

Council Chair
Danny A. Mateo

Director of Council Services
Ken Fukuoka



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

COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.maui-county.gov/council

September 2, 2011

Mr. Joshua Stone, Chair
and Members of the Charter Commission
County of Maui
Wailuku, Hawaii 96793

Dear Chair Stone and Members of the Charter Commission:

**SUBJECT: AMENDMENT TO THE REVISED CHARTER OF THE
COUNTY OF MAUI (1983), AS AMENDED, RELATING TO
REVIEWS OF THE GENERAL PLAN AND OTHER LAND
USE ORDINANCES (PAF 11-178)**

I am requesting that the Charter Commission consider amending Section 8-8.4 of the Revised Charter of the County of Maui (1983), as amended, ("Charter") to ensure consistency with Section 8-8.6 of the Charter. Furthermore, I am requesting that the Charter Commission review these sections of the Charter in their entirety for other inconsistencies with regard to established time frames.

May I please request that the Charter Commission ("Commission") consider the following:

1. The second section numbered 8-8.4(3) establishes a 120-day deadline "after the final public hearing" for the planning commission to transmit its findings and recommendations on proposed land use ordinances and amendments, which are unrelated to the general plan, to the Council. In contrast, Section 8-8.6(2) provides that the Council may pass revisions to land use ordinances if the planning commission fails to make its report within 120 days "after receipt of the referral" by the planning commission.

To correct this inconsistency, I am proposing the following amendment to Section 8-8.4 of the Charter:

"3. Review other proposed land use ordinances and amendments thereto prepared by the director or the council and, after public hearings, transmit such ordinances with its findings and recommendations thereon to the council for consideration and

092611 - Item No. II.A. pgs 1-2

action no later than one hundred twenty (120) days after [the final public hearing] receipt of the referral.”

2. In consultation with the Department of Planning and the Department of the Corporation Counsel, please review Section 8-8.4 and Section 8-8.6 of the Charter in their entirety for other inconsistencies with regard to established time frames for action.
3. It is unclear whether the use of the phrases “prepared by”, “requested by” and “proposed by” in Sections 8-8.4 and 8-8.6 of the Charter are intended to have different meanings. For instance, it appears that the term “proposed by” in Sections 8-8.6(3) and 8-8.6(4) was intended to refer to revisions initiated by the planning director, as opposed to a private applicant or other source. In consultation with the Department of the Corporation Counsel, please propose amendments, if appropriate, to those sections for consistency and clarity.
4. As a housekeeping measure, please renumber the subsections within Section 8-8.4 of the Charter to remove duplication.

Should you have any questions, please contact me or Legislative Analyst Kimberley Willenbrink at 270-7761.

Sincerely,



DONALD G. COUCH, JR.
Council Member

paf:kcw:11-178b

cc: Honorable Mayor Alan M. Arakawa
William Spence, Planning Director
Patrick K. Wong, Corporation Counsel

Mayor Alan Arakawa
200 S. High Street, 9th Floor
Wailuku, HI 96793

SE.

- 19:00

September 2, 2011

Dear Mayor Arakawa,

This letter is to respectfully request that you rescind your recent proposal, presented to the Maui County Charter Commission, recommending the addition of a "sustainability division" to the Department of Environmental Management. With all due respect, I appreciate your continued concerns for our island environment. However, I strongly feel that the addition of yet another layer of government is not the way to accomplish any positive objectives in this area.

One argument that you made in favor of your proposal was that, although the state already has the Department of Land and Natural Resources, you feel that this entity is "ill-equipped" to handle its job. Wouldn't it be more cost-effective to make sure that this existing department becomes sufficiently equipped, than it would be to create an entire new government division whose functions would be totally redundant? To me, such a move is blatant waste of taxpayer dollars.

I took the time to check out the websites of the cities that you referred to in the Maui News (August 27), as well as a few others. I also made some phone calls. In every instance, the "sustainability divisions" in these cities are in the Mayor's office, and consist of one to five employees, doing the exact same job that your own Environmental Coordinator, Rob Parsons is currently doing. Where I come from, we have a saying that goes, "if it ain't broke, don't fix it." I think that saying would apply in this instance.

I trust that you and the Charter Commission will reconsider the actual intent and viability of your Proposal #9, and decide to take it off the table. If it does make it onto the ballot in the 2012 elections, I can assure you that I will campaign strongly against it. We need to streamline government at every level, not add even more. Better stewardship of tax dollars and existing resources will resonate more with voters, despite the current political popularity of "green" initiatives and "sustainability" issues.

Thank you so much for taking the time to read over my request. I hope that you have been receiving many more just like it from other constituents throughout the county. I have every confidence that you will do the right thing – rather than succumbing to pressure from those that wish only to promote the popular "cause" of the day. I'll be watching to see what happens.

Sincerely,



Rhonda Glass
256 Puumakani Street
Kahului, HI 96732

092611-Item No. II.B. pg 1-1

cc: Maui County Charter Commission

From: Lisa Kahuhu
To:
Subject: Fwd: Maui Charter Commission proposal list

----- Forwarded message -----

From: EditorMolokai Advertiser-News George Peabody <MolokaiMAN@basicisp.net>
Date: Wed, Sep 7, 2011 at 3:54 PM
Subject: Maui Charter Commission proposal list
To: sherrybroder@sherrybroder.com, jonmvandyke@gmail.com,
MolokaiMAN@basicisp.net

sherrybroder@sherrybroder.com, jonmvandyke@gmail.com

Aloha Sherry Broder: I have been trying to access and copy the text of the Maui Charter Commission matrix you apparently made and is posted on Maui website. But.

When I select and copy any part of the text, pasting of the text only results in pasting the county website URL not the text selected. So, we need the document to be made text selectable.

Also, I did not see my letter to commission with my proposals included therein. Why not? Please include that long letter/proposal for consideration.

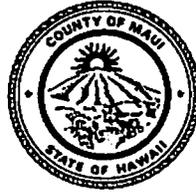
Please send to me by email attachment, a word .doc or plain text or RTF word document, the data for the "matrix".

Did you get paid by Maui County to put that together, and to exclude other proposals submitted that you deemed in conflict with federal and state laws? How much?

mahalos,

George Peabody editor for Molokai Advertiser-News since 1984

092611 - Item No. II.C. pg 1-1



DEPARTMENT OF LIQUOR CONTROL
C O U N T Y O F M A U I

2145 KAOHU STREET, ROOM 105 • WAILUKU, MAUI, HAWAII 96793
PHONE (808) 243-7753 • FAX (808) 243-7558

September 9, 2011

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

Re: #8.13.2 - Proposal to make no changes to Liquor Control Adjudication Board

Dear Chair Stone and Charter Commission Members:

The purpose of this testimony is to comment on the matrix of proposals prepared by Sherry P. Broder and Jon M. Van Dyke dated September 1, 2011. The Department of Liquor Control supports #8.13.2 – Proposal to make no changes to Liquor Control Adjudication Board ("Board"). There are several reasons to retain the current structure.

The Liquor Control Commission ("Commission") would decide both licensing and adjudication matters if the Commission inherited the Board's functions. This would result in a situation in which statements made by a Commissioner during the licensing process could be used to disqualify the Commissioner during the adjudication process. A licensee would argue that prior statements made by a Commissioner show that the Commissioner is biased and should not be allowed to make a decision on the licensee's adjudication matters.

In addition, it would be awkward for the Commission to decide adjudication matters because it directly oversees the Director who is prosecuting the adjudication matter. Please see Department Organization Chart identified as Exhibit "A" and attached hereto. Under the current structure and as illustrated on Exhibit "A", the Board is a separate entity and not connected to the Director. When the Board hears an adjudication case it is fresh and untainted by any actions or statements previously made.

Finally, adding adjudication matters to the Commission's duties would increase the length of Commission meetings and possibly increase the number of meetings the Commission would have each month. This could make it more difficult to find volunteers to serve on the Commission. Currently there are no issues with filling vacancies on either the Board or Commission.

RECEIVED
CORPORATION COUNSEL
2011 SEP - 9 PM 2:55

092611 - Item No. II.D. pgs 1-3

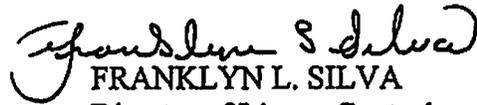
Chair Joshua A. Stone and Charter Commission Members

September 9, 2011

Page 2

In conclusion, a separate Board is efficient and promotes fairness in liquor law enforcement.

Very truly yours,

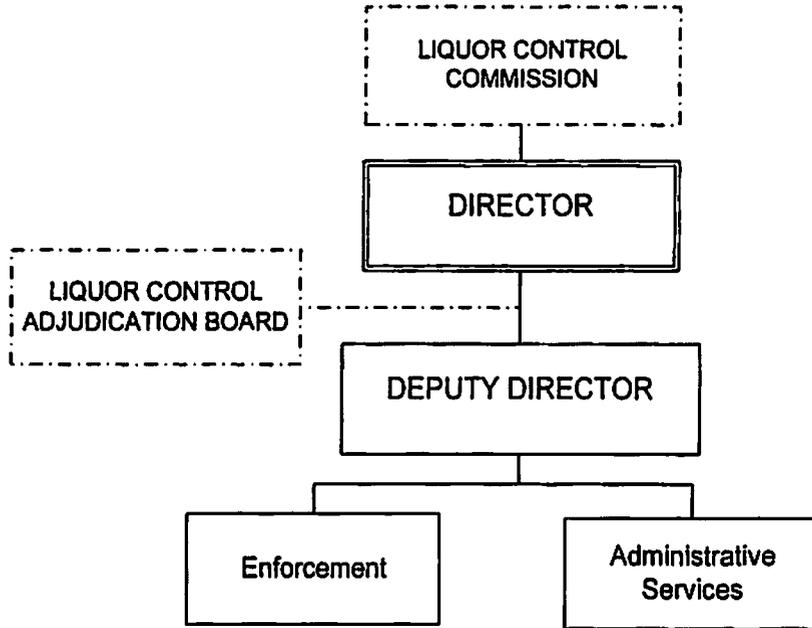
A handwritten signature in cursive script that reads "Franklyn L. Silva".

FRANKLYN L. SILVA
Director of Liquor Control

DEPARTMENT OF LIQUOR CONTROL

Department Summary

Organization Chart



Mission Statement

To protect the health, safety and welfare of the general public by regulating and controlling the liquor industry in the importation, manufacture, sale and service of alcoholic beverages

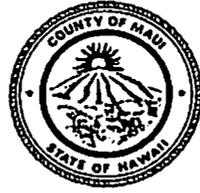
Financial Summary

	FY 2009 Actual	FY 2010 Actual	FY 2011 Budget	FY 2012 Adopted	Change Amount	% Change
Program Summary						
Liquor Fund						
Liquor Control	2,156,688	2,220,452	2,776,337	2,885,144	108,807	3.9%
Total	2,156,688	2,220,452	2,776,337	2,885,144	108,807	3.9%

Equivalent Personnel Position Summary

	FY 2009 Actual	FY 2010 Actual	FY 2011 Budget	FY 2012 Adopted	Change Amount	% Change
Liquor Fund						
Liquor Control	26.0	26.0	26.0	26.0	0.0	n/a
Total	26.0	26.0	26.0	26.0	0.0	n/a

Equivalent Personnel (E/P) = Full-time equivalents of full- and part-time personnel.



DEPARTMENT OF LIQUOR CONTROL
C O U N T Y O F M A U I

2145 KAOHU STREET, ROOM 105 • WAILUKU, MAUI, HAWAII 96793
PHONE (808) 243-7753 • FAX (808) 243-7558

RECEIVED
CORPORATION COUNSEL
2011 SEP -9 PM 2:59

September 9, 2011

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

Dear Chair Stone and Charter Commission Members:

The purpose of this testimony is to correct several misstatements made by Mr. Ian Ballantyne in testimony dated August 2, 2011 and submitted to the Commission at its August 15, 2011 meeting. Mr. Ballantyne also made similar statements at the Commission's Hana meeting on July 5, 2011.

"Needs additional layer of supervision/appeal process from the Mayor's office."

Section 281-17, Hawaii Revised Statutes, gives the liquor commission sole jurisdiction, power, authority, and discretion over liquor regulation matters, including the appointment and removal of an administrator.

"Only place in the world where one cannot dance if there is a liquor license."

This statement is false. Liquor regulations permit dancing in liquor licensed premises. However, licensees may choose not to have dancing within its premises.

"Only place in the world where one cannot taste wine in wine store."

This statement is false. Liquor regulations allow wine tasting in retail stores by permit.

092611 - Item No. II.E. pgs. 1-3

"Only place in the world where one cannot sell alcoholic beverages below cost. There are times when a wine is starting to turn because it is too old. Owner needs to sell quickly as wine will be unsellable within a few months. Better to sell at, say, half price to get something back rather than have to trash it."

This statement is false. The prohibition of selling liquor below cost is a common regulation nationwide. The purpose of the restriction is to prevent excessive consumption of liquor.

"Only place in the world where one cannot legally return a bottle of wine because it is corked. Reason is, as above, it is illegal to have an opened bottle of an alcoholic beverage in a liquor store. Also, it is illegal for the seller to taste it to check that it is bad (as per no wine tasting, as above)."

This statement is false. A bottle of wine can be returned like any other purchased item in a retail store.

"Following from above it is also illegal for a store wine buyer to taste any new wine before purchase. Buyer is expected to take the seller's word that it is a good wine."

As stated above, liquor regulations allow wine tasting in retail stores by permit.

"All above have been put before the commission to be reasonable and change the laws but nothing ever happens."

This statement is false. The Liquor Commission has addressed a request relating to dancing within a licensed premises. However, none of the other items has been brought before the Liquor Commission.

"Cost of liquor license is a % of sales which makes it extremely expensive compared to operating a liquor store in other States. All money collected goes to running the commission. This has lead to an extremely bloated organization that has so many employees that each liquor store can be visited to check for violations ever week. This is an excessive number...."

There appears to be confusion between state liquor taxes and county liquor fees. State liquor taxes are based upon the volume of liquor sold and such taxes are kept by the state. The Liquor Commission does not receive any portion of the state liquor taxes.

Licensees pay to the Department of Liquor Control county liquor fees based upon a percentage of sales. In 2010, the fee was .009% of the gross liquor sales in Maui County. For example, in 2010

Hasegawa General Store paid a total of \$2,299.54 in county liquor license fees for the year.

There are currently 19 employees in the Department of Liquor Control, 5 of which are assigned to inspect liquor licensed premises.

"Under the Mayor, office the cost of the license could be reduced by 25%, the size of the liquor commission substantially reduced and the excess license fees brought through to the general fund...."

§281-17.5, Hawaii Revised Statutes, requires that county liquor fees shall have a direct and proportionate relationship to costs and expenses of the Liquor Commission in its control, supervision, or regulation of the manufacture, importation, and sale of liquors. State law further restricts the use of county liquor license fees to costs and expenses directly relating to operational and administrative costs actually incurred by the Liquor Commission collecting or receiving such fees. Such fees shall not be used for any costs or expenses other than those directly relating to the Liquor Commission's operation and administration.

The Department of Liquor Control staff encourages anyone who has questions regarding liquor regulations to contact the Department. We would welcome the opportunity to educate community members to prevent misunderstandings of the rules and regulations of liquor control.

Very truly yours,


FRANKLYN L. SILVA
Director of Liquor Control

From: "Sherry P. Broder" <sherrybroder@sherrybroder.com>
To: <Lisa.Kahuhu@co.mauhi.us>
Date: 9/9/2011 2:10 AM
Subject: Fwd: Maui Charter Commission
Attachments: MauiCharterProposals9111.pdf

Sherry P. Broder, Esq.
Seven Waterfront Plaza, Suite 400
500 Ala Moana Blvd.
Honolulu, HI 96813

On Fri 09/09/11 2:01 AM, "Sherry P. Broder" <sherrybroder@sherrybroder.com> wrote:

> FYI I am forwarding the response to Mr. Peabody.
>
> Sherry P. Broder, Esq.
> Seven Waterfront Plaza, Suite 400
> 500 Ala Moana Blvd.
> Honolulu, HI 96813
>
> On Fri 09/09/11 1:57 AM, "Sherry P. Broder" wrote:
>
>> Dear Mr. Peabody,
>>
>> Thank you for your inquiry. We did read and examine your testimony and
>> materials, but were unable to identify a specific proposal for the
> Charter
>> Commission to address. We have designed the matrix so that additional
>> proposals can be added. If you could clarify for us the language that
>> formulates your specific proposal or proposals that you submitted for
> the
>> August 29, 2011 meeting, they could be added to the matrix. For your
>> assistance, we note that the Mayor appoints the members of the Police
>> Commission subject to approval by the Council, that the people elect the
>> Mayor and the members of the Council, and that the Sheriff Division is
> part
>> of the Department of Public Safety for the State of Hawaii.
>>
>> In response to your request, we are attaching the matrix to facilitate
>> your ability to access it.
>>
>> Aloha, Sherry Broder & Jon Van Dyke
>>
>> Sherry P. Broder, Esq.
>> Seven Waterfront Plaza, Suite 400
>> 500 Ala Moana Blvd.
>> Honolulu, HI 96813
>>
>>
>>
>
>
>

092611 - Item No. II.F, pg 1-1

From: <pillerr001@hawaii.rr.com>
To: <letters@mauinews.com>
CC: <charter.commission@maulcounty.gov>
Date: 9/13/2011 5:58 PM

Surprise, surprise – the residents of Lanai, Molokai and East Maui don't want the voting scheme currently in place for electing County Council members changed. Of course they don't! They think that their combined population of 13,526 residents should have 3 seats on the Council while other, single districts with up to over 28,000 residents should only have 1. And, amazingly, the charter commission people seem to be somewhat in agreement. I'm dumbfounded!

The charter commission should not just consider their own personal opinions and the "overwhelming" opinion of a minority (13,536) over the rights of the vast majority (141,318) of disenfranchised voters of Maui County. 8.7% of the population should not have 33% of the Council's members, while 91.3% of the population has to divide the remaining 67% of the Council seats amongst themselves.

The mandate of 1 man/1 vote requirement was put in the Constitution for a reason - it requires EQUAL representation. County-wide voting does not begin to address this gross disparity. Put this issue on the ballot and let "We the People" decide!

/s/ Jerry Piller
Kihei
879-6554

092611 - Item No. II. G. pg 1-1

ALAN M. ARAKAWA
Mayor



DANILO F. AGSALOG
Director
JEREMIAH L. SAVAGE
Deputy Director

COUNTY OF MAUI
DEPARTMENT OF FINANCE
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793

September 16, 2011

Joshua A. Stone, Chair
Maui County Charter Commission
c/o Department of the Corporation Counsel
200 South High Street
Wailuku, Hawaii 96793

APPROVED FOR TRANSMITTAL
[Signature] 9/16/11

Mayor Date

**SUBJECT: REQUEST FOR INFORMATION:
AUDITOR'S DEPARTMENT
FOUR YEAR TERMS FOR COUNCIL MEMBERS**

Dear Mr. Stone:

In response to your request of August 8, 2011, on the following questions:

1. *A cost estimate and analysis of establishing and running a new County Auditors Department. This would include startup costs such as leasing of new space, buying equipment (desks, computers, etc.) and the costs of staffing the department, including projected number of staff needed, civil service classifications, salaries and benefits.*

Auditor's Department

Staffing: 5 Equivalent Personnel – SEE ATTACH ORGANIZATIONAL CHART

County Auditor	\$100,000.00
Deputy (Senior Auditor)	\$ 95,000.00
Private Secretary	\$ 60,000.00
Audit Manager (CPA)	\$ 80,000.00
Program Auditor	\$ 60,000.00
Subtotal	\$395,000.00
Fringe Benefit @ 74.05%	\$292,497.50
TOTAL	\$687,497.50

Space:

At 250 square feet per person	1250 sqft	..
At 4/square foot	\$5,000/month	5
Annual Cost	\$ 60,000.00	

Start-up Cost:

At \$3,000/per staff \$ 15,000.00

092611 - Item No. II.H. pgs 1-5

Joshua A. Stone, Chair
September 16, 2011
Page 2 of 2

TOTAL COSTS FOR YEAR 1 \$762,497.50

Optional Additional Costs:
Professional Services \$200,000.00
Travel Expenses \$ 5,000.00
Training Expenses \$ 3,000.00
TOTAL \$208,000.00

TOTAL OPERATIONAL BUDGET: \$970,497.50

2. A comparative cost analysis of expenditures and savings from changing the Maui County Council terms from 2 years to 4 years thereby having the elections every 4 years instead of every 2 years.

Four-Year Terms for Council Members

Based upon cost estimates provided by the Office of the County Clerk, it appears that the County could potentially save approximately \$404,000 every two years. This is calculated based upon the County's share of the cost of the election system being leased by the State of Hawaii (\$254,200 per election) plus the cost of temporary election clerks hired by the Office of the County Clerk (\$150,000 per election). The Charter Commission is encouraged to contact the Office of the County Clerk for any additional questions.

If you have any questions or require additional information, please feel free to contact me at 270-7475.

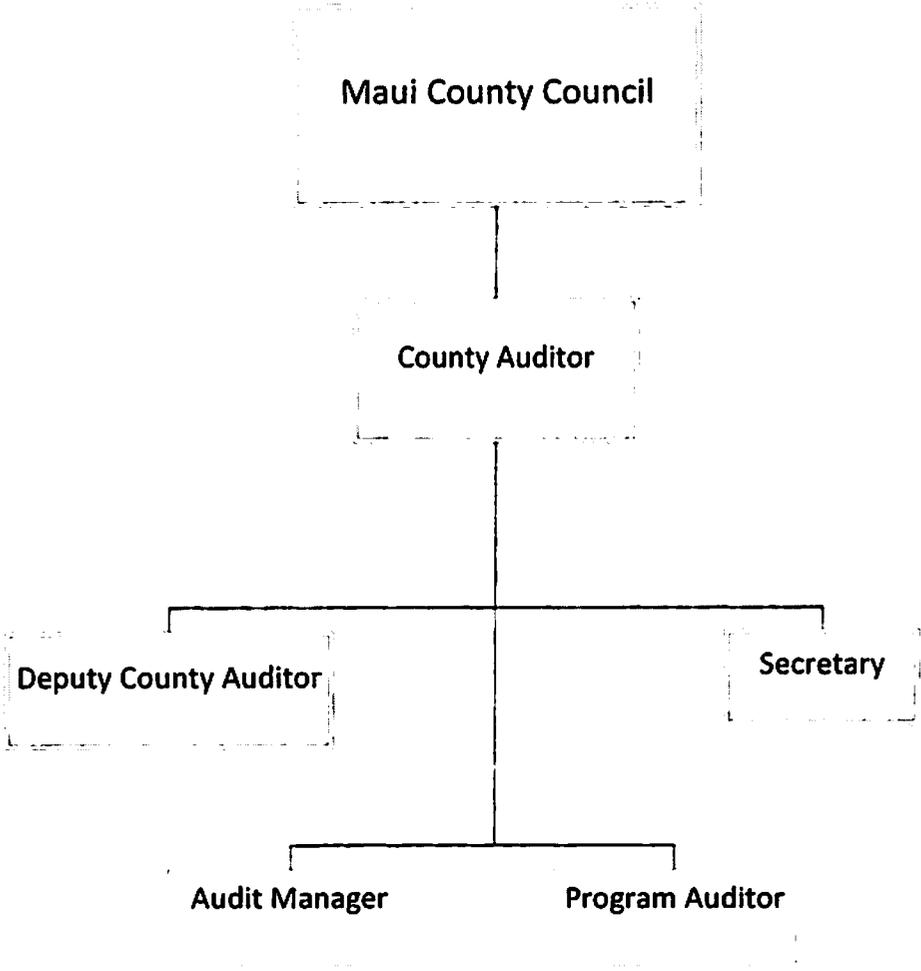
Sincerely,



DANILO F. AGSALOG
Director

Attachment

**Proposed Organization
County Auditor
County of Maui**



ALAN M. ARAKAWA
Mayor

KEITH A. REGAN
Managing Director



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

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

August 8, 2011

Danilo F. Agsalog, Director
Department of Finance
200 S. High Street
Wailuku, Hawaii 96793

Re: Request for Information

Aloha Director Agsalog:

I'm Joshua Stone and am the Chairman of the Maui County Charter Commission. Our Commission is responsible for reviewing, researching and proposing charter amendments for the upcoming 2012 election. A large part of this process is gathering information from a number of sources to assist us in making a determination on what proposals will be put forward, and what impacts these proposals will have.

In light of pending proposals that have come forward, the Commission respectfully requests the following information from your department:

1. A cost estimate and analysis of establishing and running a new County Auditors Department. This would include startup costs such as leasing of new space, buying equipment (desks, computers, etc.) and the costs of staffing the department, including projected number of staff needed, civil service classifications, salaries and benefits.

2. A comparative cost analysis of expenditures and savings from changing the Maui County Council terms from 2 years to 4 years thereby having the elections every 4 years instead of every 2 years.

Danilo F. Agsalog, Director
August 8, 2010
Page 2

Please assist us in our endeavor by responding to our request for information on or before September 16, 2011. The Commission would like to review your response at its meeting of September 26, 2011.

If you, or your staff have any questions, please contact me directly via email, stone@maui.net, or by phone, (808) 870-7227, or you can contact Lisa Kahuhu of the Department of the Corporation Counsel at (808) 270-7585.

Thanks very much for your assistance with this request.

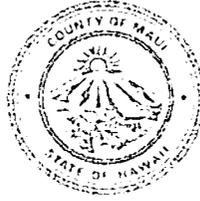
Mahalo,

JOSHUA A. STONE

JOSHUA A. STONE, Chair
Maui County Charter Commission

cc: Charter Commission Members

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

: 5

OFFICE OF THE MAYOR

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

September 16, 2011

MR. JOSHUA A. STONE, CHAIR
Charter Commission, County of Maui
C/O DEPARTMENT OF CORPORATION COUNSEL
200 S. High Street
Wailuku, HI 96793

APPROVED FOR TRANSMITTAL



Mayor Date 9/16/11

Dear Chairman Stone:

RE: REQUEST FOR INFORMATION - BIENNIAL BUDGET

The Budget Office and the Department of Finance were in receipt of your letter dated August 8, 2011, requesting information regarding the systems and cost analysis of instituting a Biennial Budget system. After reviewing the letter, the Budget Director and Finance Director agreed to this joint response to provide the Commission with the requested information.

Thank you for this opportunity to provide the Commission with the following information regarding budget process and implementation. Please find the attach hard copy of a power point presentation prepared by the Budget Office covering the overview of the budget process and some biennial considerations.

As you will find in the attached document the budget process and implementation are guided and controlled by the County Charter as well as Maui County Codes. These include but not limited to revenue collections, rate setting, and financial reporting. Depending on the final form or parameters adopted for the biennial budget system, the Charter and County Codes will have to be adjusted or amended in order for the budgeting process and implementation so that they are in compliance with these controlling documents. Also, process changes may become evident later such as requiring the council to act on proposed budget amendments within a set period of time.

A significant amount of time and evaluation of many variables for consideration would be required to provide the commission a report on a systems and cost analysis of annual budget versus a biennial budget. That being said, we have determined that there most likely will not be a significant cost savings. The majority of monetary savings will come from the administration and council only doing one set each of community meetings and

09241 - Item No. II.I. pgs 1-31

hearings every two years. Savings would be in the transportation, lodging, and per diem for the travels to Lanai and Molokai as well as personnel time for staffing the meetings. Also, there could be a slight savings in the preparation of the proposed budget documents.

If the Commission needs more information and/or further clarification, the Budget Office and Department of Finance will be very glad to answer specific questions that might assist the commission in arriving to an informed decision with regards to the issue of budgeting process and implementation.

Sincerely

A handwritten signature in black ink, appearing to read 'Danilo F. Agsalog', with a long horizontal flourish extending to the right.

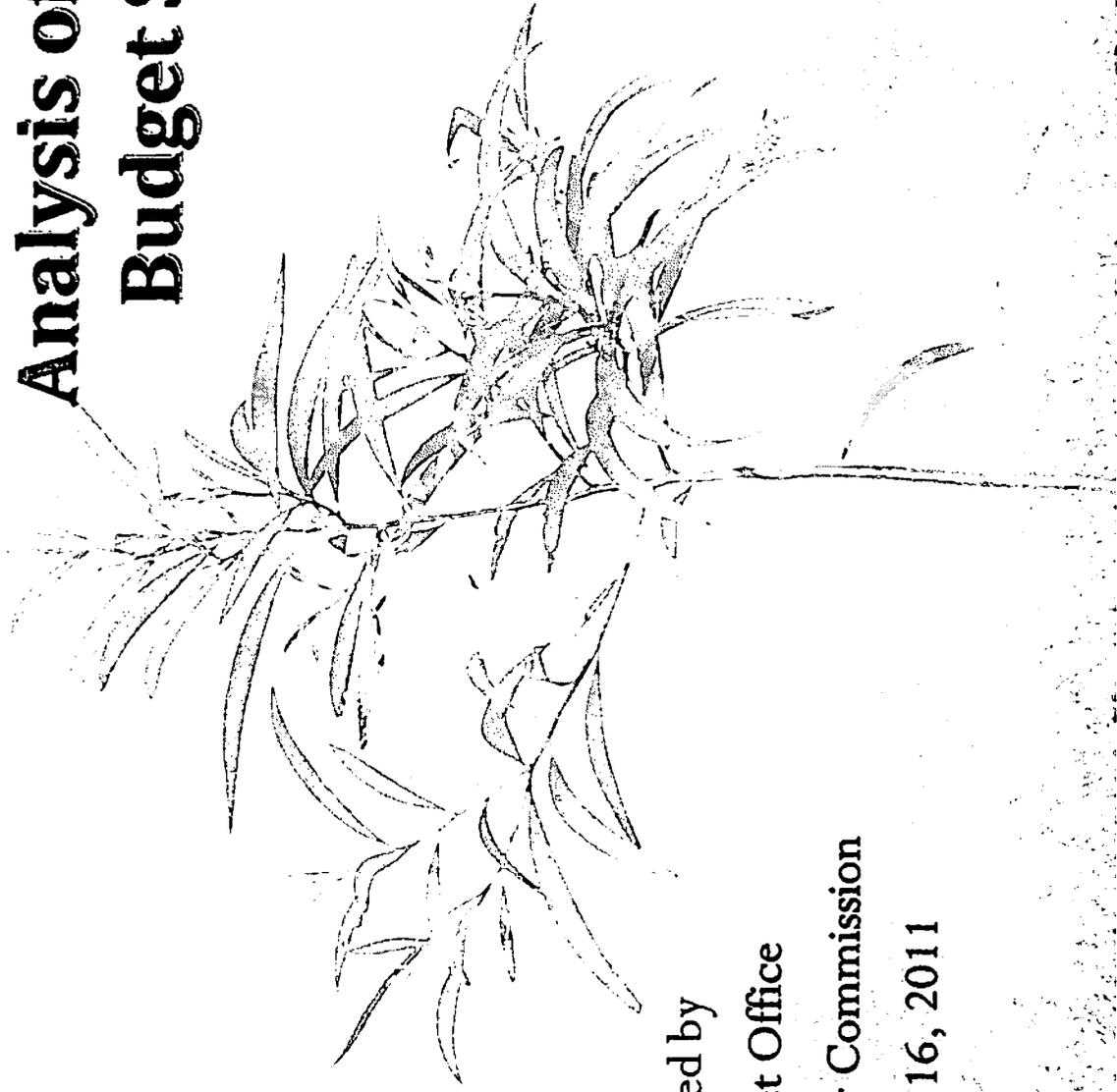
DANILO F. AGSALOG
Finance Director

A handwritten signature in black ink, appearing to read 'Sananda K. Baz', with a long horizontal flourish extending to the right.

SANANDA K. BAZ
Budget Director

COUNTY OF MAUI

Overview of the Budget Process and Analysis of Biennial Budget System



Prepared by
the Budget Office
For the Charter Commission
September 16, 2011

Overview of the Budget

- Two Annual Budgets
 - Operating Budget
 - Executive and Legislative - 19 Governmental Units
 - Capital Program Budget
 - Projects for Ensuing Fiscal Year
 - Projects Proposed for 5 years succeeding
- Legal Governance
 - State Constitution
 - Hawaii Revised Statutes (HRS)
 - Maui County Charter
 - Article 9 Financial Procedures
 - Maui County Code
 - Title 3 Revenue and Finance
 - General Budget Provisions
 - In Budget Ordinance

County Charter – Article 9

- Fiscal Year July 1 to June 30 of following year
- All fiscal affairs controlled by
 - 1) Budget Ordinance and appendices
 - 2) Capital Program Ordinance
- Complete financial plan for fiscal year
- A Balanced Budget is required:
 - Estimated Revenues = Expenditures and Appropriations

County Code – MCC 3.04.030

The operating budget which the mayor transmits to the council shall include the following information:

- Summaries for the county and for each county agency;
- Definitions for operating expenditure categories.
- Estimated revenues for the current fiscal year;
- Estimated revenues for the ensuing fiscal year.
- Expenditures for the preceding fiscal year;
- Appropriations for the current fiscal year;
- Requested appropriations for the ensuing fiscal year.
- Requested appropriation for each piece of equipment requested.

Charter - Restrictions

- Conditions, limitations or restrictions shall be set forth in the budget (ie. proviso)
- Expenditures shall be made from revenues other than borrowing
 - exceptions: bond retirement, capital program, emergencies
- All fees, rates, assessments, and taxes shall be set forth in the budget (Appendix B)

Charter - Council Action

- Council may pass or amend budget
- Council may add, increase, delete, decrease amounts except appropriations required by law and appropriations to pay indebtedness
- Council shall pass budget by June 10th or Mayor's proposed budget goes into effect
- Approved budget goes into effect on July 1st
- Mayor may propose amendments to the budget throughout the fiscal year, Council may approve or disapprove requested amendment

Constructing the Budget - Revenue

- General Fund
 - RPT, TAT, Public Services Tax, Etc. – All Except Liquor Control and Water Supply
- Special Revenue Funds
 - Sewer Fund (Wastewater) – Sewer Fees – Environmental Management
 - Highway Fund – Fuel Tax, Weight Tax, Public Transit Fares – Public Works and Transportation
 - Bikeway Fund – License Fees – Public Works (CIP only)
 - Solid Waste Fund – Refuse Collection, Tipping Fees – Environmental Management
 - Liquor Fund – License, Permit Fees – Liquor Control
- Enterprise Funds
 - Golf Fund – Green Fees and Concessions – Parks and Recreation
 - Water Fund – Water Service, Source Development Fees – Water Supply
- Grant Revenue
 - Federal, State, Private (Generally for Specific Purposes)

Appendices

- Grant Revenues are estimated in Appendix A
- Rates and Fees are shown in Appendix B
 - Real Property Tax Rates
 - Taxi and Bicycle License Fees
 - Building Permit Fees
 - Planning and Special Use Fees
 - Motor Vehicle and Driver License Fees
 - Camping and Community Center Permit Fees
 - Water and Sewer Rates
 - Concession Fees

Revenues & Expenditures* (in millions)

	FY 2010 ADOPTED	FY 2010 ACTUAL	FY 2011 ADOPTED	FY 2012 MAYOR'S PROPOSED
ESTIMATED REVENUES	<u>\$563.7</u>	<u>\$621.6</u>	<u>\$524.2</u>	<u>\$632.0**</u>
OPERATING EXPENDITURES	\$462.0	\$415.2	\$434.5	\$475.3**
CAPITAL EXPENDITURES	\$101.7	\$54.8	\$ 89.7	\$156.7**
TOTAL	<u>\$563.7</u>	<u>\$470.0</u>	<u>\$524.2</u>	<u>\$632.0**</u>

*Does not include Grant Revenue.

** FY12 Council Adopted-\$463.0 Operating, \$101.7 CIP, \$564.7 Total

Proposed Operating Budget – by Expenditure Type (in millions)

EXPENDITURE TYPE	FY 2010 COUNCIL ADOPTED	FY 2010 ACTUAL	FY 2011 COUNCIL ADOPTED	FY 2012 MAYOR'S PROPOSED
Salaries & Wages (A)*	\$143.5	\$132.3	\$138.9	\$145.1
Operations (B)**	\$310.5	\$275.2	\$293.1	\$323.7
Equipment (C)	\$ 8.0	\$ 7.7	\$ 2.5	\$ 6.5
TOTAL	\$462.0	\$415.2	\$434.5	\$475.3

* Fringe Benefits are appropriated in Countywide Cost, Employee Fringe Benefits.

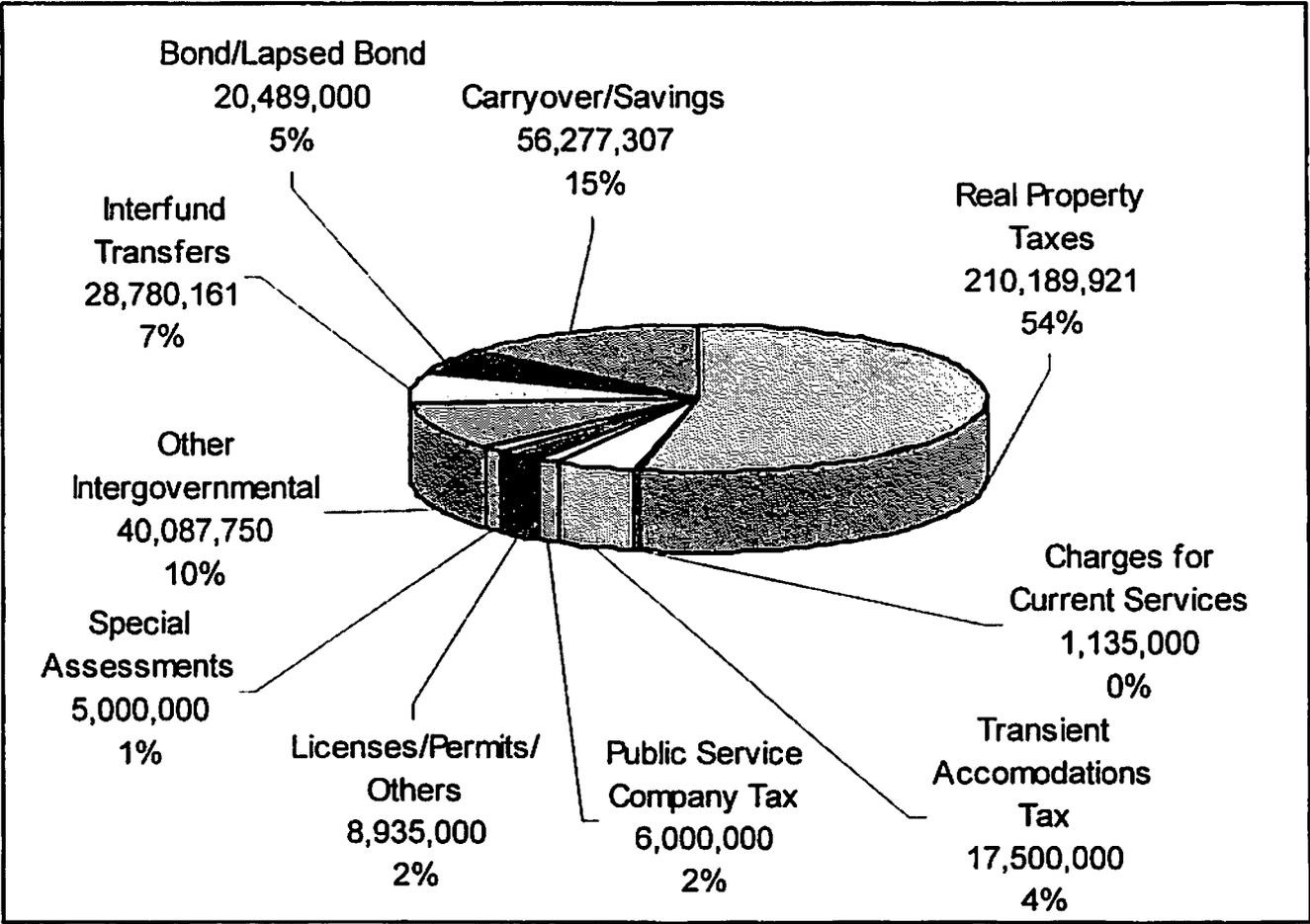
** Includes Special Operation Costs (Contributions to General Fund for ERS, FICA and, Health Fund, Other Post Employment Benefits, Debt Service and Administrative Overhead Charge) and Countywide Costs (Insurance, Debt Service Payments, Interdepartmental Transfers and Employee Fringe Benefits).

Proposed Operating Budget – by Fund

Fund (in millions)	ESTIMATED REVENUES	OPERATING BUDGET	CAPITAL BUDGET	TOTAL BUDGET
General	\$394.4	\$321.5	\$72.9	\$394.4
Water	\$ 97.0	\$ 53.1	\$43.9	\$ 97.0
Wastewater	\$ 60.4	\$ 38.3	\$ 22.1	\$ 60.4
Highway	\$ 47.1	\$ 31.5	\$ 15.6	\$ 47.1
Solid Waste	\$ 27.7	\$ 25.7	\$ 2.0	\$ 27.7
Liquor	\$ 2.9	\$ 2.9	\$ 0.0	\$ 2.9
Golf	\$ 2.3	\$ 2.3	\$ 0.0	\$ 2.3
Bikeway	\$ 0.3	\$ 0.0	\$ 0.3	\$ 0.3
TOTAL	\$632.0	\$475.3	\$156.7	\$632.0

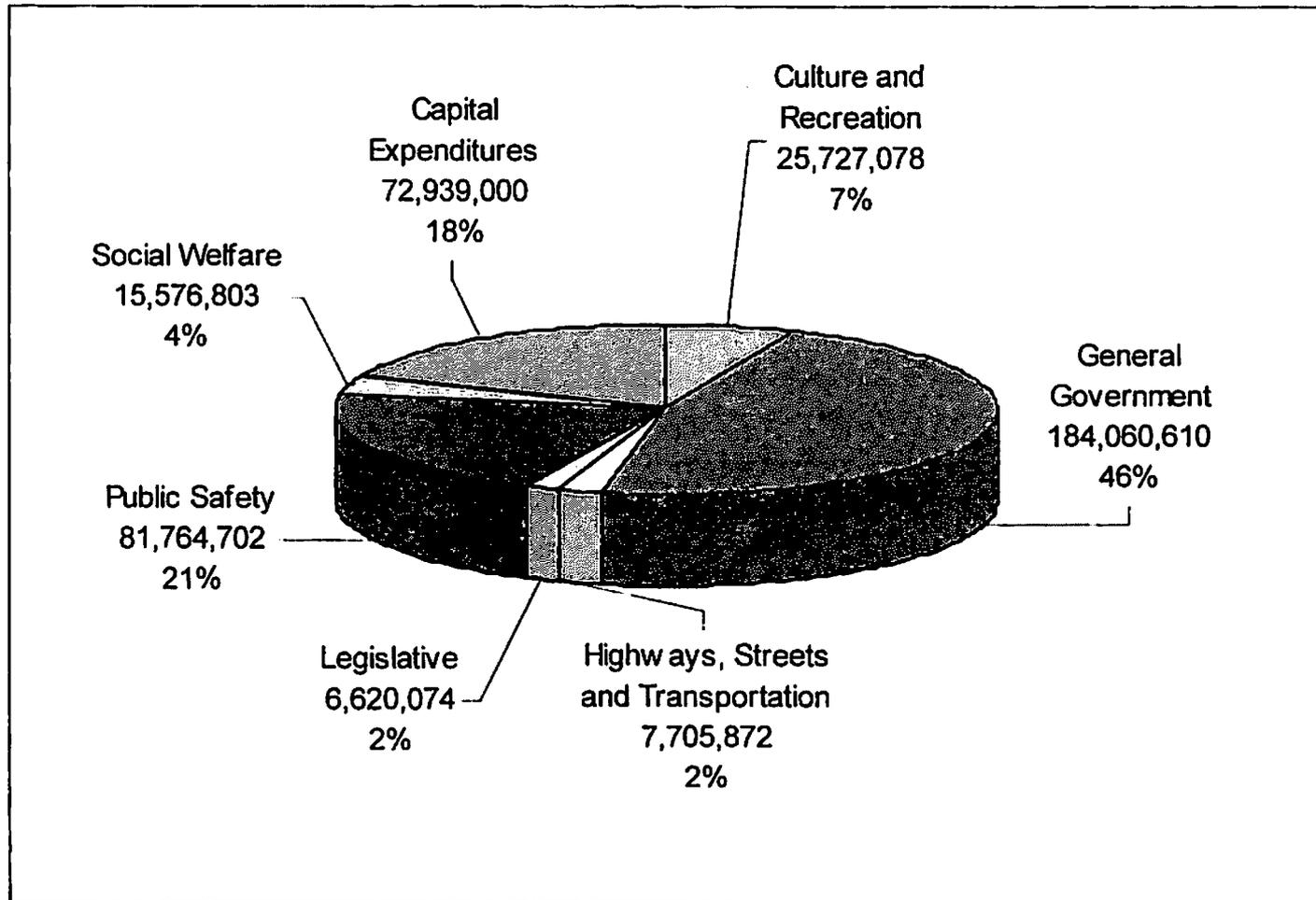
General Fund - \$394,394,139

ESTIMATED REVENUES



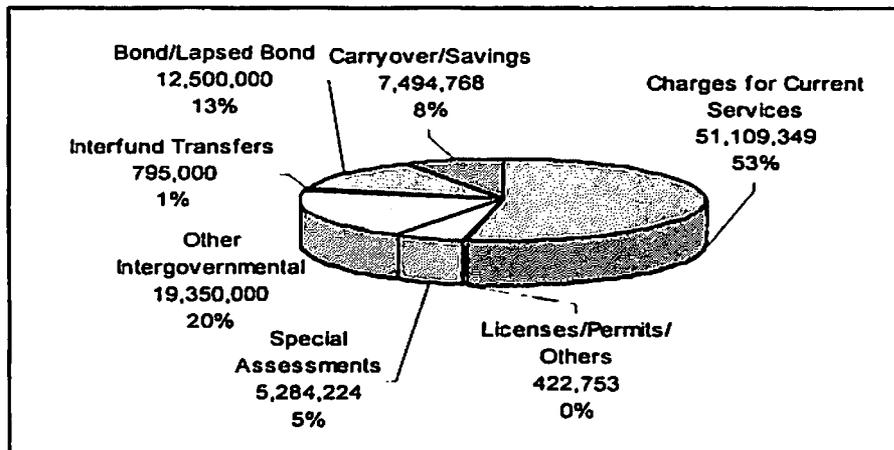
General Fund - \$394,394,139

EXPENDITURES AND OTHER USES

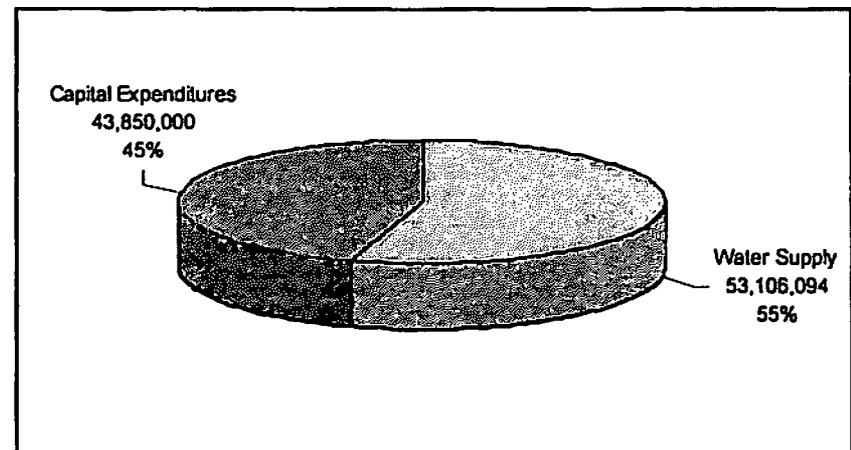


Water Fund - \$96,956,094

ESTIMATED REVENUES

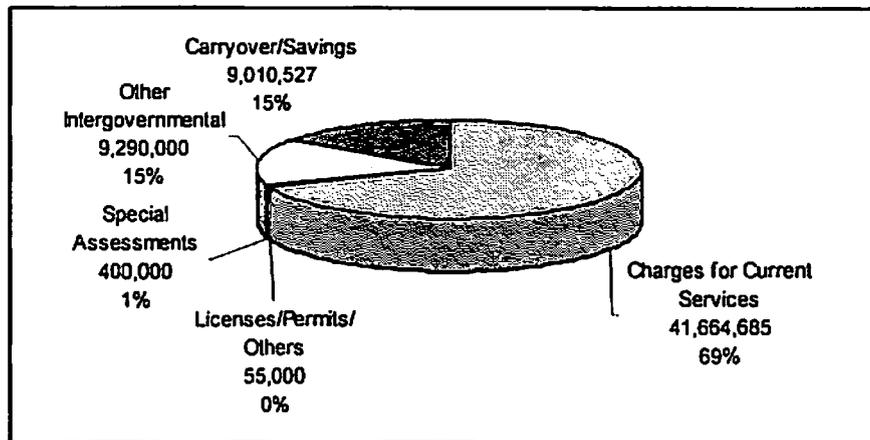


EXPENDITURES

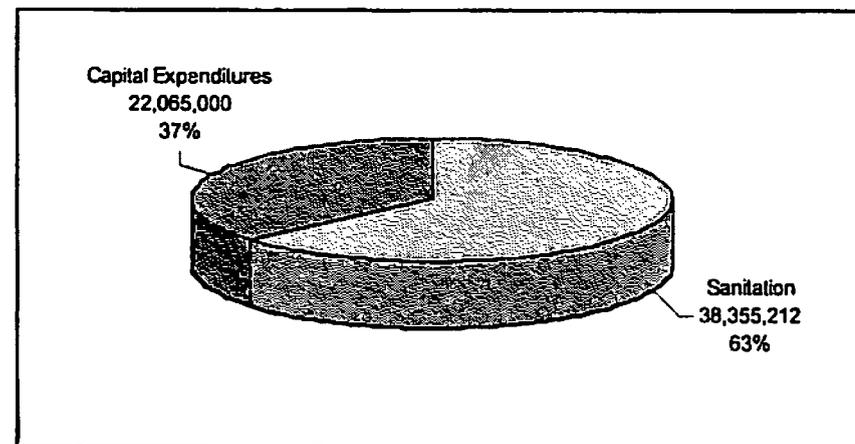


Wastewater Fund - \$60,420,212

ESTIMATED REVENUES

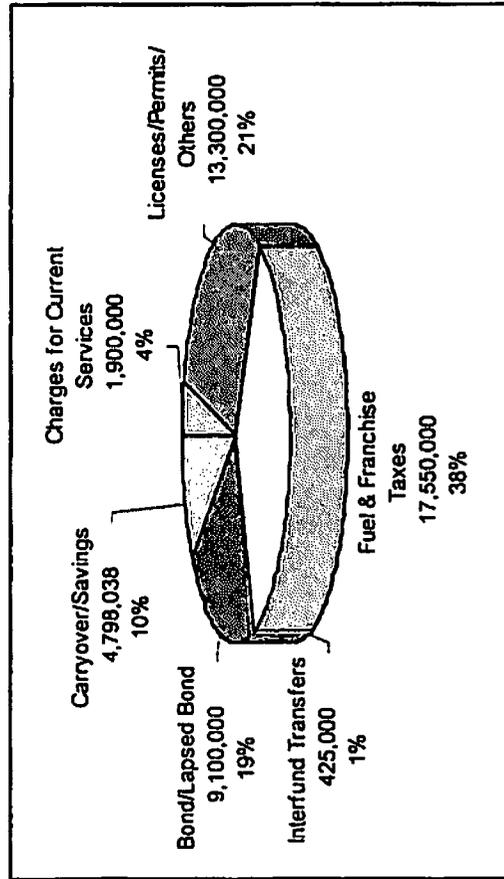


EXPENDITURES

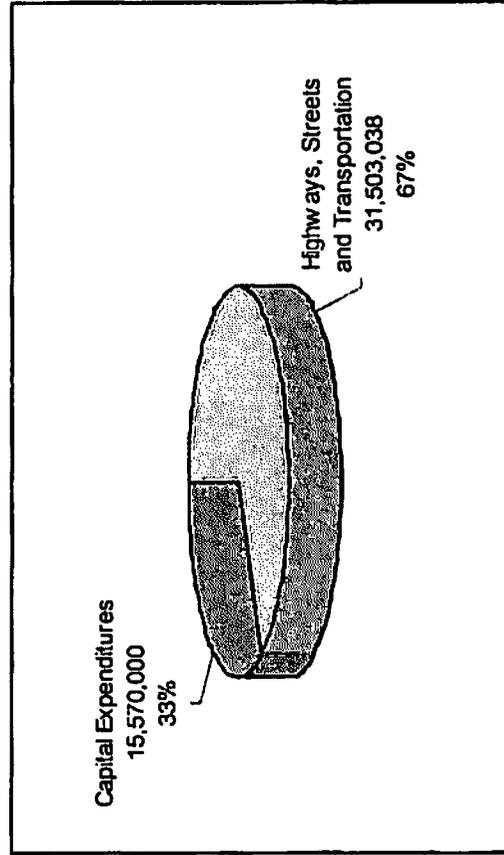


Highway Fund - \$47,073,038

ESTIMATED REVENUES



EXPENDITURES



FY 2012 Expenditures by Department

General Fund

Department	Salaries	Operations	Equipment	Total Budget*
Civil Defense	400,749	403,300	0	804,049
Corporation Counsel	2,183,384	480,813	15,000	2,679,197
Council Services	2,326,978	2,749,346	39,263	5,115,587
County Clerk	691,387	813,100	0	1,504,487
EM-General	403,780	155,400	4,500	563,680
Finance	6,546,220	2,931,398	4,200	9,481,818
Finance - Countywide*	0	142,159,252	0	142,159,252
Fire	23,868,542	4,102,930	1,618,800	29,590,272
Housing & Human Concerns	3,237,592	12,326,472	12,739	15,576,803
Management	2,691,092	1,468,400	524,000	4,683,492
Mayor	2,067,756	8,306,201	35,000	10,408,957
Parks & Recreation	15,934,979	9,704,598	87,500	25,727,077
Personnel Services	1,098,330	368,380	7,800	1,474,510
Planning	3,337,420	1,391,436	40,000	4,768,856
Police	36,988,723	7,968,000	1,036,160	45,992,883
Prosecutors	4,979,112	398,386	0	5,377,498
PW-General	4,748,110	3,016,239	76,500	7,840,849
Transportation-General	348,068	7,355,304	2,500	7,705,872
Total General Fund	111,852,222	206,098,955	3,503,962	321,455,139

FY 2012 Expenditures by Department Special Revenues Fund

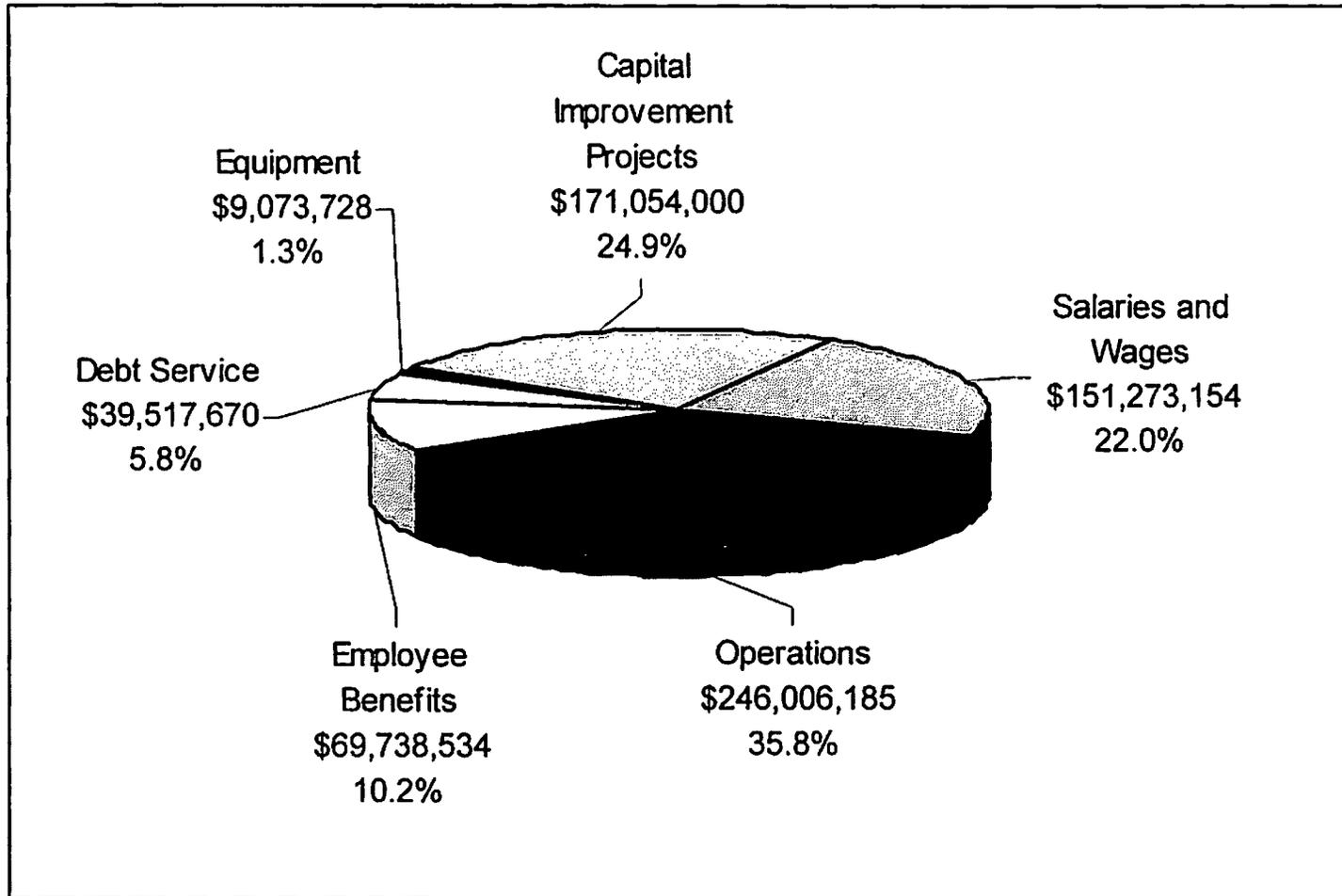
Department	Salaries	Operations	Equipment	Total Budget*
EM-Wastewater	6,610,268	31,024,544	720,400	38,355,212
EM-Solid Waste	4,847,887	18,850,568	1,990,000	25,688,455
Liquor Control	1,412,308	1,443,036	29,800	2,885,144
PW-Highways	7,617,924	14,407,614	0	22,025,538
Transportation-Highways	0	9,477,500	0	9,477,500
Total Special Revenue Funds	20,488,387	75,203,262	2,740,200	98,431,849

FY 2012 Expenditures by Department Enterprise Fund

Department	Salaries	Operations	Equipment	Total Budget*
Waiehu Golf Course	888,301	1,420,429	20,000	2,328,730
Water Supply	11,872,000	40,981,041	253,053	53,106,094
Total Enterprise Funds	12,760,301	42,401,470	273,053	55,434,824

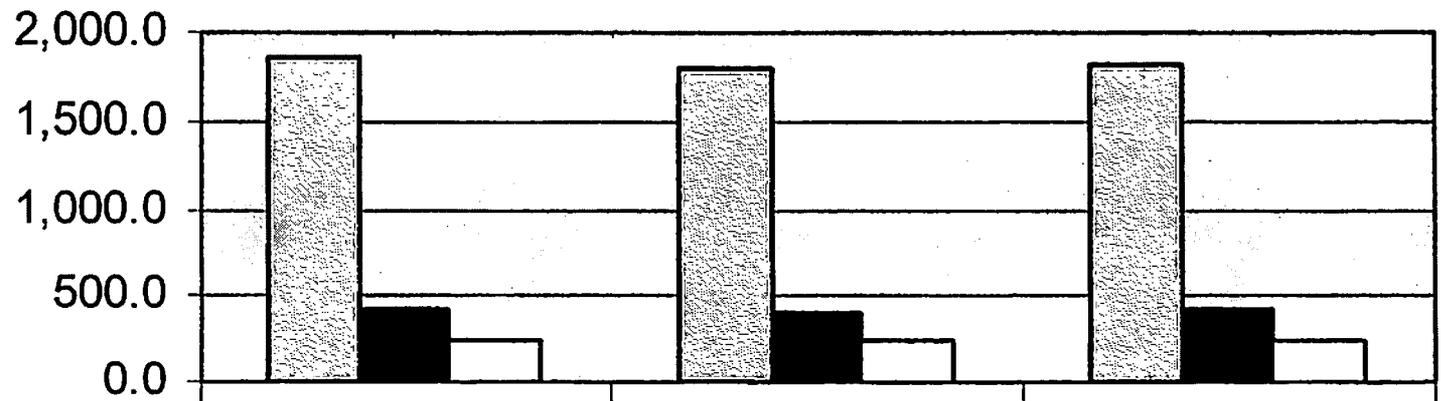
FY 2012 Expenditures by Category

Total County Funds



Personnel Summary by Fund

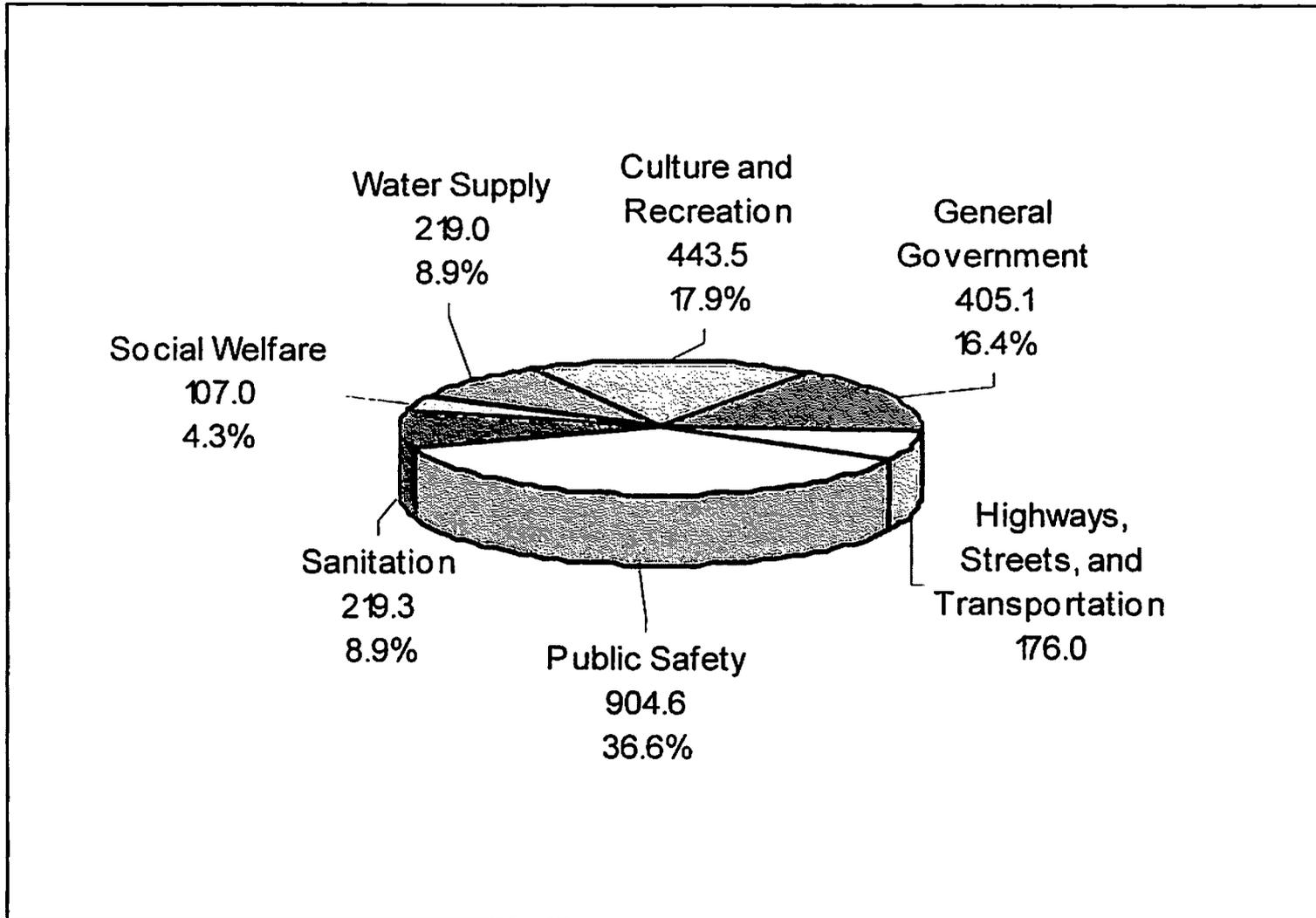
Total County Funds



	FY 2010 Actual	FY 2011 Budget	FY 2012 Request
■ General Fund	1,849.1	1,803.3	1,817.3
■ Special Revenue Funds	419.6	413.3	416.3
□ Enterprise Funds	242.1	239.9	240.9

Personnel Summary by Functional Area

Total County Funds



Capital Program Budget

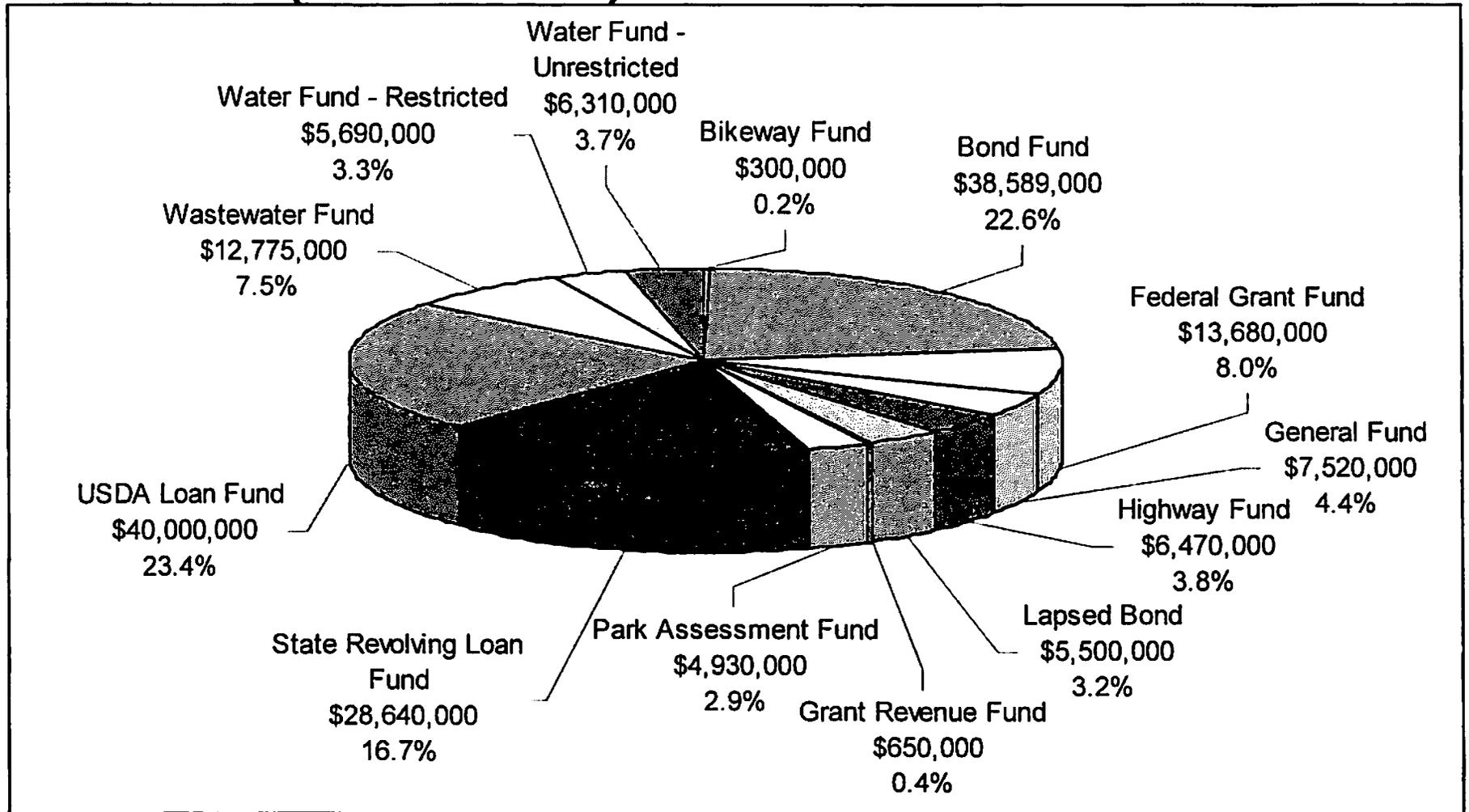
- Capital Improvement Projects are organized under three headings
 - Source of Funding
 - Community Plan
 - Type of Project
- Capital Improvement Program is a six-year program with annual appropriations
- Unencumbered or unexpended Capital Improvement appropriations shall be deemed abandoned six (6) months after the close of the fiscal year

County Code – MCC 3.04.040

The capital program which the mayor transmits to the council shall include the following information for each pending or proposed capital improvement:

- Unlapsed appropriations made for years preceding the ensuing fiscal year;
- Requested appropriations for the ensuing fiscal year;
- Anticipated requested appropriations for the five years next succeeding the ensuing fiscal year.
- A narrative explanation of the need for the capital improvement, and quantifiable criteria for measuring the need and the fulfillment of the need;
- An appropriation and expenditure plan for each project, in the following detail:
 - Land acquisition,
 - Design,
 - Construction,
 - Furnishing,
 - Maintenance,
 - Staffing;
- The anticipated life of the capital improvements.

Capital Program Budget - Funding Source (All Funds)



Biennial Budget Considerations

- Revenue Forecasting
- Expenditure fluctuations
- Goals, Performance Measures
- Departments Expectations
- Program Budget - Overrun/Underrun
- Budget Amendments
 - Currently Mayor may propose amendments to the budget throughout the fiscal year, Council may approve or disapprove requested amendment
- Supplemental Budget Deliberations (2nd Year) Consideration
- CAFR Reporting – Fiscal Year

MAHALO!

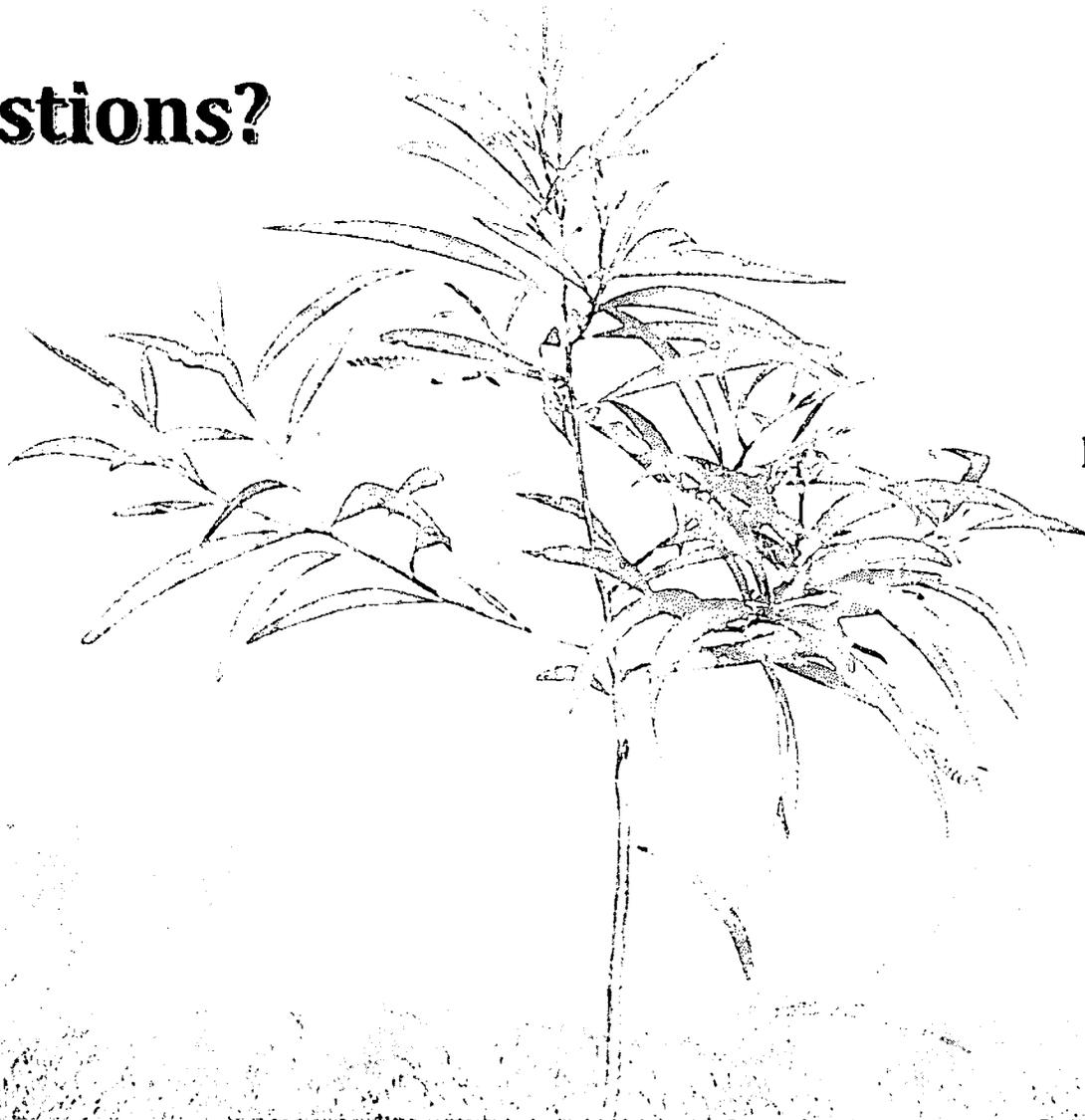
Questions?

Mayor
Alan M. Arakawa

Budget Director
Sandy Baz

**Senior Budget
Specialist**
May-Anne Alibin

Budget Specialists
Kristina Cabbat
Jennifer Phillips



ALAN M. ARAKAWA
Mayor

KEITH A. REGAN
Managing Director

RECEIVED

2011 AUG -8 PM 2: 25

OFFICE OF THE MAYOR



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

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

August 8, 2011

Danilo F. Agsalog, Director
Department of Finance
200 S. High Street
Wailuku, Hawaii 96793

Sananda K. Baz
Budget Director
Office of the Mayor
200 South High Street
Wailuku, Hawaii 96793

Re: Request for Information

Aloha Director Agsalog and Director Baz:

I'm Joshua Stone and am the Chairman of the Maui County Charter Commission. Our Commission is responsible for reviewing, researching and proposing charter amendments for the upcoming 2012 election. A large part of this process is gathering information from a number of sources to assist us in making a determination on what proposals will be put forward, and what impacts these proposals will have.

In light of pending proposals that have come forward, the Commission respectfully requests the following information from your departments:

1. A systems and cost analysis of instituting a Biennial Budget system for the County. A systems analysis would include the nuts and bolts of instituting a biennial budget system for the County, including, but not limited to, outlining processes for supplemental budget requests in the interim period of the biennium, anticipated impacts of two year projections on department operations, and impacts (if any) on the process of property tax rate-setting, estimation, and collection.

Danilo F. Agsalog, Director
Sananda K. Baz, Budget Director
August 8, 2010
Page 2

Please assist us in our endeavor by responding to our request for information on or before September 16, 2011. The Commission would like to review your responses, jointly or individually, at its meeting of September 26, 2011.

If you, or your respective staffs, have any questions you may contact me directly via email, stone@aloha.net, or by phone, (808) 870-7227, or you can contact Lisa Kahuhu of the Department of the Corporation Counsel at (808) 270-7585.

Thanks very much for your assistance with this request.

Mahalo,
JOSHUA A. STONE

JOSHUA A. STONE, Chair
Maui County Charter Commission

cc: Charter Commission Members

**Sherry P. Broder
Jon M. Van Dyke**

Attorneys at Law
Seven Waterfront Plaza, Suite 400
500 Ala Moana Blvd.
Honolulu, Hawai'i 96813
Tel: 808-531-1411
sherrybroder@sherrybroder.com
jonmvandyke@gmail.com

September 19, 2011

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

Dear Chair Stone and Charter Commission Members:

This letter is written in response to the request we received from Chair Joshua Stone on Sept. 13, asking the following question:

1. The commissioners would like to know if and when single member district voting has been proposed to the voters in the past charter commissions. In other words...did district voting ever make it onto the ballot, and if so, in what elections did that kind of proposal get on?

Answer:

Single-member district voting refers to the system whereby Maui County would be divided into districts, each with an equal number of voters, and one Councilmember would be elected from each of the districts, with only those living within the district voting for the Councilmember. It is our understanding that single-member district voting has not been proposed and placed on the ballot by past charter commissions. The question of how the County Council members should be elected was discussed in the 1963-64 and 1966-67 Charter Commissions, but these discussions did not result in a ballot question for a charter amendment on single-member districts. The 1976 Commission proposed a system with seven residency areas and two at-large seats (all elected by voters county-wide), which was adopted and remained in place until 1992, when the current system of nine residency areas (again with all councilmembers elected county-wide) was adopted. The 2002 Charter Commission again discussed this matter, but did not propose any charter amendment to change the procedures for council elections.

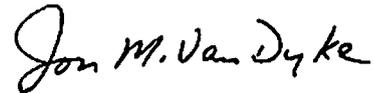
To summarize, the voters of Maui did vote on the structure of the County Council pursuant to proposals put forward in 1976 and 1992, but neither of these proposals

092611 - Item No. II.J.¹ pgs 1-2

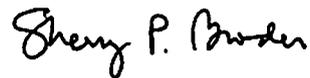
involved single-member districts. To our knowledge, the single-member district option has never been presented to the voters of Maui.

Please let us know if we can be of any further assistance on this issue.

Sincerely yours,

Handwritten signature of Jon M. Van Dyke in black ink.

Jon M. Van Dyke, Esq.

Handwritten signature of Sherry P. Broder in black ink.

Sherry P. Broder, Esq.

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

Party Affiliation of Maui County Boards and Commission Members and Applicants

Submitted by Commission Member Dave DeLeon
September 22, 2011

The following data is based on the official records of the County's Boards and Commissions, their members, and applicants for those positions.

The following is the raw data from the Mayor's Office:

Current Members -

88 - Specified "None"
57 - Specified "Democrat"
35 - Specified "Republican"
31 - Specified "Blank"
77 - Specified "Independent"
2 - Specified "Non-Partisan"
1 - Specified "No Preference"

Applicants from April 2010 to March 2011 -

48 - Specified "None"
33 - Specified "Democrat"
13 - Specified "Republican"
13 - Specified "Blank"
38 - Specified "Independent"
1 - Specified "GOP"
1 - Specified "Green Party"

Applicants from April 2011 to Present -

4 - Specified "None"
2 - Specified "Democrat"
1 - Specified "Republican"
3 - Specified "Blank"
6 - Specified "Independent"
1 - Specified "Libertarian"

This works out to a roughly two to one proportion of non-party membership over party membership, on a self-reporting basis.

The specific breakout for current board and commission members is 92 who identify themselves as being a member of a political party over 199 who do not (291 total.) For recent applicants, the breakout is 52 with party affiliation and 112 without (164 total.)

092611 - Item No. III.A. pg 1-1



OFFICE OF THE COUNTY CLERK
COUNTY OF MAUI
200 S. HIGH STREET, ROOM 708
WAILUKU, MAUI, HAWAII 96793
<http://mauicounty.gov/county/clerk>

September 23, 2011

Mr. Joshua A. Stone, Chair
Charter Commission, County of Maui
c/o Department of the Corporation Counsel
200 South High Street, 3rd Floor
Wailuku, Hawaii 96793

**SUBJECT: ELECTION COST SAVINGS – FOUR YEAR COUNCIL TERMS
VERSUS TWO YEAR COUNCIL TERMS**

Dear Chair Stone and Members of the Charter Commission:

My name is Jeff Kuwada. I am the County Clerk for the County of Maui. I submit this letter to clarify information provided to the Charter Commission by Danilo F. Agsalog, Director of Finance, County of Maui.

By letter dated August 8, 2011, the Charter Commission requested Director Agsalog to provide the following information: "A comparative cost analysis of expenditures and savings from changing the Maui County Council terms from 2 years to 4 years thereby having the elections every 4 years instead of every 2 years."

Director Agsalog responded to the Commission by letter dated September 16, 2011, a copy of which is enclosed for your reference marked Exhibit "A".¹ Director Agsalog stated in part:

"Based upon cost estimates provided by the Office of the County Clerk, it appears that the County could potentially save approximately \$404,000 every two years."

¹ See Director Agsalog's response beginning on page 2 of his letter.

092611 - Item No. II. H. pgs 1-11

Background

Currently, due to provisions of State law and the Charter of the County of Maui (1983), as amended, pertaining to the election of State and Maui County offices, respectively, combined State and Maui County elections take place every even numbered year.

Payment of expenses for combined State and county elections is shared by the State and counties as provided for in Hawaii Revised Statutes § 11-184, a copy of which is enclosed for your reference marked Exhibit "B".

Presently, the State of Hawaii leases the voting system used in Federal, State, and county elections in Hawaii.² The lease term is three election cycles (2010, 2012, and 2014), and the total cost of the lease is \$11,500,000. Based on Hawaii Revised Statutes § 11-184(3)(E), the State pays fifty percent (50%) of the cost of the voting system and the four counties pay a prorated share of the balance based upon the number of registered voters in each county.

For the 2010 election cycle, Maui County's share of the cost of the voting system was \$254,200. In addition, Maui County also paid \$150,000 for the straight time cost of temporary election clerks employed by the Office of the County Clerk. Therefore, for the 2010 elections, the cost of the voting system and the cost of temporary election clerks totaled \$404,000.

Savings Resulting From Election of Council Members Every Four Years

Hawaii Revised Statutes § 11-182, a copy of which is enclosed for your reference marked Exhibit "C", appears to say that the State is responsible to pay all election expenses in an election year when only State elections are conducted.

Based on Hawaii Revised Statutes § 11-182, if the entire council and the mayor were elected on a four year election cycle, the County might argue that it is not liable to pay any expenses for the election of only State offices in the second year of the four year election cycle.³

In my opinion, avoidance of the cost of elections in all but the fourth year of a four year election cycle requires the unlikely simultaneous occurrence of all of the following circumstances:

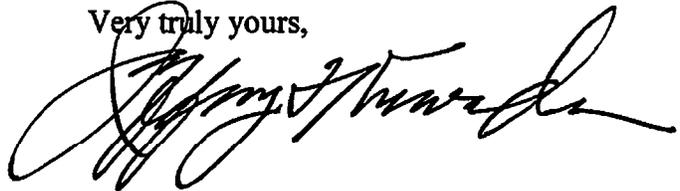
² The voting system vendor is Hart InterCivic, Inc. The voting system includes, but is not limited to, all of electronic voting equipment used at polling places, electronic tabulation equipment used in the respective State counting centers located in each county, and voting system software.

³ I do not take any position as to whether this argument has legal merit. The Charter Commission should consider requesting a legal opinion that examines theories of continued liability to the State and the other counties for the cost of the voting system and other shared election expenses resulting from a State election in the second year of the four year election cycle.

1. State elections continue to occur every even numbered year;
2. Council members are elected to four year terms;
3. All council members and the mayor are elected on the same four year election cycle (four year council terms are not staggered);
4. All future Charter amendment questions are presented to Maui County voters on the same four year cycle for election of council members and the mayor; and
5. Special elections to fill council and mayoral vacancies occur on the same four year election cycle.⁴

Please contact me should you have any questions.

Very truly yours,



JEFFREY T. KUWADA
County Clerk

Enclosures

Exhibit "A"

Exhibit "B"

Exhibit "C"

⁴ Regarding a vacancy in the office of any council member, see Section 3-4, Charter of the County of Maui (1983), as amended. Regarding a vacancy in the office of mayor, see Section 7-6, Charter of the County of Maui (1983), as amended.

ALAN M. ARAKAWA
Mayor



DANIEL F. AGSALOG
Director
JEREMIAH L. SAVAGE
Deputy Director

COUNTY OF MAUI
DEPARTMENT OF FINANCE
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793

September 16, 2011

Joshua A. Stone, Chair
Maui County Charter Commission
c/o Department of the Corporation Counsel
200 South High Street
Wailuku, Hawaii 96793

APPROVED FOR TRANSMITTAL
[Signature]
Mayor Date

SUBJECT: REQUEST FOR INFORMATION:
AUDITOR'S DEPARTMENT
FOUR YEAR TERMS FOR COUNCIL MEMBERS

Dear Mr. Stone:

In response to your request of August 8, 2011, on the following questions:

1. A cost estimate and analysis of establishing and running a new County Auditors Department. This would include startup costs such as leasing of new space, buying equipment (desks, computers, etc.) and the costs of staffing the department, including projected number of staff needed, civil service classifications, salaries and benefits.

Auditor's Department

Staffing: 5 Equivalent Personnel - SEE ATTACH ORGANIZATIONAL CHART

County Auditor	\$100,000.00
Deputy (Senior Auditor)	\$ 95,000.00
Private Secretary	\$ 60,000.00
Audit Manager (CPA)	\$ 80,000.00
Program Auditor	\$ 60,000.00
Subtotal	\$395,000.00
Fringe Benefit @ 74.05%	\$292,497.50
TOTAL	\$687,497.50

Space:

At 250 square feet per person	1250 sqft
At 4/square foot	\$3,000/month
Annual Cost	\$ 60,000.00

Start-up Cost:

At \$3,000/per staff \$ 15,000.00

092611 - Item No. II.H. pgs 1-5

Exhibit "A"

RECEIVED
CORPORATION COUNSEL
2011 SEP 16 PM 4:05

Joshua A. Stone, Chair
September 16, 2011
Page 2 of 2

TOTAL COSTS FOR YEAR 1 **\$762,497.50**

Optional Additional Costs:
Professional Services \$200,000.00
Travel Expenses \$ 5,000.00
Training Expenses \$ 3,000.00
TOTAL \$208,000.00

TOTAL OPERATIONAL BUDGET: **\$970,497.50**

2. A comparative cost analysis of expenditures and savings from changing the Maui County Council terms from 2 years to 4 years thereby having the elections every 4 years instead of every 2 years.

Four-Year Terms for Council Members

Based upon cost estimates provided by the Office of the County Clerk, it appears that the County could potentially save approximately \$404,000 every two years. This is calculated based upon the County's share of the cost of the election system being leased by the State of Hawaii (\$254,200 per election) plus the cost of temporary election clerks hired by the Office of the County Clerk (\$150,000 per election). The Charter Commission is encouraged to contact the Office of the County Clerk for any additional questions.

If you have any questions or require additional information, please feel free to contact me at 270-7475.

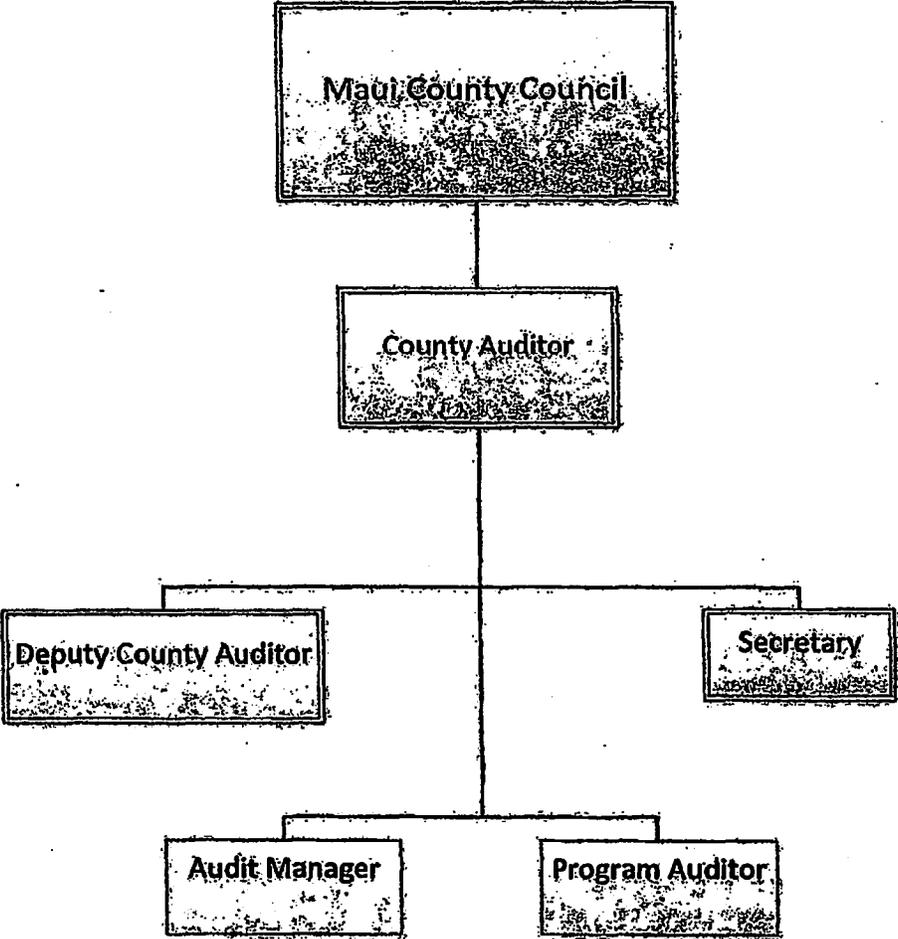
Sincerely,



DANILO F. AGSALOG
Director

Attachment

**Proposed Organization
County Auditor
County of Maui**



ALAN M. ARAKAWA
Mayor

KEITH A. REGAN
Managing Director



Joshua A. Stone, Chair
Wayne N. Hedani, Vice Chair
Artemio G. Baxa
Stephanie S. Orvello
David F. DeLeon
Frank R. De Rego, Jr.
Clifford P. Hashimoto
Susan A. Molkeha
Linda Kay Okamoto
Yuki Lek Sugimura
Flo V. Wiger

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

August 8, 2011

Danilo F. Aagsalog, Director
Department of Finance
200 S. High Street
Wailuku, Hawaii 96793

Re: Request for Information

Aloha Director Aagsalog:

I'm Joshua Stone and am the Chairman of the Maui County Charter Commission. Our Commission is responsible for reviewing, researching and proposing charter amendments for the upcoming 2012 election. A large part of this process is gathering information from a number of sources to assist us in making a determination on what proposals will be put forward, and what impacts these proposals will have.

In light of pending proposals that have come forward, the Commission respectfully requests the following information from your department:

1. A cost estimate and analysis of establishing and running a new County Auditors Department. This would include startup costs such as leasing of new space, buying equipment (desks, computers, etc.) and the costs of staffing the department, including projected number of staff needed, civil service classifications, salaries and benefits.

2. A comparative cost analysis of expenditures and savings from changing the Maui County Council terms from 2 years to 4 years thereby having the elections every 4 years instead of every 2 years.

Danilo F. Agsalog, Director
August 8, 2010
Page 2

Please assist us in our endeavor by responding to our request for information on or before September 16, 2011. The Commission would like to review your response at its meeting of September 26, 2011.

If you, or your staff have any questions, please contact me directly via email, stone@aloha.net, or by phone, (808) 870-7227, or you can contact Lisa Kahuku of the Department of the Corporation Counsel at (808) 270-7585.

Thanks very much for your assistance with this request.

Mahalo,

JOSHUA A. STONE

JOSHUA A. STONE, Chair
Maui County Charter Commission

cc: Charter Commission Members

§ 11-184. Election expenses and responsibilities in combined state and county elections.

Election expenses in elections involving both state and county offices shall be shared as set forth below:

(1) The State shall pay and be responsible for:

- (A) Precinct officials;
- (B) Instruction of precinct officials when initiated or approved by the chief election officer;
- (C) Boards of registration;
- (D) Polling place costs other than supplies: installation rentals, ballot boxes, voting booths, custodians, telephones, and maintenance;
- (E) Other equipment such as ballot transport containers;
- (F) Temporary election employees hired to do strictly state work; and
- (G) Extraordinary voter registration and voter education costs when approved by the chief election officer.

(2) The county shall pay and be responsible for:

- (A) Normal voter registration, voters list maintenance, and all printing connected with voter registration, including printing of the voters list;
- (B) Temporary election employees hired to do strictly county work;
- (C) Maintenance of existing voting machines, including parts, freight, storage, programming, and personnel;
- (D) Maintenance and storage of voting devices and other equipment; and
- (E) Employees assigned to conduct absentee polling place functions.

(3) The remaining election expenses shall be divided in half between the State and the counties. Each county will pay a proration of expenses as a proportion of the registered voters at the time of the general election. These expenses shall include but not be limited to:

- (A) Polling place supplies;
- (B) All printing, including ballots, but excluding printing connected with voter registration;

EXHIBIT "B"

(C) Temporary election employees not including voting machine programmers doing work for both the State and county;

(D) Ballot preparation and packing; and

(E) All other costs for which the State or county are not specifically responsible relating to the operation of voting machines, electronic voting systems, and other voting systems except paper ballots to include but not be limited to real property rentals, equipment rentals, personnel, mileage, telephones, supplies, publicity, computer programming, and freight.

The responsibility for the above functions shall be determined by the chief election officer where the responsibility for such functions has not been assigned by the legislature.

Any future expenses not presently incurred under any voting system now in use or to be used shall be assigned to paragraphs (1), (2), or (3) above by the chief election officer upon agreement with the clerks or by the legislature.

History. L 1970, c 26, pt of § 2; am L 1973, c 217, § 1(eee); am L 1976, c 106, § 1(10)

§ 11-182. Election expenses when no county elections.

All expenses, including expenses attributable to registration of voters by the county clerk, for state elections conducted in any county which do not involve elections for county offices shall be borne by the State and paid out of such appropriations as may be made by the legislature for election purposes.

History. L 1970, c 26, pt of § 2

Exhibit "C"

**Sherry P. Broder
Jon M. Van Dyke**

Attorneys at Law
Seven Waterfront Plaza, Suite 400
500 Ala Moana Blvd.
Honolulu, Hawai'i 96813
Tel: 808-531-1411
sherrybroder@sherrybroder.com
jonmvandyke@gmail.com

September 25, 2011

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

Dear Chair Stone and Charter Commission Members:

This letter is written to follow up on the work of the Charter Commissioners at the September 12, 2011 meeting.

We have attached the matrix with the seven additions that have been made based on the testimony and submissions at the September 12, 2011 meeting. Each addition was added to the appropriate article within the Charter and given the next number in order. The new proposals are numbered and described as follows:

#3.37 – Proposal for Single Member Districts with Self-Rule for Molokai and Lanai through the creation of Island Boards,

#3.38 – Proposal for Four Year Council Terms, limited to 3 consecutive terms and staggered election dates,

#7.4 – Proposal to Establish a Selection Commission for Boards and Commissions,

#8.11.5 Proposal to Amend Article 8, County Departments, Chapter 11, Department of Water Supply, Section 8-11 [lengthy proposal affecting many sections],

#8.16.7 - Proposal to Amend Article 16, Cost of Government Commission, Section 16.3, Term of Commission to Conform the Term of the Cost of Government Commissioners to be the same as the terms and timetables as other Commissions as provided in the Charter Article 13, and

092611 - Item No. III.¹A. pgs 1-3

#14.9 – Proposal to Extend Term of Charter Commissioners to 18 months,

#14.10 – Proposal to Require that the Charter be republished each time it is amended, with a significant amendment.

We would like to further explain the numbering system. It seemed too unwieldy and confusing to make the numbering system follow the sections within the Charter because many proposals refer to the same section and duplication of numbers seemed to be something that should be avoided. Thus the numbering system was assigned to keep track of each and every proposal, to be organized by Article, but not to be organized by Section. Moreover, some of the proposals referred to more than one section or subsection. For most proposals, although not all, we did refer to the section within the article that would be amended. Where the proposal was something new, then there was no section to refer to.

We have added a “Not Included” section at the end that lists the two proposals not included, as referenced in our September 2, 2011 letter. Both obviously conflict with state law. In our opinion, state law would clearly prevail and preempt any attempt to change the law on Maui on these particular matters. Deputy Corporation Counsel similarly explained the law on this matter at the September 12, 2011 meeting. “MR. KUSHI: And to that extent, anything that the County does which is inconsistent with the state law is void.” Draft transcript, September 12, 2011, Regular Session, page 116.

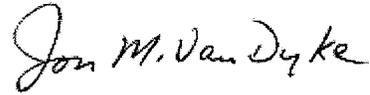
Mr. Peabody raised a concern about proposals not included. Thus we corresponded with him about his testimony, submissions and concerns, requested that he further clarify in writing what his proposals were, pointed out that Sheriffs’ Office is created by state law in Hawaii Revised Statutes, and informed him that proposals could still be added should he decide to submit clarification as to what he intended. Copies of his email and our response have been included in the correspondence submitted to you as part of the Agenda Materials.

We included the specific proposals that we understood were being submitted by Commissioner DeLeon. It was our further understanding that the Cost of Government Commission Report and the Analyst Report from 2001 were submitted at the September 12, 2011 meeting as resources for the commission. We noted that the Commission on Good Government worked with the Corporation Counsel and had 10 ordinances submitted to the Council.

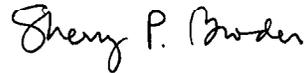
We have generated a new document entitled Active Proposals based on the motions that passed at the September 12, 2011 meeting. It is attached as well.

We note that the proposal numbers skipped from 3.23 to 3.33 and that proposal numbers 14.1 and 14.2 appear to be identical. Thank you for your attention to this matter.

Sincerely yours,

A handwritten signature in black ink that reads "Jon M. Van Dyke". The signature is written in a cursive style with a large initial 'J'.

Jon M. Van Dyke, Esq.

A handwritten signature in black ink that reads "Sherry P. Broder". The signature is written in a cursive style with a large initial 'S'.

Sherry P. Broder, Esq.

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

With New Articles Proposed - September 25, 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).

#3.37 – Proposal For Single Member Districts with Self-Rule for Molokai and Lanai through the creation of Island Boards

Island Boards would replace Molokai and Lanai Planning Commissions, be responsible for all land use and planning, have authority to have direct contact with federal and state government, and get share of funding

#3.38 – Proposal for Four Year Council Terms, limited to 3 consecutive terms and staggered election dates

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

#7.4 – Proposal to Add a New Section and to Establish a Selection Commission that recommends the most qualified applicant for selection for appointments by the Mayor to Cabinet and Deputy Cabinet positions, and approval by the Council, except that the appointment process for the Chief of Police, Fire Chief, Director of Personnel and Director, Liquor Control Department shall remain the same. The Selection Commission shall be appointment by the Mayor and confirmed by the Council. One of the criteria shall be significant experience and/or educational background.

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

#8.11.5 Proposal to Amend Article 8, County Departments, Chapter 11, Department of Water Supply, Section 8-11

a. To Strengthen the **Independence of the Department of Water Supply**, to Establish It as a Semi-autonomous Entity, to include all water owned and operated by the County, and to have some or all of the following powers and duties:

Add real property and personal associated with water systems, and organization of private water within its authority

Have the County Council authorized to issue general obligations revenue bonds for the Department of Water Supply and to appropriate funds for the Department

Develop for each community plan or department water system district a water use and development plan, which shall include an inventory of existing uses and sustainable yields, projected water demand, proposed public and private water system improvements and water source developments, storage and cost and prepare a long-range capital improvement plan to ensure proper maintenance and to increase the publically-owned and publically- maintained water systems and infrastructures and all such plans shall be subject to approval by the Council

b. To Strengthen the Board of Water Supply

Members shall serve pursuant to county charter section 13-2

Neither Planning Director nor Director of Public Works may serve as Chair

Authority to evaluate yearly and to remove Director, to remove or add positions, adopt rules and regulations that are binding, including setting rates and charges for furnishing water, to issue revenue bonds in the name of the Board of Water Supply,

Adopt an annual operating and capital budget,

Have eminent domain authority

Authority to appoint the Director of Water Supply, who shall have 3 [rather than 5] years of experience, in an administrative capacity [rather than management]

c. To amend the powers, functions and duties of the Director of Water Supply

Recommend rules and regulations for adoption by the Board of Water Supply

Implement plans adopted by the Board

Appoint the Deputy Director

Prepare an annual operating and capital budget for the review and approval of the Board

Coordinate with the Mayor and Council and submit the annual budget to them

d. Have an independent audit by CPA

e. Corporation Counsel shall be **counsel** to the Department, compensation shall be as mutually agreed upon

Corporation Counsel shall have authority to settle cases

Department shall have its own right to hire independent counsel, subject to Board approval, Section 3-6.6 of this Charter governing special counsel shall not apply

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.

#8.16.7 - Proposal to Amend Article 8, Section 16.3, Term of Commission, to Conform the Term of the Cost of Government Commissioners to be the same as the terms and the timetables of other Commissions as provided in the Charter in Article 13, General Provisions, Section 13.2, Boards and Commissions.

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 fist assistant to the appointed department head of nay 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

#14.9 – Proposal to Amend Article 14, Section 14-3, Mandatory Review to Extend Term of Charter Commissioners to 18 months

#14.10 – Proposal to Require that the Charter be republished each time it is amended, with a significant amendment

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 COG or otherwise work with COG
- * 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.

NOT INCLUDED – Clear Conflict with State or Federal Law

Proposal to Legalize Cock Fighting – Cock Fighting is a crime under state law and is prohibited by HRS § 711-1109, Cruelty to animals in the second degree. The Hawaii State Courts have already ruled that the conduct which this cruelty to animals statute seeks to regulate is amenable to reasonable regulation by the state and that no constitutionally protected right is involved. The Hawaii Supreme Court specifically held that “cockfighting itself is also an act of cruelty to animals.” *State v. Kaneakua*, 61 Haw. 136, 597 P.2d 590 (Hawai`i, 1979).

Proposal to Elect the Sheriff – HRS § 26-14.6 establishes the Department of Public Safety within the State Executive and places the functions and authorities of the sheriff's office within said department.

**ACTIVE PROPOSALS FOR SUBSTANTIVE CHANGES TO THE
MAUI COUNTY CHARTER**

September 25, 2011

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

Article 3, County Council

#3.2 - Amended Proposal to have a general discussion on proposals of Single Member Districts

#3.3 – Amended Proposal to have as part of a general discussion on Single Member Districts – Single Member District 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 - Amended Proposal to have as part of a general discussion on Single Member Districts - 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 - Amended Proposal to have as part of a general discussion on Single Member Districts - Proposal to Create 3 Single Member Districts and 3 Geographic Districts for Lanai, Molokai and Maui

#3.6 - Amended Proposal to have as part of a general discussion on Single Member Districts - 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.

092611 - Item No. III. A. pg-1-1