



West Maui Taxpayers Association

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WMTA is a non profit 501 c 4. WMTA, as a dedicated Lobbyist organization, has a mission for our West Maui Community. The objectives of this Organization are to associate the interests, concerns, and efforts of residents and taxpayers of the West Maui area, and others interested in the orderly development and improvement of the area, in a cooperative effort. whether provided by, or to be provided by, the State or County governments, or by others.

September 22, 2011

County of Maui

Charter Commission

ATTN: Dave DeLeon – via gad@ramauai.com

RE: LETTER IN SUPPORT OF THE WORK OF THE CHARTER COMMISSION

The West Maui Taxpayers Association Board of Directors is in full support of a vigorous discussion and dialogue, by the Charter Commission, in addressing the unfairness and lack of true representation in the voting procedures and election process for County Council members.

We realize that this is a complex issue that will touch all of the citizens of Maui County but we feel it has to be looked at and resolved in a logical and comprehensive manner to rectify the inequities apparent in the current system.

We are finding that a large number of County voters are simply not voting for Council positions because they either do not recognize the candidates or feel that the candidates do not represent them and where they live. We need to make the voting system easier, more transparent and more logical and, in a word, more fair to all Maui County citizens.

We understand the Charter Commission is working towards putting this issue before the voters on the November 2012 ballot. We know this is going to require hard work to come up with the best possible solution and the Board of Directors of WMTA fully supports your efforts in addressing this very important issue. WMTA welcomes the opportunity to comment on any specific proposals the Commission develops, and thanks the Commission for their efforts.

Sincerely,

West Maui Taxpayers Association
Board of Directors

Bob Pure

Bob Pure, Vice President

10/01/11 - Item No. II.A. pg 1-1

Charter Commission - [Possible SPAM] Proposal 8_agenda for 26Sept2011

From: "Penny Levin" <pennysfh@hawaii.rr.com>
To: <charter.commission@mauicounty.gov>
Date: 9/26/2011 2:25 AM
Subject: [Possible SPAM] Proposal 8_agenda for 26Sept2011
Attachments: Testimony_Dept of Sust and Env Mgmt_PLevin2011.pdf

Aloha Charter Commissioners;

Please see attached testimony in support of amending the language of the charter to include the Department of Sustainability and Environmental Management as proposed by the Mayor's Office (Proposal 8).

Mahalo
Penny Levin

101011 - Item No. II.B. pgs 1-4

Aloha Charter Commission Members;

I am submitting testimony in support of the Mayor's proposal to expand the Department of Environmental Management, which currently deals only with waste water issues, to the Department of Sustainability and Environmental Management (DSEM).

Issues of sustainability and the environment (far beyond waste water) have been of primary importance to Maui County residents for decades. I am saddened that each time a significant environmental issue or opportunity to comprehensively address issues of sustainability comes up, we have no place to go. Roundtable discussions, forums and commissions come and go with every mayor. We frequently must fall back on state and federal agencies to make determinations for us that don't always fit local circumstance and conditions. Issues are dealt with piecemeal, under an often confusing mix of federal, state and county authorities, commissions and agendas. At this time, no one department at the state or county level provides clear communication, integration, collaboration and coordination of policy development and program implementation, horizontally and vertically across divisions. Such an entity would streamline actions, trim redundancy and reduce community frustrations tremendously.

The federal and state agencies whose kuleana it is to protect and manage our natural resources (USFWS, EPA, DLNR) have lost so much funding and so many staff positions in the last five years that they are no longer able to look out for the counties. Even now, state agencies are so short-staffed they can't respond to projects and issues within the legal timeframe for comment periods on projects. This is an unfortunate truth. Often Honolulu's needs and desires overshadow those of the counties when state level decisions are made in relation to energy, agriculture, land use, and natural resource management.

As state functionality continues to diminish, a DSEM will set the stage for Maui County to protect itself and remain compliant with federal and state environmental laws at the local level (liability). Currently, there is no mechanism to do so.

The focus of sustainability and environmental policies or programs (ie. food and energy self-sufficiency, invasive species or coastal zone management) and long term guidance shifts with each Mayor. No single environmental liaison in the Mayor's Office has all the skills necessary to address every issue or reach out to all organizations and communities. A well thought out DSEM would resolve that issue. The people and positions already exist within each county agency.

A DSEM could also be part of a proactive, big picture approach to soliciting the kinds of light footprint, healthy industries and businesses we might want here for a better future.

Maui County is uniquely positioned to develop the flexibility and innovation that can foster alternative funding sources and collaborative natural resource management, alternative energy and food self-sufficiency approaches. No other county in Hawai'i has this on the table...yet. With the first DSEM in the state, Maui County would be poised to take advantage of a variety of federal funding resources to establish a fully empowered division. Such resources are less likely to be available if we were to be the second, third or fourth county in Hawaii to do so.

A Department of Sustainability and Environmental Management is both timely and precedent setting for Hawai'i, but is not a new idea nationally or globally. And, despite early public comments since the initial introduction of the proposal by the Mayor, these agencies are successful.

There are currently 25 states and cities with equivalent departments on the mainland. EPA Region 9 and 10, to which Hawai'i belongs, boasts 9 cities with such divisions, including Seattle, Washington (established in 2000).

The Seattle Office of Environmental Sustainability (OES) coordinates interdepartmental environmental sustainability programs, policies, work plans, communications, and outreach. It also includes cross-departmental program implementation such as electric vehicles (EV) and urban forest management (UFM). To facilitate this work, their OSE staff functions using an interdepartmental team (IDT) which reduces redundancy and costs, and improves project understanding and response, across departments.

The Seattle OES is also a place of innovation. Short- to mid-term development and incubation of paradigm-shifting policies and programs occur there. Policy research on potential district energy projects; implementation of programs to increase energy savings in Seattle's homes, businesses and hospitals; development of climate change action plans, monitoring and adaption policies and programs, including carbon neutral strategies occur under the OES. Imagine a carbon neutral – or better yet, an oxygen plus Maui County across all sectors.

In Australia, the Department of Sustainability and Environment (DSE) leads the government's efforts to sustainably manage water resources and catchments, climate change, bushfires, parks and other public land, forests, biodiversity and ecosystem conservation. In Victoria, Australia, the DSE leads that state's efforts to "do more with less," including the sustainable use and management of natural resources. Among the broad range of clients counted by the Victoria DSE is the states "future generations."

What is important to note, is that the Victorian government also views the DSE as an opportunity *to position itself as a world leader*. That translates to significant economic incentives and benefits.

Maui County, as the piko of the main Hawaiian Islands, is already positioning itself in a similar way locally and internationally.

A DSEM won't happen over night, but it can't happen at all if we aren't visionary enough even to start the process by adopting the words into the charter that will allow us the chance to move forward.

While there are some who see such an expansion of the current waste water department as "unsustainable", we must think and see outside the box. Some will maintain that this is the job of state and federal agencies or that it is okay to continue to lean on the state to take care of us when budgets are tight. We are all in the same canoe.

Protecting agricultural lands, small family farms, water resources, reducing our fossil fuel consumption and our footprint on the land - is in our own hands. I can only speak for myself, however I believe this represents an incredible opportunity to build a more sustainable future for Maui.

It is one thing to establish sustainability, alternative energy, or agriculture programs at local schools and universities such as the UHMC SLIM program, the School Gardens Network or within the Mayor's Office; it is quite another to have a permanent, chartered department with the authority to develop new policies that will stay the course whether mayors come or go.

There are plenty of excuses of why we can't or shouldn't at this time; excuses are easy to find if we want them. But here is the challenge - the award winning Maui film Ho'okele *Wa'a* asked "What if we could turn the canoe around? What if this works?"

The creation of a DSEM as a permanent division of the County is long overdue. It would send a clear message that we are ready to hoe pū – to paddle together.

Please support the Mayor's proposal to the Maui County Charter for a Department of Sustainability and Environmental Management.

Mahalo nui loa

Penny Levin
Taro farmer and Conservation Planner
Wailuku

DATE: September 28, 2011
TO: Sherry P. Broder, Esq.
FROM: Greg Jenkins
SUBJECT: MATRIX PROPOSAL CLARRIFICATIONS FOR ARTICLE 8,
CHAPTER 7

Dear Sherry:

Thank you for your work on the matrix. It is an effective tool to organize the various proposals submitted to the charter commission. I appreciate your request for me to submit the following content clarifications to those matrix proposals concerning Article 8, Chapter 7 of the charter. Please consider the following request to update the matrix language as it relates to the content of my report, REFORM OF ARTICLE 8, CHAPTER 7 OF THE COUNTY OF MAUI CHARTER: ANALYSIS REPORT, and my public testimony. I have only listed those proposals or sections that I wish to clarify and or add to:

#8.7.3 - ...Suggested new name – Fire Department

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

Statement of Policy. 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:

101011 - Item No. II.C. pgs 1-3

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.

#8.7.7 – 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 any of its members 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 types of plans and any related update of goals and objectives and add that the commission shall not have the power to approve, modify, or reject the plan or any update.

Compare at least annually the actual achievements of the fire department against the goals and objectives in the strategic or other similar types of plans or latest update submitted by the fire chief.

New Article Proposed:

#8.7.13 – Proposal to Amend Section 8-7.2, INSERT NEW NAME OF DEPARTMENT commission to require that four out of the nine members of the fire and public safety commission shall be made up of those who were nominated to the mayor by the labor union-Hawaii Fire Fighters Association and that the union submit names of nominees for up to four out of the nine commissioners that shall be appointed by the mayor and confirmed by the council in the manner prescribed in section 13-2. From the effective date, the four out of the nine commissioners would be nominated by the union to the mayor as commission vacancies arise normally per section 13-2, until the number of four out of the nine commissioners is achieved, and, thereafter maintained through subsequent commissioner vacancies arising from an expired term, resignation, or removal. The mayor would maintain the right to not accept a particular nominee selected by the union, and, in such cases the union would be required to submit a new nominee to the mayor.

Thank you for your work and attention to this matter. If you have any questions please call me at 271-8722.

Sincerely,

Greg Jenkins

PO Box 1010

Kaunakakai, HI 96748

10/2/11

To: Maui County Charter Commission
Josh Stone, Chair

From: Frank R. De Rego, Jr.
Charter Commission Member

Re: Submittal of Proposed Charter Amendments and/or Recommendations

I submit the following recommendations for amendments to the charter.

I. Boards and Commissions

Recommendation: To amend Section 13-2 of the charter (Boards and Commissions) to add provisions requiring the county to indemnify and fund the legal representation of members of Boards and Commissions in the event of civil action as a result of the lawful performance of their duties.

Relevant Sections of the Charter: Add provisions to 13-2 at 13.2.16 and 13.2.17 and then renumber the present 13-2.16 and 13-2.17, etc.

16. All members of boards and commissions shall be provided legal representation by the Department of the Corporation Counsel or other independent counsel contracted by the department for any civil action brought against board and commission members resulting from the lawful performance of their duties. The council shall provide the financing necessary to support the legal representation of board and commission members when needed.

17. All members of board and commissions in the lawful performance of their duties will be indemnified against all civil action.

Summary: These sections recognize the service provided by the citizen volunteers who are appointed to boards and commissions by indemnifying and providing them with legal representation in the event of civil action resulting from the lawful performance of their duties.

II. County Departments

Recommendation: To amend sections 8-9.4, 8-12.2, 8-13.2, and 8-13.4 of the charter to create consistency in the powers and duties of the Fire and Public Safety, Police, Liquor, and the Civil Service Commissions and the due process afforded directors of these departments in the event of dismissal.

Relevant sections of the charter:

1) Amend Section 8-9.4 (Civil Service Commission) by adding and numbering the following provisions:

- Review the operations of the department and make recommendations for any changes that may be desirable to improve the performance of the department and the provision of personnel services. **
- Evaluate at least annually the performance of the director of personnel services and submit a report to the mayor and council.

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

*Note: See Memorandum dated June 28, 2011 from Lance Hiromoto, Director of the Department of Personnel Services. I agree that the rule making authority of the Civil Service Commission and the director as defined in the charter should be in line with the Hawaii Revised Statutes. At the same time, this fact does not preclude the commission from evaluating the performance of the director and reviewing the operations of the department.

2) Amend Section 8.9.4.2 (Civil Service Commission) to read:

- Review and submit to the mayor the department's request for an annual appropriation for the operation of the department.*

*Note: See Memorandum dated June 28, 2001 from Lance Hiromoto, Director of the Department of Personnel Services. This recommendation will make the budget language consistent among the 4 commissions that appoint their department heads.

3) Amend Section 8-12.2 (Police Commission) by adding and numbering the following provisions:

- Review the operations of the department and make recommendations for any changes that may be desirable to improve the performance of the department and the provision of police services.
- Evaluate at least annually the performance of the police chief and submit a report to the mayor and council.
- Submit an annual report to the mayor and the council on its activities.

4) Amend Section 8-13.2 (Liquor Commission) by adding and numbering the following provisions:

- Review the operations of the department and making recommendations for any changes that may be desirable to improve the performance and provision of department services.
- Evaluate at least annually the performance of the police chief and submit a report to the mayor and council.
- Submit an annual report to the mayor and the council on its activities.

5) Amend Section 8-13.4 (Director of the Department of Liquor Control) to read (addition underlined):

- The director of the department of liquor control shall be appointed and may be removed by the liquor control commission. The director may be removed by the liquor commission only after being informed in writing of the charges that are resulting in the director's dismissal, and after being given a hearing before the commission. The director of the department of liquor control shall have a minimum of five years of experience in law enforcement, at least three of which shall have been in an administrative capacity.

Summary: These recommendations aim at establishing:

- a "floor" of accountability within the charter for the heads of the Fire and Public Safety, Police, Liquor, and Personnel departments and the commissions associated with them

- consistency in the functions and duties of the Fire and Public Safety, Police, Liquor, and Civil Service Commissions
- consistency in the provisions relating to dismissal of the department heads of Fire and Public Safety, Police, Liquor, and Civil Service Commissions

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

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October 3, 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 26, 2011 meeting. We have listed the new proposals made at the meeting and the new proposals received from Commissioner De Rego on October 2, 2011. All of these new proposals have not been considered yet for possible inclusion on the Active Matrix. We have also responded to requests for additional information from the Commissioners.

1. NEW PROPOSALS PRESENTED AT SEPTEMBER 26, 2011 MEETING

September 26, 2011

#3.39 – Proposal to Amend Section 3-1, Composition, to move the jurisdiction of Kahoolawe from District 2 West Maui residency to District 5 South Maui residency, and to clarify the relationship for the Maui County Council and the Kahoolawe Island Reserve Commission which is created by state law, see HRS Chapter 6K.

#3.40 – Proposal for Amend Section 3-1, Composition, to have three districts and three Council persons from each district, and have the districts organized as follows: (1) Lanai, Lahaina, and part of South Maui; (2) Molokai, Kahului, and maybe Paia, and (3) part of South Maui, Upcountry, and Hana.

#8.7.13 – Proposal to add to #8.7.2 to include the following language: Four out of the nine members of the fire and public safety commission shall be nominated to the mayor by the fire fighters labor union. The fire fighters labor union shall submit names of nominees for up to four out of the nine fire and public safety commissioners that shall be appointed by the mayor and confirmed by the council in the matter prescribed in Section 13-2.

#8.7.14 – Proposal to change the names to Fire Department and Fire Commission and to amend section 8-7.1 to provide that the Fire Department shall consist of the Fire Chief, Fire Commission and the necessary staff.

#8.16.8 – Proposal to establish an Independent Office of County Auditor, to have the Commission on Government be attached to the Office of County Auditor, and to have the Commission on Government have the power to hire and fire the County Auditor.

2. NEW PROPOSALS FROM COMMISSIONER DeREGO, OCTOBER 2, 2011 COMMUNIATION

#13.10 – Proposal to amend Article 13, General Provisions, Section 2, Boards and Commissions, to add provisions requiring the county to indemnify and fund the legal representation of members of Boards and Commissions in the event of civil action as a result of the lawful performance of their duties.

#8.7.15 – Proposal to amend Sections 8-9.4, 8-12.2, 8-13.2, and 8-13.4 to create consistency in the powers and duties of the Fire and Public Safety, Police, Liquor, and the Civil Service Commissions and the due process afforded directors of these departments in the event of dismissal.

3. QUERY RE: RESIDENCY REQUIREMENTS FOR CANDIDATES FOR COUNCIL

The constitutional validity of the duration required by local residency tests for eligibility to municipal office has been upheld by courts when there have been valid reasons for the residency requirement. However, where lengthy durations have been imposed, then the residency requirement may be found to be unconstitutional.

Article VII, Local Government, Section 2, of the Hawai'i State Constitution provides that "Each political subdivision shall have the power to frame and adopt a charter for its own self-government within such limits and under such procedures as may be provided by general law. Such procedures, however, shall not require the approval of a charter by a legislative body" and that "Charter provisions with respect to a political subdivision's executive, legislative and administrative structure and organization shall be superior to statutory provisions, subject to the authority of the legislature to enact general laws allocating and reallocating powers and functions." Thus the residency requirement for candidates for office may be established by each county.

There are four general qualifications for all offices that are set by State Law. Other than these requirements, each county may set its own qualifications.

1. be a citizen of the United States;
2. be at least eighteen years of age;

3. be a resident and registered voter of the State of Hawaii; and
4. have received final discharge for any felony conviction.

The Maui County Charter requires that a candidate for Council must be a voter in the county, a resident of the county for a period of 90 days preceding the filing of nomination papers and at the time of filing of nomination papers a resident in the area from which the person seeks to be elected. A candidate for Mayor must be a voter in the county and a resident of the county for a period of 90 days preceding the filing of nomination papers.

The Kauai County Charter provides that a candidate for Council must have been a duly qualified elector of the county for at least two years immediately preceding his election or appointment. A candidate for Mayor must have been a duly qualified resident elector of the county for at least three years immediately prior to his election to be eligible for election to the Office of Mayor.

The Charter of the City and County of Honolulu requires that a candidate for Council must be a duly qualified elector of the council district from which the person seeks to be elected. A candidate for Mayor must be a duly qualified elector of the city.

The Charter of the County of Hawai'i requires that a candidate for Council must have been a duly qualified elector of the county for at least one year immediately preceding election or appointment to the county council. A person must also have been a resident and registered voter of the district from which the person is to be elected or appointed for at least ninety (90) days immediately preceding the primary election or the appointment. A candidate for Mayor must be a duly qualified elector of the county for at least one year immediately preceding the election.

The Hawai'i State Constitution has residency requirements for candidates for state offices. Article 3, Section 6, of the Hawai'i State Constitution requires that a candidate for the State House of Representatives and State Senate be a resident of the State for not less than three years, have attained the age of majority and be, prior to filing nomination papers and thereafter continue to be, a qualified voter of the district from which the person seeks to be elected. [2002 Constitutional Amendment].

This three year requirement for candidates for the State of Hawai'i Senate and House of Representatives was challenged in state court and was found to be constitutional. *Hayes v. Gill*, 52 Haw. 251, 473 P.2d 872 (Hawaii 1970), appeal dismissed as moot *Hayes v. Lieutenant Governor of Hawaii*, 401 U.S. 968, 91 S.Ct. 1200 (1971). The Hawai'i Supreme Court reviewed the history of the State Constitutional Convention of 1968, where the three-year residency requirement for the House and Senate was reevaluated. Proposals were made to eliminate or reduce the requirement. The requirement was retained in accordance with the recommendation of the Committee on Legislative Powers and Functions. The Court found the committee report persuasive: "The residency requirements, too, are important; all states include such provisions in their constitutions. The role of the legislator is to represent the views of his constituents, and he must be familiar with them and their needs, which familiarity residency, in some measure, assures." citing the Constitutional Convention of Hawai'i 1968, Standing Committee Report No.

46, p. 7. *Id.* at 259, 888. The Court prepared a table of residency requirements of other states and reported that “[r]esidency requirement for legislators is not unique to this State. Our examination of state laws shows that every state, except Nevada, has residency requirement of varying length. Nor is a three-year requirement unusual. Nine other states have the same requirement. Five states require longer residency.” *Id.* at 259, 889.

Finally, the Hawai‘i State Constitution, Article V, The Executive, Section 1, provides that the Governor shall be a resident of the State of Hawai‘i for five years immediately preceding the election. Section 2 requires that the Lieutenant Governor meet the same qualifications. This five-year requirement was challenged in federal court by a person who had lived in Hawai‘i for only three years. Judge Harold Fong found that it was constitutional under both the rational basis and strict scrutiny tests. Judge Fong reasoned that: “[t]he State has a legitimate interest in maintaining a responsive and responsible government. Indisputably, candidates who possess a familiarity with, and an awareness of, local conditions are a commodity desirable to state residents. That the voters are more likely to come into personal contact with the candidates, prior to election, if a residency requirement is imposed is also self-evident.” Judge Fong further observed that: “[t]he State has a strong interest in the assurance that its governor will be a person who understands the conditions of life in Hawaii” and that “[t]his concern has ‘particular relevance in a small and comparatively sparsely populated state.’” *Hankins v. State of Hawai‘i*, 639 F. Supp. 1552, 1556 (D. Haw. 1986).

Article V, The Executive, Section 1, of the Hawai‘i State Constitution provides that the Governor shall be a resident of the State of Hawai‘i for five years immediately preceding the election. Section 2 requires that the Lieutenant Governor meet the same qualifications.

The five year requirement for The Executive was challenged in federal court by a person who had lived in Hawai‘i for only three years. Judge Harold Fong found that it was constitutional under both the rational basis and strict scrutiny tests. Judge Fong reasoned that: “The State has a legitimate interest in maintaining a responsive and responsible government. Indisputably, candidates who possess a familiarity with, and an awareness of, local conditions are a commodity desirable to state residents. That the voters are more likely to come into personal contact with the candidates, prior to election, if a residency requirement is imposed is also self-evident.” Judge Fong further observed that: “[t]he State has a strong interest in the assurance that its governor will be a person who understands the conditions of life in Hawaii” and that “[t]his concern has ‘particular relevance in a small and comparatively sparsely populated state.’” *Hankins v. State of Hawai‘i*, 639 F. Supp. 1552, 1556 (D. Haw. 1986).

4. WHAT ARE THE REQUIREMENTS FOR DESCRIBING CHARTER AMENDMENTS ON THE BALLOT?

The leading case in Hawai‘i on this issue is *Kahaleikai v. Doi*, 60 Haw. 324, 590 P. 2d 543 (1979). In this case, there was a challenge to the ballot of the 1978 Constitutional Convention. The Hawai‘i Supreme Court found that the party challenging the results of the election bears the burden of showing, beyond a reasonable doubt, the invalidity of a constitutional amendment which the people have adopted at a general election.

The Hawai'i Supreme Court found that most of the ballot questions were properly adopted. The Court explained that where the ballot used in a constitutional ratification election is in a form which produces a knowing and deliberate expression of voter choice, the vote satisfies the requirement of electoral approval.

The Court concluded that a ballot is not defective merely because it is mechanically easier for the voter to vote for rather than against any given proposition, so long as the ballot language is not misleading or deceptive.

The Court found that the constitutional convention was under a duty to adequately inform the electorate of the contents and effect of the proposed amendments and that the electorate bears a corresponding burden of educating and familiarizing themselves with the contents and effect of the amendments prior to going to the polls to cast their ballots.

The Court was very clear that the text of a ballot statement of summary for a proposed constitutional amendment must fairly and accurately present the question or issue to be decided in order to assure a free, intelligent and informed vote. But to the extent that a summary is used, the summary is not intended to fully educate people on all aspects of the proposal to amend a state constitution, and it need not set out in detail every aspect of the proposal, though it must give the ordinary person a clear idea of what he or she is voting for or against. It was not essential to print the full text of the proposed law or amendment on the ballot; it is sufficient if enough is printed to identify the matter and show its character and purpose.

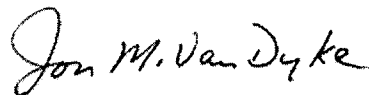
Having the alternative to vote on all the several amendments in one question rather than proceeding through each amendment separately was upheld. Thus the voter had the choice. The voter could just vote on one question and be finished. Or the voter could proceed through each individual proposed amendment and vote separately on each.

4. HOW MANY REGISTERED MAUI VOTERS VOTED IN THE LAST ELECTION?

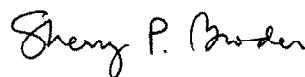
The State Office of Elections reported that in 2010 in Maui County there were 85,223 registered voters and that 42,322 actually voted. Thus 49.7% of the registered voters voted.

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

Sincerely yours,



Jon M. Van Dyke, Esq.



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

September 25, 2011

October 3, 2011

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

Preamble

#0.1 - Proposal to amend the Purpose Clause

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

Article 1, Incorporation and Geographical Limits

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

Article 2, Powers of the County

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

Article 3, County Council

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

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

#3.2 - Proposal to Implement Single Member Districts

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Instant-runoff voting (IRV), also known as preferential voting, the alternative vote and ranked choice voting, is a voting system used to elect one winner. Voters rank candidates in order of preference, and their ballots are counted as one vote for their first choice candidate. If a candidate secures a majority of votes cast,

that candidate wins. Otherwise, the candidate with the fewest votes is eliminated. A new round of counting takes place, with each ballot counted as one vote for the advancing candidate who is ranked highest on that ballot. This process continues until the winning candidate receives a majority of the vote against the remaining candidates.

#3.13 - Proposal to Return to a Closed Primary System

#3.14 - Proposal to Abolish Nonpartisan Elections for County Council

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

#3.15 - Residency Requirements for County Council Members Proposal;

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

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

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

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

#3.17 - Proposal for Eight-Year Term Limits

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

#3.18 - Three-Term 4 year Term Limits Proposal

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

#3.19 - Two-Term 4 year Term Limits Proposal

#3.20 - One-Term 4 year Term Limit Proposal

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

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

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

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

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

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

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

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

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

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

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

Article 5, County Clerk

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

Amend Article 5, County Clerk, Article 5-3, Powers, Duties and Functions, to add a new section to make the County Clerk the official custodian of records of the County of Maui, including but not limited to the financial reports of elected officials

Article 7, Office of the Mayor

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

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

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

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

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

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

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

Article 8, County Departments

Chapter 1, Department of Management

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

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

Chapter 3, Department of Prosecuting Attorney

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

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

Chapter 4, Department of Finance

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

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

Chapter 5, Department of Public Works and Environmental Management

#8.5.1 - Proposal to Require Expeditious Processing of Building Permits

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

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

Chapter 7, Department of Fire and Public Safety

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

Delete Section 8-7.2 Fire and Public Safety Commission, and amend Section 8-7.3, Fire Chief, to give the Mayor the authority rather than the Fire and Public Safety Commission to appoint the Fire Chief, and require the Fire Chief and

Assistant Chief to have a 4 year college degree and the Battalion Chief to have a 2 year college degree as one of the minimum requirements

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

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

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

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

Suggested new name - Fire Protection and Prevention and Rescue

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

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

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

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

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

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

#8.7.6 - Proposal to Amend Section 8-7.2, Fire and Public Safety Commission to have one member from each council district, to expand the powers of the commission to appoint such staff as it needs and to engage consultants as necessary for the performance of its duties and to add that the appointment of commission members appointed by the mayor and confirmed by the council to be done so in the manner prescribed in Section 13-2.

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

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

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

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

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

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

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

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

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

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

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

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

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

Chapter 8, Department of Planning

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

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

#8.8.2 - Proposal to Create Planning Commissions for Each Community

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

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

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

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

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

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

Amend Section 8-8.4, Planning Commissions, to expand the jurisdiction and powers of the Molokai Planning Commission so that it will have all the powers of the Board of Variances and Appeals for Molokai, to grant all permits (SMA, building, business, etc.) and provide that appeals from any variance granted shall be heard and determined by the Maui County Council, provided that a 2/3rds vote would be required to overturn any variance granted within 30 days

#8.8.8 - Proposal to Make No Changes to Planning Commission

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

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

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

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

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

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

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

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

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

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

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

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

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

Chapter 9, Department of Personnel Services

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

Chapter 11, Department of Water Supply

#8.11.1 - Proposal to Eliminate the Board of Water Supply

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

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

issue revenue bonds

hire its own legal counsel and not use the Corporation Counsel

set rates

promulgate rules and regulations

set its own budget

appoint the Director of the Department of Water Supply

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

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

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

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

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

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

Chapter 12, Department of Police

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

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

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

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

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

Chapter 13, Department of Liquor Control

#8.13.1– Proposal to Abolish the Liquor Adjudication Board

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

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

Chapter 14 – Department of Transportation

#8.14.1– Delete Department of Transportation

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

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

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

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

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

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

Chapter 16 –Cost of Government Commission

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

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

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

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

special election, unless it is more than 6 months before, and then the Mayor shall make the appointment to serve until the next special election.

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

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

Chapter 18 – Salary Commission

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

New Chapters to be designated in Article 8, County Departments

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

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

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

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

scheduling of meetings, the powers of the Board, the replacement of Citizen Advisory Committees, with Community Boards in the Community Plan Process and the authority to appoint a member to the Board of Variances and Appeals

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

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

Article 9, Financial Procedures

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

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

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

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

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

Article 10, Code of Ethics

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

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

NOTE – Corporation Counsel indicated at the June 27, 2011 meeting, Transcript page 99, that “there is nothing for the Commission to do” on the issue of

concurrent filing of a financial statement and that "State law has been changes and we changed the Charter, now we're changing the ordinance".

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

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

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

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

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

Article 11, Initiative

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

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

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

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

Article 12, Recall

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

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

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

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

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

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

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

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

Article 13 – General Provisions

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

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

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

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

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

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

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

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

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

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

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

Article 14, Charter Amendments

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

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

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

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

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

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

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

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

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

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

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

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

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

#14.8 – Proposal to Eliminate the Charter Commission

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

NEW ARTICLES PROPOSED

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

- *independent of both the Mayor and Council/complete autonomy
- *perform all financial and operational audit functions
- *coordinate with the COGC or otherwise work with COGC
- * complete discretion to prioritize assignments
- *administrative assigned to the Council
- *possible appointment by the Judiciary
- *possible appointment by a committee

*county auditor could be removed only by a 2/3rds vote of the council [as in Honolulu Charter]

* model powers and duties after the Auditor for the City and County of Honolulu

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

SEPTEMBER 25, 2011

Additional Proposals listed in September 25, 2011 Letter from Sherry P. Broder and Jon M. Van Dyke

#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

#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.

OCTOBER 3, 2011

Additional Proposals listed in October 3, 2011 Letter from Sherry P. Broder and Jon M. Van Dyke

#3.39 – Proposal to Amend Section 3-1, Composition, to move the jurisdiction of Kahoolawe from District 2 West Maui residency to District 5 South Maui residency, and to clarify the relationship for the Maui County Council and the Kahoolawe Island Reserve Commission which is created by state law, see HRS Chapter 6K.

#3.40 – Proposal for Amend Section 3-1, Composition, to have three districts and three Council persons from each district, and have the districts organized as follows: (1)

Lanai, Lahaina, and part of South Maui; (2) Molokai, Kahului, and maybe Paia, and (3) part of South Maui, Upcountry, and Hana.

#8.7.13 – Proposal to add to #8.7.2 to include the following language: Four out of the nine members of the fire and public safety commission shall be nominated to the mayor by the fire fighters labor union. The fire fighters labor union shall submit names of nominees for up to four out of the nine fire and public safety commissioners that shall be appointed by the mayor and confirmed by the council in the matter prescribed in Section 13-2.

#8.7.14 – Proposal to change the names to Fire Department and Fire Commission and to amend section 8-7.1 to provide that the Fire Department shall consist of the Fire Chief, Fire Commission and the necessary staff.

#8.16.8 – Proposal to establish an Independent Office of County Auditor, to have the Commission on Government be attached to the Office of County Auditor, and to have the Commission on Government have the power to hire and fire the County Auditor.

#13.10 – Proposal to amend Article 13, General Provisions, Section 2, Boards and Commissions, to add provisions requiring the county to indemnify and fund the legal representation of members of Boards and Commissions in the event of civil action as a result of the lawful performance of their duties.

#8.7.15 – Proposal to amend Sections 8-9.4, 8-12.2, 8-13.2, and 8-13.4 to create consistency in the powers and duties of the Fire and Public Safety, Police, Liquor, and the Civil Service Commissions and the due process afforded directors of these departments in the event of dismissal.

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

October 3, 2100

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

Article 3, County Council

Subject Matter – District Elections

#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 without placing 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 Three Single Member Districts and Three 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 and (2) 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 - Amended Proposal to have as part of a general discussion on Single Member Districts Proposal with Lanai, Moloka'i, 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 - Amended Proposal to have as part of a general discussion on Proposal to Retain At-large Districts with Geographic Residency

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

#3.9 - Amended Proposal to have as part of a general discussion on Proposal to Expand the Number of Council Members to 13

#3.10 - Amended Proposal to have as part of a general discussion on Proposal to have three Council members in each of three districts

#3.11 - Amended Proposal to have as part of a general discussion on Proposal to have six Council districts with equal population plus three at-large Council districts

Subject Matter -- Nonpartisan elections

#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

Subject Matter – Residency Requirements

#3.15 - Proposal for Residency Requirements for County Council Members

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

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

Subject Matter – Term Limits

#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 two terms of four years or four terms of two years for a total of eight

years altogether and, after the eight years have been exhausted, to prohibit the individual from ever serving on the Council again

#3.18 - Three-Term Four-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 Four-Year Term Limits Proposal

#3.20 - One-Term Four-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 to require that terms of Council members to be staggered.

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

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

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

Subject Matter – Council Powers

#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 the Planning Director and the Director of the Department of Finance

Subject Matter – Structure of Office of the Executive

#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, [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

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

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 7, Department of Fire and Public Safety

#8.7.1 - Proposal to Abolish the Department of Fire and Public Safety, to Require the Fire Chief to Report to the Mayor, and to 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 four-year college degree and the Battalion Chief to have a two-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 by the Mayor of the Commission's recommendation to remove the Fire Chief

Amend Section 8-7.3 to require that the Mayor initiate and the Commission approve the request to remove the Fire Chief 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:¹

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

¹ For the working purposes of the Commission, corrections to this proposal have been made and are as follows in the next #8.7.5 corrected proposal.

#8.7.5 *Corrected* - Proposal to Amend Chapter 7, Department of Fire and Public Safety, Section 8-7.2, Fire and Public Safety Commission, ²to 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:³

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 Commission members be appointed by the Mayor and confirmed by the Council 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.

² The exiting charter language was just being moved to a different section and not completely deleted.

³ This language was removed as being duplicative: The goal of the county shall be to have qualified and professional leadership and personnel in this department

Add to subsection 4 - publish a summary of the charges filed against members⁴ and 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 an 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

Subject Matter – Housekeeping: Chapter 9, Department of Personnel Services

⁴ Added the term "members" to reflect intent to include all employees of the department

#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.

Subject Matter – Water Supply Department and Board

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, so that it does not need to the Corporation Counsel
- * set rates
- * promulgate rules and regulations
- * set its own budget
- * appoint the Director of the Department of Water Supply
- * use as a model the provisions in the Charter of the City and County of Honolulu
- * use as a model the provision proposed by the 2001 Maui County Charter Commission
- * complete an 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 the Director of the Department of Water Supply be confirmed by the County Council

Chapter 12, Department of Police

#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 15 – Department of Environmental Management [current section was in the 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, and thus to 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 [formerly section 15 in 2003 edition of the Charter]

#8.16.1 - Proposal to Amend Article 8-16.2, Cost of Government Commission, to require that its 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-year term to a four-year term and to limit the number of terms

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

#8.16.4 – Proposal to Amend Article 8-16.3, Term of Commission, from a two-year to a six-year term and to require that members must have been 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 six 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 three members, elected for six years, whose terms shall be staggered every two years. The 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.

Subject Matter - Independent Counsel for Boards and Commissions [new section]

#8.New.3 – Amended Proposal to Create an Office of Independent Counsel for Boards and Commissions – General Discussion 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

Subject Matter - 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.

Subject Matter – Discussion on Voter-Initiated Ballot Measures

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 who were registered to those who 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 who were registered to those who 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 filing of the affidavit (to conform to the initiative requirements).

#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 who were registered to those who 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

#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 who were registered to those who voted

Subject Matter – General Discussion on Boards and Commissions

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 all departments

#13.5 - Proposal to Amend Article 13, General Provisions, to create a new section to require telecommunications access for Hana, Lāna'i, and Molokai residents to all County Public Hearings with the capability for Hana, Lāna'i, and Molokai residents to testify remotely at all County Public Hearings

#13.6 - Proposal to Amend Article 13, General Provisions, to 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, with three members to be appointed by the Mayor and three to be appointed by the Council, to serve for two-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

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

#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.

#14.9 – Proposal to Extend the 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 Article – Office of County Auditor

A. Proposal to Establish an Office of County Auditor to include one or more of the following:

- * be 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



State of Hawaii
Office of Elections
State Plan

VOTER REGISTRATIONS

	1992	1994	1996	1998	2000 ¹	2002	2010
Honolulu	328,463	349,457	386,546	423,875	444,945	470,327	
Hawaii	62,023	63,677	71,270	77,726	84,421	89,478	
Maui	47,238	48,036	57,091	66,740	73,331	79,045	85,223
Kauai	26,771	27,719	30,009	33,063	34,652	37,392	
Statewide	464,495	488,889	544,916	601,404	637,349	676,242	

D. Voter Turnout

Voter turnout numbers by county from 1992 to 2002 were (numbers based on General Elections):

TOTAL TURNOUT	1992	1994	1996	1998	2000	2002	2010
Honolulu	272,081	269,121	261,781	291,114	257,795	270,071	
Hawaii	52,529	48,907	50,464	53,658	51,368	50,368	
Maui	38,408	36,589	36,169	43,382	39,665	41,554	42,322
Kauai	19,864	22,394	21,816	24,366	22,205	23,464	
Statewide	382,882	377,011	370,230	412,520	371,033	385,457	

PRECINCT TURNOUT	1992	1994	1996	1998	2000	2002
Honolulu	245,464	233,995	225,221	246,048	208,195	194,415
Hawaii	45,444	40,188	39,555	41,978	40,241	35,511
Maui	34,456	31,291	31,746	36,557	33,193	29,956
Kauai	16,979	17,694	17,176	17,592	16,334	15,526
Statewide	342,343	323,168	313,698	342,175	297,963	275,408

ABSENTEE TURNOUT	1992	1994	1996	1998	2000	2002
Honolulu	26,617	35,126	36,560	45,066	49,600	75,656
Hawaii	7,085	8,719	10,909	11,680	11,127	14,857
Maui	3,952	5,298	4,423	6,825	6,472	11,598
Kauai	2,885	4,700	4,640	6,774	5,871	7,938
Statewide	40,539	53,843	56,532	70,345	73,070	110,049

¹ Since the 2000 Election the State of Hawaii has included the National Voter Registration Act's (NVRA) section 8(d)(2) voters in its registration counts.

10/10/11 - Additional Agenda material rec'd from Commissioner Delcar
Pg. 1-1

AN ARGUMENT FOR A BALLOT QUESTION ON COUNCIL ELECTION SYSTEM

For decades I have observed this district question from the outside, as a disinterested observer, with no interest in changing the status quo, even as serious problems with the elective system became obvious. I recognized the absurdity of expecting Lanai and Molokai Council members to return to their island homes every night. I noticed that incumbents frequently ran without competition or that many voters left the council races blank. But the absurdity of our election system never really struck me until the Kaho'ohalahala case.

The Kaho'ohalahala case brought this issue into focus for many Maui County residents. If the Lanai Council Member does not truly have to live on the island, then what is the point of this kapakahi election system we have? As Mr. Butch Gima told this commission in testimony on Lanai, that community has challenged both Mr. Kaho'ohalahala and Riki Hokama as not being true Lanai residents. But they have been the Lanai Council Members for the last 20 years. And the community they represent says they are not residents. What does that tell you? Goro Hokama lived across the street from me in Kahului in the late 1980s for a couple of years, with his wife and whole family, while serving as the Council member from Lanai. Apparently, the part about being a resident of the island was not being taken too seriously back then either.

So if the Lanai community has spent the last couple of years suing its two last members on the Council for not living there, what's the point of maintaining this broken system? The costs of this system are hard to justify, even if the Council Members could go home every night. But if the residency requirement is a fiction, there is no justification for the costs.

The costs I am talking about are the serious distortions in our current election system. Distortions like:

- Communities being stuck with "representatives" they did not want. An incumbent does not have to represent his district – because the district votes do not matter; name recognition is what is important in an at-large system. While the Lanai and Molokai communities have expressed no interest in how their Council Members are elected, other communities are vitally interested in being able to pick their representatives.
- Two or three Council Members – and usually the Lanai and Molokai Council incumbents -- run without competition in most elections. The current Molokai Council Member has not faced competition in the last four elections. This means we have unelected political leaders, often including our Council Chair.

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- Lanai and Molokai incumbents run with little or no competition because no Lanai or Molokai Council incumbent has ever been defeated – ever. The last serious effort against an incumbent was by Henry Oliva against Goro Hokama in 1988 and 1990. Mr. Oliva was an excellent, well spoken, intelligent, aggressive candidate, but without a Maui base, he did not stand a chance. He later served as the County Parks Director. Lesson: Lanai and Molokai incumbents can not be beaten. This is a very serious structural distortion in a Democracy.
- This set-up is not even close to being equitable. Lanai (3000) and Wailuku (28000) are treated the same. The illusion that allows that to happen is the at-large election. But the reality is that the council is organized in districts and the Council Members get similar distribution of funds. What the Molokai and Lanai testifiers were really defending is their communities' ability to fund projects and jobs well beyond their proportion of the county population. This jumped out at me in the Molokai and Lanai testimonies. Here's Zac Helm, the Molokai Parks Superintendent: "I started off with five positions on Molokai, back in 1982. I (have) 30 positions (now). And I have to thank the – our council representative for, you know, providing those jobs because it helps us economically. So if we lose that voice, we may not be able to get the things that we've gotten now." So that is what we are truly talking about: giving these islands more budget leverage than their populations justify. The cost to the county are political fiefs on Lanai and Molokai and seriously unequal representation.
- That leverage is compounded by the fact that these protected politicians – Lanai and Molokai Council Members – invariably end up being the Council chairs. Our County is being led by the tiny communities of Lanai and Molokai.
- The voters don't like or necessarily understand the current system. Every election there is a 20 percent blank rate in Council races. No other candidate race has anything like that. Here's how the West Maui Taxpayers Association – the largest community group in West Maui – put it:
 "We are finding that a large number of County voters are simply not voting for Council positions because they either do not recognize the candidates or feel that the candidates do not represent them and where they live. We need to make the voting system easier, more transparent and more logical and, in a word, more fair to all Maui County citizens."
- A 2010 survey of Maui County voters showed a 65 percent preference for changing the status quo. (See the pamphlets that were sent to every voter weeks before the survey was conducted.)

There is ample testimony to evidence the fact that many in our community want to change this system. The Kaho'olahalaha case highlighted this issue. There is clear and ample evidence that this process is broken and needs to be changed. The voters want to see this issue on the ballot. But the only way that is going to happen is if this commission asks the question: Should we change the way we elect the County Council? The Council has demonstrated that it will never put this question on the ballot because the Council depends on and enjoys the benefits of the current system. And the provision for citizen Charter Initiatives is absurdly prohibitive: half the voters in the last election would have to sign the petition. So it is up to this commission to ask the question.

This question has come up in the past. But never before have the issues been so clearly drawn. And never before has the voters' interest in seeing it brought to a vote been so clear. Our current system has developed over time and none of the distortions noted were deliberately set. But they are now known and clearly delineated and this commission is on notice that we in fact have a broken system and the voters want a chance to address this issue.

I know that you are very taken with the arguments from the Lanai and Molokai residents that the current system works best for them. That is true because the current system gives their communities major advantages. It makes them "more equal" than the rest of us. What is being proposed by a district system is that we all be treated like true equals. I can understand why these remote communities need additional resources, but I can no longer accept the political costs to the rest of the county to achieve that goal. I do not begrudge these small communities the resources they need. But why should we have to tolerate a system to provide those resources at the expense of equal representation and a truly elected government in the County of Maui.

In a Democracy, the way we choose our leaders must be decided by the voters. This commission must give them that opportunity.

For those reasons, I ask this commission place on the ballot a question asking the voters to choose between an equally proportioned single member district system or the current at-large system.



What Is District Voting?

10/10/2011 - Additional Agenda material rec'd from
Commissioner DeLeon pgs 1-5

Introduction: What Is District Voting?

Recently, District Voting for the Maui County Council has received a lot of attention around the County. In line with its mission, the directors of the North Beach West Maui Benefit Fund commissioned Professor Jon Van Dyke, respected constitutional law scholar, to provide this educational brochure to help our community better understand what District Voting is. This brochure gives an overview of district voting and compares some of the different proposals that have been offered by different groups over the past couple of years.

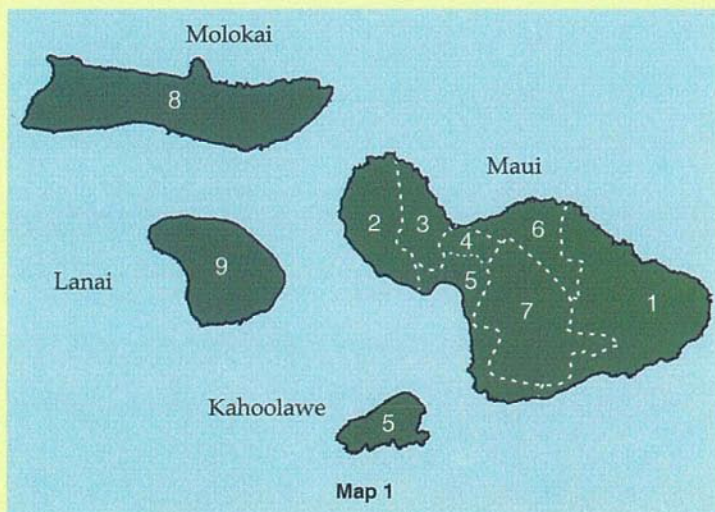
Constitutional Requirements

In *Reynolds v. Sims* (1964), the U.S. Supreme Court ruled that the Equal Protection Clause of the U.S. Constitution required that each person's vote have equal weight in all elections. This decision established the "one-person/one-vote" requirement, whereby apportionment of voting districts be based solely on population. The Court explicitly rejected the idea that rural or less-populated areas could receive enhanced voting clout simply because of their geographic size or uniqueness. In his majority opinion, Chief Justice Earl Warren explained that: "Legislators represent people, not trees or acres. Legislators are elected by voters, not farms or cities or economic interests."

The Challenge Presented by Maui County's Population

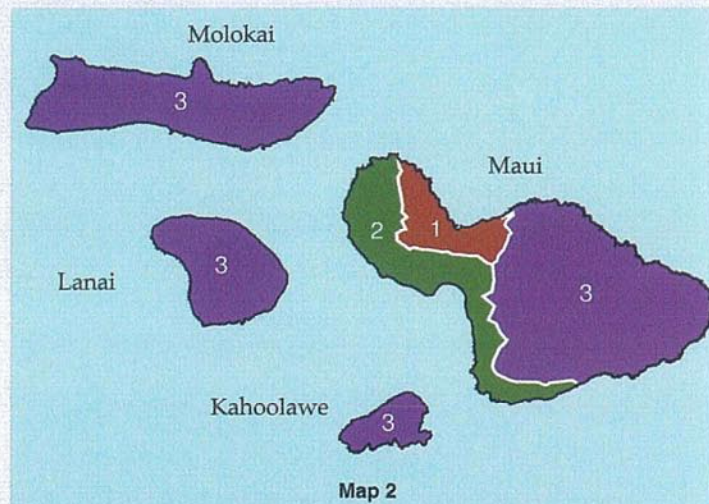
Maui County's population is not evenly distributed. Estimates for 2010 put the population of the Island of Maui at 140,339, Molokai at 7,276 and Lanai at 3,735 – for a total County population of 151,350. If Maui County were divided into districts for the purpose of electing members of the County Council, under the "one-person/one-vote" requirement, Lanai would be entitled to have its own councilmember only if the Council had 40 members. Even if Lanai and Molokai were combined, they would together be entitled to a single councilmember only if the Council had 14 members. Courts have permitted local governments, like Maui County, to elect councilmembers "at large" (i.e., with each legislator being elected by the entire County) while requiring that some or all of the councilmembers live in defined "residency areas." This system ensures that councilmembers have some geographic diversity while being technically consistent with the "one-person/one-vote" requirement. Many have expressed concerns that, as Maui has grown, the current "at large" system should be replaced with District Voting.





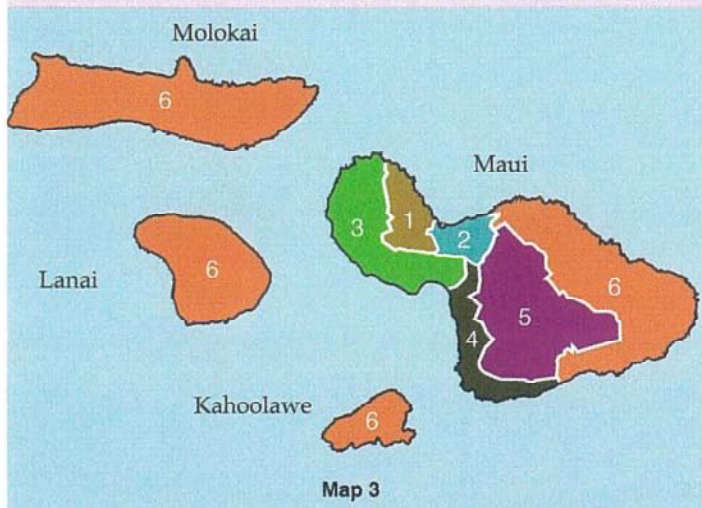
The Present System: *One County-wide District with Nine Residency Areas*

Currently, each Maui County voter is entitled to cast a vote in all nine elections for members of the Maui County Council, but the candidates running must reside in one of the nine separate geographically-defined “residency areas,” as illustrated in Map 1. This system ensures that a councilmember reside in each of the less populated areas of the County like Lanai, Molokai, and East Maui. Because voters from throughout the County vote in each of the nine councilmember races, candidates must campaign for votes from across the County (thus requiring expensive campaigns) and sometimes do not have the support of voters in the area in which they reside. As a practical matter, the voters from the more heavily-populated areas (Wailuku and Kahului) determine who will win the elections for councilmembers seeking to represent the less populated areas simply because more votes are cast in the heavily-populated areas.



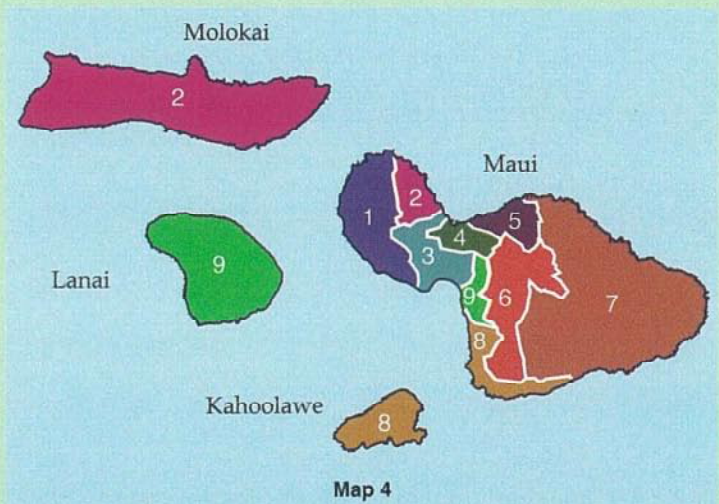
Option One: *Three Multi-Member Districts*

Option One utilizes the three current Maui Senate Districts, illustrated in Map 2. Voters in each of these districts would cast up-to-three votes for their favorite candidates, and the top three vote-getters in each district would become councilmembers. Under this approach, the candidates would run in only one-third of the County, thus reducing campaign expenses. Once elected, they would still represent a large portion of the County. Because voters can vote for three candidates, voters can promote perspectives they favor or divide their votes in a manner that leads to diversity among the councilmembers.



Option Two: Six Single-Member Districts Plus Three At-Large Districts

In this approach, one council member would be elected from each of the six current Maui House-of-Representative Districts, illustrated in Map 3, and three would be elected at-large by voters throughout the County. This approach would allow closer ties between voters and elected council members in the six single-member districts and would lower campaign costs. It would also continue to allow certain candidates the opportunity to campaign throughout the County and to represent the entire County in the Council, including those who might seek to promote greater name recognition for a future race for Mayor or some other office.



Option Three: Nine Single-Member Districts

Under this approach, Maui County would be divided into nine geographical districts, each representing about the same number of voters, as is done in Honolulu and the Big Island. A nonpartisan apportionment commission would create nine districts based on the needs and preferences of the different communities around Maui County. Map 4 shows one possible configuration. Many other configurations are also possible. The advantages of this approach are that the candidates would run in small regions, keeping campaign costs as low as possible and strengthening voters' connection with their individual council member. A possible disadvantage is that some councilmembers may be focused only on the district they represent, and may ignore concerns relevant to the other parts of the County.



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