.   GENERAL PLAN AND COMMUNITY PLAN ADVISORY COMMITTEES (appointments by both County Council and Mayor)**
1.   Lanai General Plan Advisory Committee
  2.   Maui General Plan Advisory Committee
  3.   Molokai General Plan Advisory Committee
- E.   CITIZEN ADVISORY COMMITTEES ACCORDING TO COMMUNITY PLAN AREA (appointments by both County Council and Mayor)**
1.   Kihei – Makena
  2.   Paia – Haiku
  3.   Wailuku – Kahului
  4.   Makawao – Pukalani – Kula
  5.   Hana
  6.   West Maui
  7.   Lanai
  8.   Molokai
  9.   Kahoolawe

**Boards and Commissions in blue are listed in the Charter.**

**BOARDS, COMMITTEES, AND COMMISSIONS REQUIRING COUNCIL APPROVAL OR DISAPPROVAL  
WITHIN 60 DAYS OF NOMINATION BY THE MAYOR**

**AFFIRMATIVE ACTION ADVISORY COUNCIL (7 Members)**

Enabling Legislation: MCC Sections 2.29.010, 2.29.020 and 2.40.080, and Charter Section 13-2 (4 from community, 3 rep. County government ) (2 ex-officio members: EEO Coordinator; and Director of Personnel Services)

Supporting Department: Department of Personnel Services

**ANIMAL CONTROL BOARD (5 Members)**

Enabling Legislation: MCC Section 6.04.095; Charter Section 13-2.17; Chapter 91, HRS (Shall consist of: one registered/licensed veterinarian in the State of Hawaii and four members of the general public. The members of the board shall serve staggered terms of three years beginning on April 1 and ending on March 31 three years thereafter.)

Supporting Department: Department of Housing and Human Concerns

**BOARD OF CODE APPEALS (7 Members)**

Enabling Legislation: MCC Sections 2.40.190; 16.20A.190<sup>\*</sup>, and Charter Section 13-2  
MCC 16.20A.190 refers to Section 16.26.105 (Shall consist of a member: registered and licensed architect or engineer in the State; qualified by experience or training to pass matters pertaining to electrical work; qualified by experience and training to pass matters pertaining to plumbing work; qualified by experience and training to pass matters pertaining to building construction; and qualified by experience or training to pass matters pertaining to fire safety).

Supporting Department: Department of Public Works, Development Services Administration

**BOARD OF ETHICS (9 Members)**

Enabling Legislation: Charter Sections 10-2 and 13-2

Supporting Department: Department of the Corporation Counsel

**BOARD OF VARIANCES AND APPEALS (9 Members)**

Enabling Legislation: Charter Sections 8-8.7 and 13-2

Supporting Department: Department of Planning

**BOARD OF WATER SUPPLY (9 Members)**

Enabling Legislation: Charter Sections 8-11.3 and 13-2 (2 ex-officio members: Planning Director; and Director of Public Works)

Supporting Department: Department of Water Supply

**CHARTER COMMISSION (11 Members)**

Enabling Legislation: Charter Sections 14-3 and 13-2; and HRS Chapter 50.

***NOTE: Commission members are appointed every 10 years. Members must be registered voters and residents of the county for at least three years prior to appointment. State and county elected officials are not eligible. (§50-4) Terms expire on the day after the election at which the proposed charter is submitted to the electors for approval unless earlier terminated as provided for in §50-6. (§50-12). Members must be compensated \$1,000 each. (§50-13)***

Supporting Department: Department of Corporation Council

**CIVIL SERVICE COMMISSION (5 Members)**

Enabling Legislation: Charter Sections 8-9.4 and 13-2, and HRS Sections 76-71 and 76-47 (1 from private, skilled or unskilled)

Supporting Department: Department of Personnel Services

**COMMISSION ON CHILDREN AND YOUTH (9 Members)**

Enabling Legislation: MCC Section 2.39.010, and Charter Section 13-2 (1 ex-officio member appointed by the Mayor)

Supporting Department: Department of Housing and Human Concerns

**COMMISSION ON CULTURE AND THE ARTS (9 Members)**

Enabling Legislation: MCC Section 2.37.020, and Charter Section 13-2 (1 ex-officio member appointed by the Mayor)

Supporting Department: Department of Housing and Human Concerns

**COMMISSION ON NAMING STREETS, PARKS, AND FACILITIES (9 Members)**

**NOTE:** *Bill No. 58 (1994), Draft 1, repeals Chapter 12.37 (Street Naming Commission); amends Section 2.40.140 by deleting reference to the Street Naming Commission; and adds a new Chapter 2.38 establishing the Commission on Naming Streets, Parks, and Facilities. Effective September 6, 1994*

Enabling Legislation: MCC Section 2.38.030, 2.40.140 and Charter Section 13-2

Supporting Department: Department of Public Works, Engineering Division

**COST OF GOVERNMENT COMMISSION (9 Members, 2-year staggered terms)**

**NOTE:** *Charter Amendment approved at the 1994 General Election to Section 8-16.3\*, "Term of Commission", . . .shall serve for staggered terms of two years, with an initial appointment of four members to serve two year terms and five members to serve one year terms. A member may be reappointed, but shall not serve on the Commission for more than a total of four years.*  
*\*Renumbering of Section was approved at the 2006 General Election and took effect on July 1, 2007*

Enabling Legislation: Charter Sections 8-16.3, 3-15.3, and 13-2

Supporting Department: Office of the Mayor

**COUNCIL ON AGING (15 Members)**

Enabling Legislation: MCC Sections 2.34.020, 2.34.030, and 2.40.010, and Charter Section 13-2 (8 seniors, at least 1 from nutrition council) (representatives of older individuals, participants of senior citizen programs; local elected officials and the general public, including low income and older minority persons)

Supporting Department: Department of Housing and Human Concerns

**FIRE AND PUBLIC SAFETY COMMISSION (9 Members)**

Enabling Legislation: Charter Sections 8-7.2 and 13-2  
Supporting Department: Department of Fire and Public Safety

**HANA ADVISORY COMMITTEE (7 Members)**

Enabling Legislation: MCC Section 2.28.060, and Charter Section 13-2 (must be Hana resident)  
Supporting Department: Department of Planning

**LANAI PLANNING COMMISSION (9 Members)**

***NOTE: Bill No. 10 (1993) repeals MCC Sections 2.28.050 and 2.40.120 (Lanai Advisory Committee to the Maui Planning Commission), and adds MCC Section 2.28.025 (Lanai Planning Commission). Effective March 22, 1993***

Enabling Legislation: MCC Section 2.28.025 and Charter Sections 8-8.4 and 13-2 (must be Lanai resident) (2 ex-officio members: Director of Public Works and Director of Water Supply)  
Supporting Department: Department of Planning

**LIQUOR CONTROL ADJUDICATION BOARD (9 Members)**

Enabling Legislation: Charter Sections 8-13.3 and 13-2, HRS 281-11 (no more than minimum required for quorum shall belong to same political party at time of appointment; must be U.S. resident and have resided in County for at least 3 years immediately preceding appointment).  
Supporting Department: Department of Liquor Control

**LIQUOR CONTROL COMMISSION (9 Members)**

Enabling Legislation: Charter Sections 8-13.2 and 13-2, HRS 281-11 (no more than minimum required for quorum shall belong to same political party at time of appointment; must be U.S. resident and have resided in County for at least 3 years immediately preceding appointment).  
Supporting Department: Department of Liquor Control

**MAUI COUNTY COMMISSION ON PERSONS WITH DISABILITIES (9 Members)**

Enabling Legislation: MCC Sections 2.32.020 and 2.32.030, and Charter Section 13-2 (balanced geographic representation)

Supporting Department: Department of Housing and Human Concerns

**MAUI COUNTY CULTURAL RESOURCES COMMISSION (9 Members)**

Enabling Legislation: MCC Section 2.40.110, 2.88.030, and Charter Section 13-2 (architecture, history, archaeology, planning, Hawaiian culture/ethnic history, with at least 1 rep. from each island) (2 or more from Maui Historical Society, Maui Chapter of AIA, OHA or other community and professional organizations)

Supporting Department: Department of Planning

**MAUI COUNTY GRANTS REVIEW COMMITTEE (9 Members)**

Enabling Legislation: MCC Sections 2.40.160 and 3.36.020, and Charter Section 13-2

Supporting Department: Department of Housing and Human Concerns

**MAUI COUNTY OUTDOOR LIGHTING STANDARDS COMMITTEE (7 Members)**

Enabling Legislation: MCC Section 2.40.030, 20.35.110, and Charter Section 13-2 (7 members, preference may be given to: astronomer or space surveillance specialist, representative of the visitor industry, wildlife biologist, representative of the business community, illuminating engineer or landscape architect; 2 non-voting, ex-officio members: Chief of Police or designated representative and one person designated by the Director of Public Works)

Supporting Department: Department of Public Works, Engineering Division

**MAUI PLANNING COMMISSION (9 Members)**

Enabling Legislation: MCC Section 2.28.010 and Charter Sections 8-8.4 and 13-2 (Must be resident of Maui) (2 ex-officio members: Director of Public Works; and Director of Water Supply)

Supporting Department: Department of Planning

**MOLOKAI PLANNING COMMISSION (9 Members)**

Enabling Legislation: MCC Section 2.28.020 and Charter Sections 8-8.4 and 13-2 (must be Molokai resident) (2 ex-officio members: Director of Public Works; and Director of Water Supply)

Supporting Department: Department of Planning

**POLICE COMMISSION (9 Members)**

Enabling Legislation: Charter Sections 8-12.2 and 13-2

Supporting Department: Department of Police

**REAL PROPERTY TAX REVIEW BOARD (5 Members)**

Enabling Legislation: MCC Sections 2.40.170 and 3.48.620, and Charter Section 13-2 (Hawaii resident at least 3 years)

Supporting Department: Department of Finance

**SALARY COMMISSION (9 Members, 5-year staggered terms)**

Enabling Legislation: MCC Sections 2.40.210, 2.42\* and Charter Sections 8-18.1 and 13-2 \*Note: provisions in MCC cite to wrong Charter section.

Supporting Department: Office of the Mayor

**SUBDIVISION ENGINEERING STANDARDS COMMITTEE (9 Members)**

Enabling Legislation: MCC Sections 2.40.020 and 18.40.010, and Charter Section 13-2 (3 professional engineers) (3 ex-officio members: Director of Public Works; Planning Director; and Director of Water Supply)

Supporting Department: Department of Public Works, Development Services Administration

**BOARDS, COMMITTEES, AND COMMISSIONS WITH NO TIME LIMITATION  
FOR APPROVAL OR DISAPPROVAL BY THE COUNCIL**

**KULA AGRICULTURAL PARK COMMITTEE (11 Members)**

Enabling Legislation: MCC Section 22.04A.070, and 2.40.180 (2-ag banking community; 1-Maui County Farm Bureau; 1-Maui Association of Nurserymen; 1-Maui Produce Processing Co-op; 1-Tenants Association of Kula Ag Park; 1-University of Hawaii extension service; 1-Office of the Mayor; 1-County Council; 2-general public)

Supporting Department: Office of the Mayor, Office of Economic Development

\* Pursuant to Ordinance No. 3491 (Bill No. 57 (2007)), term of Council's representative shall be concurrent with the Council member's term of office; and the term of the Mayor's representative shall be concurrent with the Mayor's term of office.

**MAUI REDEVELOPMENT AGENCY (5 Members)**

Enabling Legislation: MCC Section 2.40.050 and HRS Section 53-2 (no more than 3 members from same political party; must post a \$15,000 bond; resident of County 3 years prior to appointment)

Supporting Department: Department of Planning

**URBAN DESIGN REVIEW BOARD (9 Members, 4 Alternates, 5-year staggered terms)**

Enabling Legislation: MCC Sections 2.26.030 and 2.40.100, and Charter Section 13-2.1 (2 architects, 1 land. architect, 2 civil engineers, 4 related areas, 1 Lanai, 1 Molokai; 4 alternates--2 architects, 1 land. architect, 1 civil engineer)

Supporting Department: Department of Planning



**BOARDS, COMMITTEES, AND COMMISSIONS APPOINTED BY THE MAYOR WITH NOTICE TO,  
BUT WITHOUT APPROVAL BY THE COUNCIL**

**COMMITTEE ON THE STATUS OF WOMEN (7 members, 4-year staggered terms)**

Enabling Legislation: MCC Section 2.40.090, and HRS Section 367-4 (2 ex-officio members: Corporation Counsel; and a County representative) *NOTE: State board is called "Commission on the Status of Women". Membership reduced to 7 by Ordinance No. 3690, Bill No. 78 (2009).*

**MAUI COUNTY ARBORIST COMMITTEE (9 Members)**

Enabling Legislation: MCC Section 12.24A.030, Charter Section 13-2 (Professional or other interest in land beautification) (6 ex officio members: arborist; plans reviewer; Director of Parks and Recreation; Director of Public Works and Waste Management; Planning Director; and Director of Housing and Human Concerns); HRS 58-2 (one member shall be actively employed in practice of landscape architecture, not less than three other members must be selected on basis of active participation in programs of community beautification, or research or organization in the ecological sciences, including ethnobotany or Hawaiiana).

Supporting Department: Department of Parks and Recreation

**TRAFFIC SAFETY COUNCIL (9 Members)**

Enabling Legislation: MCC Section 2.36.010, and HRS Section 286-6 (all Maui County residents; 5 ex-officio members: Mayor; Chief of Police; Prosecuting Attorney; Corporation Counsel; Director of Public Works) (requires a traffic engineer, chair of traffic committee or safety program coordinator)

Supporting Department: Office of the Mayor; however, Department of Public Works, Development Services Administration provides staffing

## GENERAL PLAN AND COMMUNITY PLAN ADVISORY COMMITTEES

### **LANAI GENERAL PLAN ADVISORY COMMITTEE (13 Members: 9 appointed by Council, 4 appointed by Mayor)**

Enabling Legislation: MCC Section 2.80B.040: "A. At least every ten years (decennial), the director of planning shall prepare and recommend proposed revisions to the general plan. B. There shall be separate general plan advisory committees for the islands of Lanai, Maui, and Molokai to comment, advise, and provide recommendations to the director of planning regarding the proposed revisions prepared and recommended by the director of planning, as follows: 1. The Lanai general plan advisory committee shall be composed of thirteen members, nine appointed by the council and four by the mayor."

Supporting Department: Department of Planning

### **MAUI GENERAL PLAN ADVISORY COMMITTEE (25 Members: 19 appointed by Council, 6 appointed by Mayor)**

Enabling Legislation: MCC Section 2.80B.040: "A. At least every ten years (decennial), the director of planning shall prepare and recommend proposed revisions to the general plan. B. There shall be separate general plan advisory committees for the islands of Lanai, Maui, and Molokai to comment, advise, and provide recommendations to the director of planning regarding the proposed revisions prepared and recommended by the director of planning, as follows:....2. The Maui general plan advisory committee shall be composed of twenty-five members, one appointed by the mayor from each Maui Community Plan area, four appointed by the council from the Wailuku-Kahului community plan area, and three appointed by the council from each of the other Maui community plan areas."

Supporting Department: Department of Planning

### **MOLOKAI GENERAL PLAN ADVISORY COMMITTEE (13 Members: 9 appointed by Council, 4 appointed by Mayor)**

Enabling Legislation: MCC Section 2.80B.040: "A. At least every ten years (decennial), the director of planning shall prepare and recommend proposed revisions to the general plan. B. There shall be separate general plan advisory committees for the islands of Lanai, Maui, and Molokai to comment, advise, and provide recommendations to the director of planning regarding the proposed revisions prepared and recommended by the director of planning, as follows:....3. The Molokai general plan advisory committee shall be composed of thirteen members, nine appointed by the council and four by the mayor."

Supporting Department: Department of Planning

**CITIZEN ADVISORY COMMITTEES ACCORDING TO COMMUNITY PLAN AREA (13 Members: 9 appointed by Councils, 4 appointed by Mayor)**

Enabling Legislation: Charter sections: 8-8.5.4-6

Supporting Department: Department of Planning

# COMPARISON OF BOARDS, COMMISSIONS, COUNCILS AND COMMITTEES BY COUNTY

Source: County websites

| Maui  | Oahu (1)                                     | Hawaii                            | Kauai                     |
|---|--|-----------------------------------|---------------------------|
| 2009 Population 145,157 (2)                               | 2009 Population 907,574 (2)                  | 2009 Population - 177,835 (2)     | Population - 64,525 (2)   |
| Affirmative Action Advisory Council                       | Ethics Commission                            | Board of Ethics                   | Board of Ethics           |
| Animal Control Board                                      | Building Board of Appeals                    | Board of Appeals                  | Board of Water Supply     |
| Board of Code Appeals                                     | Board of Water Supply                        | Water Board                       | Charter Review Commission |
| Board of Variances and Appeals                            | Charter Review Commission                    | Charter Commission                | Civil Service Commission  |
| Board of Water Supply                                     | Civil Service Commission                     |                                   |                           |
| Charter Commission  | Commission on Culture and the Arts           |                                   |                           |
| Civil Service Commission                                  | Mayor's Advisory Committee on Disabilities   |                                   |                           |
| Commission on Children and Youth                          | Honolulu County Committee on Status of Women |                                   |                           |
| Commission on Culture and the Arts                        | Honolulu Committee on Aging                  | Committee on Status of Women      | Cost Control Commission   |
| Commission on Naming Streets, Parks, and Facilities       | Fire Commission                              | Cost of Government Commission     | Fire Commission           |
| Commission on Persons With Disabilities                   | Planning Commission                          | Committee on Aging                | Planning Commission       |
| Committee on the Status of Women                          |  | Fire Commission                   |                           |
| Cost of Government Commission                             |  |                                   |                           |
| Council on Aging  |  |                                   |                           |
| Fire & Public Safety Commission                           |  |                                   |                           |
| Planning Commission                                       |  |                                   |                           |
| * Hana Advisory Committee to Maui Planning Commission     |  |                                   |                           |
| * Lanai Planning Commission                               |  |                                   |                           |
| * Molokai Planning Commission                             |  |                                   |                           |
| * General Plan Advisory Committees (Maui, Molokai, Lanai) |  |                                   |                           |
| Kula Agricultural Park Committee                          |  |                                   |                           |
| Liquor Control Commission                                 | Liquor Commission                            | Liquor Control Adjudication Board | Liquor Commission         |
| Maui County Arborist Committee                            | Honolulu County Arborist Advisory Committee  | Liquor Control Commission         | Arborist Committee        |
| Maui County Cultural Resources Commission (3)             |  | Arborist Advisory Committee       |                           |
| Maui County Grants Review Committee                       |  |                                   |                           |
| Maui Redevelopment Agency                                 |  |                                   |                           |
| Outdoor Lighting Standards Committee (4)                  |  |                                   |                           |
| Police Commission   | Police Commission                            | Police Commission                 | Police Commission         |
| Real Property Tax Review Board                            | Boards of Review I and II                    | Tax Board of Review               | Salary Commission         |
| Salary Commission   | Salary Commission                            | Salary Commission                 |                           |
| Solid Waste Resource Advisory Committee                   |  |                                   |                           |
| Subdivision Engineering Standards Committee (4)           |  |                                   |                           |
| Traffic Safety Council                                    |  |                                   |                           |
| Urban Design Review Board                                 |  |                                   |                           |
| Volunteer Advisory Board                                  |  |                                   |                           |

**Boards and Commissions in Other Jurisdictions With No Corresponding Entity in the County of Maui**

| Oahu   | Hawaii   | Kauai   |
|--|--|---|
| <ul style="list-style-type: none"> <li>Board of Parks and Recreation</li> <li>Board of Public Golf Courses</li> <li>Child Care Advisory Board</li> <li>Citizens Advisory Commission on Civil Defense</li> <li>Historic Preservation Advisory Committee</li> <li>Mayor's Advisory Committee on Bicycling</li> <li>Mayor's Beautification Advisory Committee</li> <li>Mayor's Emergency Medical Services Advisory Council</li> <li>Neighborhood Commission</li> <li>Policemen, Firemen and Bandsmen Pension Board</li> <li>Transportation Commission</li> <li>Zoning Board of Appeals</li> </ul> | <ul style="list-style-type: none"> <li>Energy Advisory Commission</li> <li>Environmental Management Commission</li> <li>Fire Board of Appeals</li> <li>Highway Safety</li> <li>Kaialua Village Design Commission</li> <li>Kona Community Development Plan Action Committee</li> <li>Kona Community Development Plan Steering Committee</li> <li>Leeward Planning Commission</li> <li>Merit Appeals Board</li> <li>North Kohala Community Development Plan Action Committee</li> <li>North Kohala Community Development Plan Steering Committee</li> <li>Pension Board</li> <li>Public Access, Open Space, Natural Resources Preservation Commission</li> <li>Puna Community Development Plan Action Committee</li> <li>South Kohala Community Development Plan Steering Committee</li> <li>South Kohala Community Development Plan Action Committee</li> <li>Transportation Commission</li> <li>Veterans Advisory Committee</li> <li>Windward Planning Commission</li> </ul> | <ul style="list-style-type: none"> <li>Board of Review</li> <li>Historic Preservation Commission</li> </ul> |

(1) Information includes both Honolulu County and City entities

(2) Source: U.S. Census Bureau website

(3) This is likely similar to the historic preservation entities of other counties.

(4) Reports through/to Public Works and, in the case of the Subdivision Engineering Standards Committee, also to Water.

MAUI COUNTY CHARTER COMMISSION PUBLIC MEETING  
County Council Committee Room, Maui  
Monday, November 19, 2001  
8:30 a.m.

PRESENT

Terryl Vencel, Chair  
R. Sean McLaughlin, Vice-Chair  
Vince Bagoyo  
Bill Fuhrmann  
Gwen Hiraga  
Stephen Holaday  
Stephen Petro  
Erlinda Rosario  
Donn Takahashi

STAFF

Brian Moto, Corporation Counsel  
Jon Van Dyke, Charter Commission Analyst  
Ke'ala Pasco, Charter Commission Assistant

EXCUSED

Karolyn Mossman

CALL TO ORDER

The meeting was called to order at 8:30 a.m. Commissioners present: Bagoyo; Fuhrmann; Hiraga; Holaday; Petro; Rosario; Takahashi. Commissioner Mossman is excused and Vice-Chair McLaughlin is expected to attend. Mr. Van Dyke is present via conference call. Also present: Brian Moto and Ke'ala Pasco.

As no testifiers were present at the moment, Chair Vencel went ahead with the agenda. The minutes from November 5 were accepted with a minor change to page 12. Motion was made (Petro), seconded (Rosario), and unanimously approved.

Motion was made (Holaday), seconded (Takahashi), and unanimously approved to accept a fax from Eydie Treutler for the record. Chair Vencel reported that the Mayor is working on finding an eleventh commissioner for the vacancy.

Mr. Van Dyke shared comments on the last meeting. He is looking into the voting situation by trying to get data, giving it a lot of thought, and going through all the testimonies and minutes. Two strong desires have become evident to him: keeping representatives for Lana'i and Moloka'i on the County Council (a fair amount of testimony supports the districting approach). An idea that might be worth considering is based on the Big Island, which has some at-large and some districting. So of the four at-large council members, two would be from Maui, one from Lana'i, and one from Moloka'i. He's offering this as one solution to conflicting views, and will have data to look at for the next meeting. We'd need to provide the language to make changes. The Commission could put forth one or two possibilities and get feedback, then make further adjustments to present to the public.

Commissioner Bagoyo said it appears that Mr. Van Dyke's suggestion is going back to what we used to have; we need to know the reasoning behind the change eight to ten years ago to the current configuration. Mr. Van Dyke said his proposal is different. Inevitably, council members have to run a countywide campaign; his proposal would have some council members elected from some districts. 1/5 of the county would vote for each of these five candidates. This would be less costly (a grass roots campaign). Residents would have more of a link to their community because a few at-large seats would ensure that people came from those areas. Residency requirements for candidates are for five years; around the country they have always been upheld. Cons of the residency requirement would be that it reduces flexibility, and it may

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prevent voters from picking their candidate of choice. A one-year residency requirement would be an appropriate, logical suggestion to make. Ninety days is on the short side.

Regarding the vacancy of office when one is convicted of a felony, moral turpitude is ambiguous. Add the word "felony" in those sections to make that crystal clear. The case of Mirikitani needs to be clarified; he's still sitting in office because he hasn't been sentenced. Eliminate references to being in the same party (3-4). 3-3 says if a county member is adjudicated guilty of a felony, he shall immediately forfeit office. We need to know when they should leave office; there is concern about when an official is supposed to resign. Mr. Moto's legal opinion is that for the forfeiture of a public office, the trigger is the sentencing. So the question is whether the charter would provide a different provision from what the state provides.

Chair Venci asked Mr. Van Dyke to keep a "yes/no/housekeeping list." He said he'd have it for the next meeting.

#### TESTIMONY

MR. JIM SMITH

Mr. Smith, a resident of Ha'iku, discussed the following:

- 1) He has concerns regarding talk of corporations in Chapter 2. He has experience as far as observation and participation in proceedings. There should be within the department of corporation counsel a "public justice commission." When corporation counsel advocates for an agency or a branch, it sometimes does it in a way that appears to be biased. He referenced the case of Berger 295US 78 on page 88. Corporation counsel is missing the manifestation of this; there is a public duty. It's adrift and not defined. A commission was advised to let all people speak. This idea is not new, but since then we've experienced some conflict. If you were to prioritize the issues that have galvanized this community, it would be corporation counsel. Identify the issue.
- 2) In 148f3 on page 1109, regarding attorney/client privilege to the president ... it's the responsibility of government lawyers to assist and nurture public confidence. Vice-Chair McLaughlin identifies corporation counsel as an issue, saying that there was also concern expressed about the balance corporation counsel has. He asked what if they were to be given a greater ability; Mr. Smith thinks it's a bad idea. Looking at something you can't touch. Accountability is ... judicial, legislative ... circumvented and corrupted; something needs to be done. Mr. Smith asked why is there no trust.

MS. BARBARA LONG

Ms. Long wanted to hear Mr. Moto's response regarding licensing agreements by the Mayor approved by council (not ordinances). Regarding boards and commissions: it doesn't talk about gender. It's important to have balanced consideration, so put something about gender equity. Of all applications that have come in for boards and commissions, she knows a number of women have been overlooked. Vice-Chair McLaughlin said it's not on our agenda today but keep your eyes open; we'd like to hear your comments on boards and commissions. Ms. Long concluded by adding one caveat: please do not eliminate one iota of public participation; increase it.

Chair Venci turned to the Discussion of Article VIII of the Charter (excluding Planning, Water, Public Works, and Ethics). The excluded departments will be taken up later so their



representatives can be present. She asked that the commissioners look at each department for housekeeping issues, and asked Mr. Van Dyke to keep up with the list.

In response to Ms. Long's question, Mr. Moto said that since 1982, every legislative act of the council should be by ordinance. This was shortened and simplified as a result of actions by the previous charter commission to eliminate things that were obvious or redundant.

Discussion ensued about the need to set a minimum qualification or requirement for Maui County. Commissioner Takahashi asked if the charter was the right place to do that, saying that if we're going to put someone in a more permanent position, he doesn't think it's a charter issue. The Charter does provide for some kind of experience, but the guidelines are not so specific. Commissioner Petro said while he understands what Commissioner Bagoyo is trying to say, he doesn't think we should be so constrictive. The appointing authority should have some criteria. It's important, but he doesn't think the Charter is the right vehicle. Commissioner Bagoyo said he understands setting up a minimum standard, but he still thinks some positions require a minimum of qualifications; he said we need to discuss and come up with some recommendations (he thinks the college requirement is too restrictive).

Chair Venci said she spoke with Roy Hiraga about the Reapportionment Commission. District maps will be filed.

Discussion about minimum qualifications continued. Commissioner Petro said a wise, competent mayor would appoint competent people; it's his job. Vice-Chair McLaughlin asked which mechanism of accountability corrects that and allows the maximum of accountability; the mechanism is the Commission. Mr. Van Dyke said that the current Charter does provide the minimum for quite a few of the directors, but it's hard to have an individual standard to fit everyone. He tends to agree that the Mayor should have flexibility (there has to be a way that they are qualified).

Commissioner Holaday said we talked about this before (creating inefficiency). It's agreed that the Mayor should have flexibility, but it's been mentioned before that department heads should have some kind of a degree. How can we improve the current system and make it better?

Chair Venci asked if we want to offer a minimum of a college education for certain departments. Let's go through each department. Commissioner Takahashi said that most have a minimum of five years' experience. Maybe that's where the compromise could be: three years in this capacity. It doesn't mention "successful"; maybe we want to tweak the words. Commissioner Bagoyo said experience, education, or a combination of both should be required.

Commissioner Fuhrmann asked how we know if all of these departments actually have this kind of experience. Mr. Moto replied that he's never personally had to check, and he doesn't know if there's a formal review process. Nothing in the Charter addresses what should happen if someone fails to have the minimum requirements. The current Charter doesn't address what would happen if someone were appointed and it was proven that they failed to meet the requirements. Commissioner Takahashi pointed out that if we're going with these requirements, then the chief would have to have some as well.

Chair Venci brought the attention to Management, the first department to look at. She asked if anyone had any suggestions for this department. Vice-Chair McLaughlin's suggestion is take this out to the community for further discussion. Commissioner Bagoyo stated that he had some concerns about how the department heads are confirmed by the County Council. He believes

the Mayor should have flexibility and some minimum requirements. Commissioner Petro said the managing director should not be approved by the Council. Commissioner Hiraga reminded everyone that we're not voting on that. Vice-Chair McLaughlin said the point is that the managing director is a key position, and if the Mayor appoints a managing director and the Council approves, then the Council has a certain timeframe. The public is allowed to meet the managing director; it's essential in a democracy that the candidate faces the public. Commissioner Hiraga asked that the proposal be made. Commissioner Petro reiterated that by saying it's a matter of philosophy; we've stated our positions and how we feel, so take a vote. Vice-Chair McLaughlin made the motion. There was no second; the motion died.

Chair Venci brought up the experience issue. Should it be five years be in an administrative capacity, in public or private administration, or both? Mr. Van Dyke said he interpreted it as the commissioners felt there shouldn't be public confirmation of any additional department heads. Chair Venci replied that the first assessment is correct. The Commission won't take the issue out to the public again or broaden the confirmation by the Council any more than it is right now. Mr. Van Dyke asked if that was the wish of the other commissioners, to which Commissioner Bagoyo replied that the motion failed, but it may still be included at some point in time.

Chair Venci reiterated that the Commission is to make decisions on items to be taken back to public hearings. Mr. Van Dyke said he wants to respect the decision of the group, but like Commissioner Petro said, we're satisfied with it unless we get a tremendous amount of feedback. Vice-Chair McLaughlin said the purpose of the discussion would be too narrow, and to proceed with the question. The Commission decided not to discuss it now; Commissioner Bagoyo's comment is appreciated, but move forward.

Chair Venci asked for comments on management. Commissioner Takahashi said "shall have had five years experience" is not enough to be the managing director; he doesn't understand. Commissioner Bagoyo said that's why he was trying to figure out how we can have some standards. Perhaps we should consider two-year college prep and three years experience in a related field (managing a company or a restaurant) for discussion purposes.

Commissioner Holaday stated the Commission's job is to fix a problem. If there is no problem, get on with it. If you take out minimum requirements, you're open to a lot of discrimination suits. Take it out and get on with it. He moved to take out "professional requirement" in all categories with the exception of those requiring a professional degree. The motion was seconded by Vice-Chair McLaughlin; Commissioners Petro and Bagoyo expressed opposition ("need to set minimum standards"), and the motion failed.

More discussion followed, after which Chair Venci asked for a motion. Motion was made (Rosario) and seconded (Petro) to leave the language regarding the management department qualifications as is. Opposed: McLaughlin and Takahashi. The motion passed. Chair Venci called for a ten minute break.

#### BREAK

The meeting was called back to order at 10:30 a.m. Chair Venci asked if anyone had a motion to change anything in corporation counsel. Commissioner Bagoyo wasn't ready to make a suggestion at this point, but said we should look at this; he wants Mr. Van Dyke's suggestions regarding whether or not there should be a commission that would decide on the duties of corporation counsel (should they take an adversarial position or just provide legal counsel?).

Commissioner Petro explained that the whole idea was to give citizens the right to appeal relative to public concerns. They'd have the opportunity to fight a decision that was made by corporation counsel by appealing to the Public Justice Commission. Mr. Van Dyke asked if the idea was really a practical approach in order to give the public a kind of supervisory clout. Chair Vencel reminded the commissioners that they made a "No" decision regarding counsel and the Mayor to hire and fire (it was left as is). So it's just the Mayor. When Mr. Van Dyke asked about giving assignments to corporation counsel, she replied that the Mayor should have the ability to direct corporation counsel, but they work for both the Council and the Mayor. The question is what duties can or should be given to corporation counsel; Chair Vencel asked Mr. Van Dyke to please look at that. We don't have any comments from the prosecuting attorney or the commissioners.

Moving on to the Department of Finance and issues about the budget date, Chair Vencel asked for comments. Commissioner Bagoyo asked to have the commission reconsider and establish some minimum requirements for this director (college prep in the area of business or county), the reason being that we need to establish some minimum of high standards for this department, which manages all finances for the county. Commissioner Bagoyo's motion for discussion was seconded by Vice-Chair McLaughlin. Commissioner Takahashi said putting in a college degree requirement would be restricting people, and reminded the Commission of the previous motion that passed about leaving all of this alone. Commissioner Bagoyo asked to make an amendment and requested consideration for an exception for this particular department.

Mr. Moto affirmed that the motion could be entertained by the Commission. Commissioner Takahashi asked if there were any other departments that should be included; Commissioner Bagoyo added the Planning Department, which he said is critical.

Chair Vencel brought the Commission back to the Finance Department and the question of having requirements include a college degree in the business area. In favor: Commissioners Bagoyo; Holaday; Rosario; and Takahashi. Against: Vice-Chair McLaughlin; Commissioners Fuhrmann; Hiraga; and Petro. Chair Vencel voted in support of the motion; however, six votes were needed, so the motion died.

Mr. Van Dyke asked how strict the commissioners want to be, asking if they wanted to get this topic out to the public. Commissioners Fuhrmann and Petro said they'd be willing to change their votes to hear what the public has to say.

Vice-Chair McLaughlin asked Mr. Moto and Mr. Van Dyke for guidance on being less formal and moving this along. Mr. Van Dyke suggested taking it to the public since it would be in everyone's interest to get feedback from the public. Commissioner Hiraga disagreed, saying that they shouldn't be adjusting votes required to take it out to the public. Mr. Moto interjected that in terms of procedure, there is an advantage; an alternative would be to make another, slightly different motion that could be voted on as well. Chair Vencel said from her point of view, we're taking these things back out to the community; if we think it should be talked about again in the public, vote yes. Commissioner Bagoyo said he'll respect the decision since the Commission had already voted; however, in the next round of public meetings, it doesn't preclude us from discussing these issues. He'll discuss it either way; items not discussed here can be discussed in another venue.

Chair Vencel wrapped it up, saying we're leaving Finance alone at this point. From her notes, the biggest thing about the Parks Department is whether or not there should be a commission. The director didn't have a particular position. Commissioner Bagoyo said maybe the Mayor's Parks and Recreational Advisory Committee and the Arborist Committee should expand things they

need to do. Commissioner Petro said there was testimony to establish that commission, but he wasn't sure whether they went that route or not.

Commissioner McLaughlin said he's very interested in looking at boards and commissions and how we can accommodate them. There isn't one in Parks right now; that suggestion could be accomplished by ordinance.

Commissioner Holaday asked if we should solve the issue about lifeguards now or later. Commissioner Takahashi asked if the Mayor's 1% goes in Planning or in this dept, and whether it should it be discussed. Chair VencI answered that Open Space is on an agenda by itself, and that she's still waiting for an outline or structure for us. We'll deal with the issue of open space when we get there, and if we do anything about that, we'll deal with it then. Going back to the issue of lifeguards, both the fire chief and parks director said it should remain as is. Nothing else is needed at this point.

Chair VencI turned the discussion to the Fire Department. Commissioner Petro made a motion to establish a fire commission to replace the safety commission for continuity. The motion was seconded by Commissioner Bagoyo. Chair VencI said the Commission's first duty would be to hire a fire chief. This commission would be operated similarly to the police commission.

Commissioner Petro included in his motion that the same due process provision that needs to be followed before the firing of the police chief should apply to the fire chief as well. The Fire Commission would include a budget, take complaints from the public, etc.

Chair VencI asked if Civil Defense would be under the Fire Department or on its own if we're doing away with the Public Safety Commission. She recommends that they be included. Mr. Van Dyke will come back with a recommendation for that.

Vice-Chair McLaughlin said he supports opening discussion. Make a police, fire, and safety commission. When those commissions have real authority, create another such commission for the public to follow, one that would be accountable with the understanding that we look at the broader issue. Chair VencI said that's another option to look at for next week.

Commissioner Takahashi asked what the advantages for having a fire commission would be besides hiring a fire chief. Commissioner Petro wanted to know if Mr. Van Dyke would recommend that the fire commission assume the responsibilities of the public safety commission, or just maintain their responsibilities. Mr. Van Dyke said he'd discuss it at the next meeting on December 10 (Mr. Van Dyke had to leave for his class at this point).

More discussion followed regarding the duties of the fire commission, then Chair VencI reminded everyone that there was a motion on the floor regarding taking the idea of a fire commission back to the community meetings; we're keeping the subject alive until the next meeting. The motion was unanimously approved.

Commissioner Bagoyo said he doesn't know why the Fire Department needs to approve plans. Commissioner Hiraga replied that building permits go through many agencies, and she doesn't know if they can just leave everything to Public Works. Chair VencI asked if there was a particular motion to take it out or leave it alone; Commissioner Bagoyo said to remove item 4.

Chair VencI called a five minute break so Akaku could change tapes.

BREAK

The meeting was called back to order at 11:13 a.m. Motion was made (Rosario) and seconded (McLaughlin) to leave this alone for now.

Vice-Chair McLaughlin requested Mr. Moto's opinion: the Commission has the authority to create deputy positions; should this authority be extended to other commissions? Mr. Moto replied that as a general rule, with the exception of Public Works and possibly Water, you don't see references to a deputy ... currently in our Charter, certain circumstances shall be made or should be made, like debt service. Other situations, like in the case of the Board of Ethics, no full time or specific positions are created by law ... there are different kinds of appropriations for different positions. Chair Venci said this issue would be tabled until next time. She'll ask Mr. Van Dyke to look into this.

Vice-Chair McLaughlin had a question regarding departments that answer to commissions. It's very important for him to understand the difference in mechanisms in how these departments interact. He'd like to hear from Mr. Van Dyke a conceptual way to think about a department that is answerable to a commission rather than to the Mayor. He wondered how he would help us with that whole issue, how he'd address these four different chapters now.

Discussion ensued in which Commissioner Takahashi got clarification on the Director of Planning, the Director of the Board of Water Supply, and the police chief, his point being that each of these scenarios is different. It's important and critical to understand these intricacies. He recommended that we proceed cautiously in these different areas because we could make a bad recommendation. Commissioner Petro concurred, saying that if we don't understand it, how can the public understand it and give input. That's why the structure of our county government is so important.

Commissioner Bagoyo said the theme from the first round of public meetings was where to place accountability. It was under the elected official. Do we want to place it on the commission or the elected official? There are pluses and minuses about having commissions work independently. As we move forward, we need to think about where we want to place accountability.

Chair Venci said she'd like to address Open Space at later time. She wants to look at all intricacies and consider everything that was brought to the table today. Can we leave that for discussion on the same day as Open Space so we can fill up that agenda? Like Commissioner Takahashi, she has a concern that a decision the Charter Commission makes might have ramifications in other areas.

Chair Venci recommended looking at pros and cons at this point. Commissioner Petro would like Mr. Van Dyke's pros and cons so at least we'd have some ideas.

Having people from specific departments was brought up. Chair Venci said she doesn't know exactly what to do about that. She has, on occasion, invited them specifically, to no avail. They're fully aware of what we're doing. Maybe it won't be until we get back to the public. She doesn't know what more to do.

Vice-Chair McLaughlin said this is a really important discussion, but in addition to how we should handle boards and commissions, he'd still like to hear from Mr. Van Dyke on public structure; it'd be helpful to see an organizational chart for the County.

Regarding the section on Personnel Services, Commissioner Takahashi said that "personnel" is an outdated term. "Human Resources" reflects the most current terminology.

Commissioner Petro added that the directors of this department, the Department of Water Supply, and the Department of Liquor Control don't have a due process clause. There should be a due process clause for all three of them. This motion was seconded by Commissioner Rosario.

Commissioner Bagoyo asked what the reason was for due process as it becomes very tedious. Commissioner Petro replied that if there's cause for removal, the director should be told why he or she is being asked to leave.

Vice-Chair McLaughlin was really shocked at how much authority is vested. He's going to try to see who these people really are. He supports the motion of how we're going to authorize these commissions to hire and fire. How do you tell a commission that has so much authority already how to hire and fire? He added a housekeeping measure: wording should be changed to "shall believe."

Following further discussion, Chair VencI reminded the commissioners that the motion is that with water, liquor, and personnel services, we should add something about due process. She's trying to get a consensus regarding due process for removal of a director.

Commissioner Bagoyo said he believes in due process but is concerned about putting that in the Charter because it poses some liability on the county. He's always believed in the system and that there is in fact due process. If you feel you've been treated unfairly, you'll have the civil court to take your complaint.

Much discussion followed regarding the definition of due process. Chair VencI said it seems that if we simply add the verbiage that a person gets due process in the Charter, then each department could do it, but it'd be in the Charter. Commissioner Bagoyo said we need to define it; it could be a very cumbersome process. Commissioner Petro retorted that the wording is quite clear. "Due process" is as it is written under the firing of the police. Commissioner Holaday said he thinks we need help from a labor lawyer.

Commissioner Fuhrmann made a motion to defer this until we get clean language, then take it back to the public. Commissioner Takahashi wants Mr. Moto to ask legal counsel and a labor specialist to go through this Charter to see if there are any current legal issues, and bring that back to us.

Chair VencI said there's a motion on floor, and asked what the commissioners what they wanted to do. Defer the motion until we get the language? Commissioner Bagoyo said he supports some form of due process as long as we come up with a clean, concise, defined way. We don't want to expose the county to liability.

Chair VencI said that Mr. Craddick and Mr. Goode will be present at our next meeting. The meeting will be on December 10.

Vice-Chair McLaughlin said email communications shared with Chair VencI should be available to the public. When we communicate via email, that should be part of public record.

Chair VencI said we will be discussing Water and Public Works on the 10<sup>th</sup>. Planning and Ethics will be on the 17<sup>th</sup>.

Commissioner Bagoyo asked if Mr. Van Dyke is preparing the information that we will take out to the public because he want to make sure we get those things ahead of time so we can review and be prepared. He wants the matrix of things we've already agreed to. Chair Venci replied that we'll begin the next meeting with a summary or working document that will grow. She can ask him about the summary ahead of time. Commissioner Bagoyo reminded her that it's important to also put that in the binder.

Commissioner Petro said the quicker we get the pros and cons of issues for our public the better; there's so much to consume and review. It's not fair to the public to have them see the information for the first time on January 16; they need it ahead of time.

Vice-Chair McLaughlin thanked Chair Venci, saying her efforts, along with the Mayor's, are really critical, as are the web page and the public file here at the County building. In addition to the official County of Maui website, there is now mauicharter.net. He encouraged members to look at the web sites, contribute their own ideas, and to discuss this out in the community. He hopes we use all possible venues such as editorials, speak out sessions, and PSAs.

BREAK

Chair Venci thanked Akaku. The meeting was adjourned at 12:35 p.m.

  
Ke'ala Pasco, Charter Commission Assistant



Organizational Chart – Executive Branch -- County of Maui  
(Draft - Jon M. Van Dyke – Nov. 25, 2001)

Executive Officials Appointed by the Mayor (without Council approval)

- \* Managing Director (8-1)(five years of administrative experience)
- \* Finance Director (8-4)(five years of financial experience and three years of administrative experience)
- \* Director of Public Works and Waste Management (8-5)(five years of administrative experience)
- \* Director of Parks and Recreation (8-6)(five years of administrative experience)
- \* Fire Chief (8-7)(five years of experience in fire control, three years of administrative experience)
- \* Planning Director (8-8.2)(five years of planning experience, three years of administrative experience)
- \* Director of Housing and Human Concerns (8-10)(five years of administrative experience)

Executive Officials Appointed by the Mayor (with Council approval)

- \* Corporation Counsel (8-2)(confirmed by Council; removal by Mayor requires Council approval)(must be an attorney licensed in Hawai'i with at least three years of practice) – Deputy Corporation Counsel are appointed by Corporation Counsel and serves at the pleasure of the Corporation Counsel
- \* Prosecuting Attorney (8-3)(confirmed by Council; removal by Mayor requires Council approval)(must be an attorney licensed in Hawai'i with at least three years of practice) – Deputy Prosecuting Attorneys are appointed by the Prosecuting Attorney and serve at the pleasure of the Prosecuting Attorney

Executive Officials Not Appointed by the Mayor

- \* County Clerk (5-2)(appointed by Council)
- \* Director of Personnel Services (8-9.2)(appointed by the Civil Service Commission)("thoroughly familiar with the principles and methods of personnel administration")
- \* Director of the Department of Water Supply (8-11)(appointed by the Board of Water Supply)(three years of administrative experience; either Director or Deputy Director must be a registered engineer)(Deputy Director is appointed by the Director)
- \* Chief of Police (8-12.3)(appointed by Police Commission)(five years of experience in law enforcement, three years of administrative experience)(right to a hearing before being removed from office).
- \* Director of the Department of Liquor Control (8-13.4)(appointed by Liquor Control Commission))(five years of experience in law enforcement, three years of administrative experience)

### Constitutionally-Established Boards and Commissions

- \* Board of Variances and Appeals (8-8.7)(nine members)(appointed by Mayor with Council approval)
- \* Public Safety Commission (8-7.4, 8-15.1)(nine members)(appointed by Mayor with Council approval)
- \* Maui Planning Commission (8-8)(nine members)(appointed by Mayor with Council approval)
- \* Moloka'i Planning Commission (8-8)(nine members)(appointed by Mayor with Council approval)
- \* Lana'i Planning Commission (8-8)(nine members)(appointed by Mayor with Council approval)
- \* Civil Service Commission (8-9.4)(five members)(appointed by Mayor with Council approval)
- \* Board of Water Supply (8-11.3)(nine members)(appointed by Mayor with Council approval)
- \* Police Commission (8-12.2)(nine members)(appointed by Mayor with Council approval)
- \* Liquor Control Commission (8-13.2)(nine members)(appointed by Mayor with Council approval)
- \* Liquor Control Adjudication Board (8-13.3)(nine members)(appointed by Mayor with Council approval)
- \* Cost of Government Commission (8-14.2)(nine members)(appointed by Mayor biennially with Council approval)
- \* Salary Commission (8-16.1)(nine members)(appointed by Mayor with Council approval)
- \* Board of Ethics (10-2)(nine members)(appointed by Mayor with Council approval)
- \* Charter Review Commission (14-3)(eleven members)(appointed by Mayor with Council approval)

[County has some 34 boards and commissions in total – most are not mentioned in the Charter.]

### Legislative Staff

- \* Office of Council Services (3-7)

## MAUI CHARTER COMMISSION AMENDMENTS

### Possible Amendments Considered

(as of Nov. 19, 2001)

(Draft - Jon M. Van Dyke, Commission Analyst)

### Definitely to Be Presented to the Community for Input in the January-March 2002 Meetings

\* (3-2) Length of term of Council members – extend from two years to four years with staggered terms for Council members – reduction in number of consecutive terms permitted (from five to three)(?) – or elimination of term limits(?)

### Still Under Consideration for Possible Presentation to the Community in the January-March 2002 Meetings

\* (Article 3) Should Council members be considered to be "full-time"? Should the Salary Commission (8-16.1) continue to have authority to establish their salary, but with additional guidelines?

\* (3-1) Should there be any adjustments in manner in which Council members are elected – should the geographical descriptions of the nine geographical areas described in 3-1 be adjusted in light of the recent reapportionment, or for any other reasons? – should a change be considered from the current system whereby all nine Council members are elected "at-large" (by voters countywide, with members having residences in nine separate geographical areas) to a system utilizing some at-large and some districting seats

\* (3-2 and 7-2) Should a candidate receiving more than 50% of the vote in the first special election for Council or Mayor be deemed elected?

\* (3-3 and 7-3) Residency requirement for candidates for office – now 90 days – should it be lengthened? Who determines whether the qualification requirements are met? Court?

\* (3-6.5 and 3-8.2) Should Council members be able to ask for reports from and ask questions directly to county employees without going through the Mayor? Should violations be impeachable offenses?

\* (4-1) What is the effect of a "resolution" enacted by the Council? Should this be clarified?

\* (Article 8) Minimum qualifications for department heads – college degree? – or equivalent experience? – should such minimums be in the Charter, or removed altogether? – or should qualifications be listed separately for each department head? – should experience levels be raised from 3-5 years to 8-10 years?

\* (Article 8) Deputy directors – are they needed in all departments?

\* (8-2) Corporation Counsel – process of giving assignments to – can Council and its members give assignments directly, or must they go through the Mayor?

\* (8-2) Public Justice Commission to provide oversight over Corporation Counsel – to determine its proper role – is it to be as an advocate or adversary, or to provide legal advice – how to balance responsibilities to Mayor with those to County Council? – How are assignments to be given to the Corporation Counsel?

\* (8-6) Should there be a Parks Commission? – What would be its role? Who should it report to?

\* (8-7) Should there be a Fire Commission? – to replace (or supplement) the Public Safety Commission (which now has jurisdiction over Fire and Civil Defense)? With power to hire and fire the Fire Chief? – what due process should be included before any action would be taken? – should Civil Defense remain with the Public Safety Commission? Handle citizen complaints? Should lifeguards be under this Commission? Emergency medical services (now run by the State)? Should it be called the Fire and Public Safety Commission? Should the same due process protections governing removal of the Chief of Police cover the Fire Chief?

\* (8-8) Planning Commission – responsibilities in relation to County Council (regarding, for instance, SMA permits and other CZM issues) – right to intervene – role of CACs – what role should Community Plans play? – deadlines – neighborhood boards?

\* (8-11) Water Board – Should it have more autonomy? – Or less? – Should it have the power to determine rates? [Now rates are determined by the Board, but come into force only if approved by the Mayor and the Council, and the Mayor's approval can be vetoed by a two-thirds vote of the Council.] Should Board members have engineering experience? At least some? Should board members be paid? Does the Water Dept. need a second Deputy Director?

\* (Article 9) Budget process – should there be a cap on indebtedness? Should the dates regarding the development of the budget be coordinated more closely with the dates utilized by the legislature?

\* (Article 9 & 8-6) Open space – Should 1% (or more) of the annual budget be designated for the purchase of open space?

\* (Article 10) Issues related to ethics – problem on Lana'i related to employees of Lana'i Company – eliminate 10-4.1.d (because it is inconsistent with other provisions)?

\* (Articles 11 & 12) Initiative and recall – are the number of signatures required too high? Should they be based on actual voters or registered voters?

\* (13-2) Gender equality on boards and commissions?

\* (13-11) Runoff elections – how should they be conducted?

\* (13-2) Are there too many boards and commissions [currently 34, with 14 established in the Charter]? Should some be consolidated? Should the length of service be reduced from five to three years? Should they continue to be required to meet in county facilities?

\* (8-16.1) Salary Commission – should any adjustments be made in its composition or functions?

#### No Longer Under Consideration for Presentation to the Community

\* (7-2) Extension of the length of the term of the Mayor

\* (Article 8) Council confirmation of department heads and managing director (other than Corporation Counsel and Prosecuting Attorney)

\* (8-1.2) Changes regarding the qualifications for Managing Director

\* (8-2.2) Corporation Counsel – process of removal

\* (8-3) Changes regarding qualifications and responsibilities of Prosecuting Attorney

\* (8-8.2) Changes regarding minimum qualifications for Planning Director

\* (13-11) Instant Runoff Voting

Housecleaning Matters– Technical Matters Requiring Changes

\* (3-1) Language referring to geographical boundaries of geographical areas for Council seats.

\* References to political parties (in light of the nonpartisan elections) – filling vacancies (3-4.1), boards and commissions (13-2.2)

\* 1982 Charter Commission sought to remove all sexist language, but Charter still contains language that is not sex-neutral – "chairman" "vice-chairman" (3-5.1, 3-5.2;13-2(a), 9-18, 13-2.9); "he" (4-3.1, 4-3.2, 10-2.5, 10-4.1.b, 12-5.2, 12-9); "his" (8-15.1, 10-4.1.a, 10-4.1.b, 10-4.1.c, 12-3.4.b, 12-5.2); "him" (8-1.3.f,10-4.1.a) [Charter sometimes refers to "presiding officer" of the Council (3-5.1, 4.3) – should a consistent terminology be used – "chair"?][Do we still need the second sentence in 13-15 "When any personal pronoun appears in this charter, it shall be construed to mean either sex."]

\* (3-3, 7-3) Process of determining when a vacancy on the Council has occurred – current language refers to the time a member "is adjudicated guilty of a felony" (or for the mayor, "guilty of a crime")– but should it be the time of "sentencing"? – Uniform Status of Convicted Persons Act – – Should the language in 3-3 and 7-3 be made consistent – now "felony" for council members but "crime involving moral turpitude" for the mayor? If "moral turpitude" is going to stay in the Charter, should it be defined?

\* Capitalization of "To" (3-6.4); "Planning" in 8-8.4 [otherwise departments and titles are not capitalized – should we keep that format?][Are these just typos?]

\* Hawaiian language spellings of proper names?

\* Reference to 2001 in 14-3 (Charter Review Commission)

\* Delete Section 14-4 (Special Charter Commissions) as obsolete

\* 15-1 seems somewhat obsolete, as well – update? In fact, all of Article 15 seems like it is no longer applicable or relevant.