

Rec'd from Jim Smith 112811

RECOMMENDATIONS FOR SUBSTANTIVE CHANGES TO
THE MAUI COUNTY CHARTER

PROPOSAL ONE - AMEND ARTICLE ONE TO CONFIRM THE EQUAL WORTH AND DIGNITY OF
EVERY INDIVIDUAL (Section 1-1)

The Commission recommends that the first section of the Maui County Charter be amended to confirm as the primary basis for county governance that each individual is recognized as having equal worth and dignity. This recognition forms the foundation for the democratic form of government established in this Charter.

The specific language change proposed is as follows (the proposed new material is underlined and the material proposed for deletion is bracketed):

Section 1-1. Incorporation. The people of the county of Maui, as a basis for this incorporation confirm the equal worth and dignity of every individual, and by this Charter shall be and continue as a body politic and corporate by the name of "County of Maui," hereinafter in this charter called "county." By that name it shall have perpetual succession.

In reaching the conclusion that this change should be recommended, the Commission considered the following competing arguments:

PROS:

* A commitment to equal worth and dignity is essential in the diverse community that makes up Maui County, and it affirms the fundamental basis for democratic governance.

CONS:

* Equality is a complex term, and has led to different interpretations in matters regarding, for instance, affirmative action programs.

112811 - Written Testimony rec'd from
Jim Smith

Revised Final

REPORT -
MAUI CHARTER COMMISSION

JUN 17, 2009

4.2.4

MAUI COUNTY GENERAL ELECTION RESULTS, MAUI COUNTY CHARTER AMENDMENTS, NOVEMBER 5, 2002

Maui County Charter Amendments**Maui: Article 1**

YES	29,852	72.20%
NO	6,414	15.50%
BLANK VOTES	5,064	12.20%
OVER VOTES	18	0.00%

Four Year Council Terms

YES	14,011	33.90%
NO	24,059	58.20%
BLANK VOTES	3,257	7.90%
OVER VOTES	21	0.10%

Responsibilities of Corp. Council

YES	27,703	67.00%
NO	8,353	20.20%
BLANK VOTES	5,276	12.80%
OVER VOTES	16	0.00%

Rename Dept. of Public Work/Waste

YES	27,506	66.50%
NO	9,690	23.40%
BLANK VOTES	4,138	10.00%
OVER VOTES	14	0.00%

Rename Dept. of Fire Control

YES	22,237	53.80%
NO	14,066	34.00%
BLANK VOTES	5,032	12.20%
OVER VOTES	13	0.00%

Responsibilities of Dept. of Planning

YES	23,003	55.60%
NO	11,977	29.00%
BLANK VOTES	6,359	15.40%
OVER VOTES	9	0.00%

Role of Citizen Advisory Comm.

YES	22,410	54.20%
NO	12,887	31.20%
BLANK VOTES	6,010	14.50%
OVER VOTES	41	0.10%

Role of Citizen Advisory Comm. Alt.

YES	21,376	51.70%
NO	13,393	32.40%
BLANK VOTES	6,553	15.80%
OVER VOTES	26	0.10%

Powers of Civil Serv. Commission

YES	27,629	66.80%
NO	8,268	20.00%
BLANK VOTES	5,436	13.10%
OVER VOTES	15	0.00%

Initiative

YES	22,681	54.90%
NO	11,847	28.70%

More Autonomy Dept. of Water

YES	17,543	42.40%
NO	17,785	43.00%
BLANK VOTES	5,975	14.50%
OVER VOTES	45	0.10%

Dept. Water Under Mayor Adm.

YES	21,568	52.20%
NO	13,318	32.20%
BLANK VOTES	6,440	15.60%
OVER VOTES	22	0.10%

Create County Dept. of Transportation

YES	21,077	51.00%
NO	14,526	35.10%
BLANK VOTES	5,731	13.90%
OVER VOTES	14	0.00%

Staggered Terms Salary Comm.

YES	23,922	57.90%
NO	9,768	23.60%
BLANK VOTES	7,649	18.50%
OVER VOTES	9	0.00%

1% Reaql Prop. Tax for Open Space

YES	25,818	62.40%
NO	9,596	23.20%
BLANK VOTES	5,923	14.30%
OVER VOTES	11	0.00%

Mtgs Boards/Commissions

YES	21,122	51.10%
NO	14,462	35.00%
BLANK VOTES	5,749	13.90%
OVER VOTES	15	0.00%

Housekeeping Changes

YES	25,364	61.30%
NO	8,979	21.70%
BLANK VOTES	6,993	16.90%
OVER VOTES	12	0.00%

Public Record Request

YES	23,368	56.50%
NO	10,337	25.00%
BLANK VOTES	7,632	18.50%
OVER VOTES	11	0.00%

Nomination Boards/Commission

YES	27,710	67.00%
NO	7,687	18.60%
BLANK VOTES	5,939	14.40%
OVER VOTES	12	0.00%

BLANK VOTES	6,807	16.50%
OVER VOTES	13	0.00%

Note: Descriptions of Charter Amendments are not given in official wording.

Source: Hawaii State Office of Elections, records.

Municipal Elections

The form of municipal elections varies from city to city, with three common variations: some cities elect their local representatives by at-large elections, some by district and some have both, called a mixed system.

The election system of a given city is determined by the nature of the council members' constituency and by the presence or absence of party labels on the ballot (see Partisan vs. Non-partisan Elections). With regard to the first feature, there are two types of constituencies for city council members -- at-large and district.

At-Large

All at-large members are elected to serve the same constituency, which is the population of the city as a whole. At-large election proponents favor having council members elected by the entire city because:

Council members in an at-large system can be more impartial, rise above the limited perspective of a single district and concern themselves with the problems of the whole community.

Vote trading between councilmembers is minimized.

Better-qualified individuals are elected to the council because the candidate pool is larger.

However, at-large elections can weaken the representation of particular groups, especially if the group does not have a citywide base of operations or is an ethnic or racial group concentrated in a specific ward.

Nearly two-thirds (64 percent) of all municipalities use at-large elections in some way. At-large elections tend to be more popular in small cities and more affluent areas.

District

These elections select a single council member from a corresponding geographical section of the city, called a district or ward. District election proponents favor having council members elected to represent individual wards because:

District elections give all legitimate groups, especially those with a geographic base, a better chance of being represented on the city council, especially minority groups. Several court decisions have forced jurisdictions to switch from at-large elections to district elections, and in most cases the reason was to allow more representation by specific ethnic and racial groups (see: Springfield, IL, 1987 and Dallas, TX, 1990; see also amendments by the U.S. Congress to the Voting Rights Act, 1982).

District councilmembers are more sensitive to the small but important problems of their constituents, like waste disposal.

District elections may improve citizen participation because councilmen who represent a specific district may be more responsive to their constituency.

However, councils elected by district elections may experience more infighting and be less likely to prioritize the good of the city over the good of their district.

Only 14 percent of all municipalities use district elections. Cities with populations of 200,000 or more are more likely to use district elections.

Mixed-System

Twenty-one percent of municipalities combine these two methods by electing some council members at large and some from districts. An individual councilmember will either occupy a district or an at-large seat on the council. Mixed systems are most likely to be found in parts of the South and Central jurisdictions.

Breakdown of types of city council elections by city size (2001)*

	<u>Small</u> (25,000-69,999)	<u>Medium</u> (70,000-199,999)	<u>Large</u> (200,000 and up)
At-Large	48.9%	43.7%	16.4%
Mixed-System	25.0	25.4	38.2
District	26.1	31.0	45.5
<i>n=649</i>	100.0	100.0	100.0

*Study based on a mailed questionnaire completed by a random sample of 664 council members in cities with populations of 25,000 and higher (Svara).

Sources

Morgan, David and Robert England. *Managing Urban America, 5th Edition*. New York, NY: Seven Bridges Press, LLC, 1999.

Moulder, Evelina. "Municipal Form of Government: Trends in Structure, Responsibility, and Composition." In *The Municipal Year Book, 2008*. Washington, DC: International City/County Management Association, 2008.

Renner, Tari and Victor S. DeSantis. "Municipal Form of Government: Issues and Trends." In *The Municipal Year Book, 1998*. Washington, DC: International City/County Management Association, 1998.

Svara, James H. *Two Decades of Continuity and Change in American City Councils*. Washington, DC: National League of Cities, 2003.

Results from Kula Community Association Survey on Four Charter Commission Proposals

The Kula Community Association's November 9th General Meeting was a "town hall" format discussing four Charter Commission Proposals. Ballots were handed out at the meeting and an online survey was available on the KCA's website, www.kulamaui.com

These results are the final results and will be available on the Kula Community Association website.

There was a total of 102 responses. Because there were differences in the results between the ballots from the meeting and the online survey, both results are presented along with the total.

Results calculated by Ron Montgomery, 283-9079,
ronmaui03@gmail.com

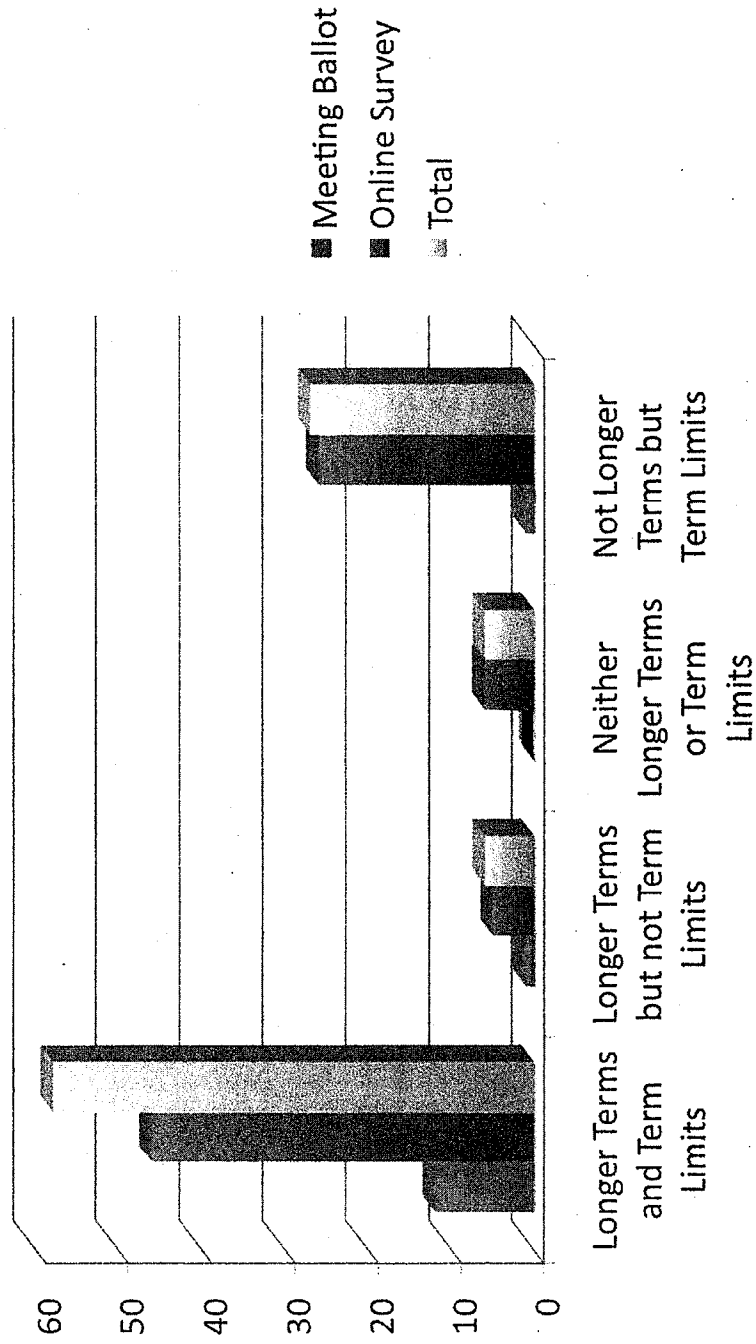
112811 - Rec'd from Bobbie Patnode - written testimony

1. Charter amendment proposing a reduction of the number of signatures for Initiatives and Recalls from 20% of registered voters to 10% of those who voted in the last election.



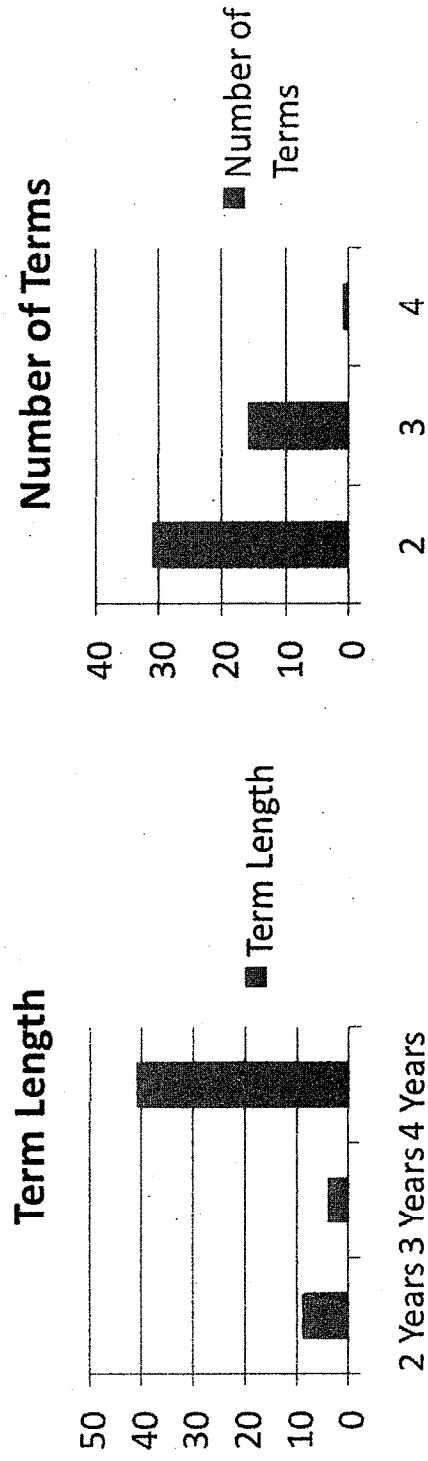
There was a noticeable difference in the results of those in the town hall meeting, who had the opportunity to learn and exchange ideas than those in the online survey.

2. Charter amendment proposing an increase in term lengths and enactment of term limits for Council Members

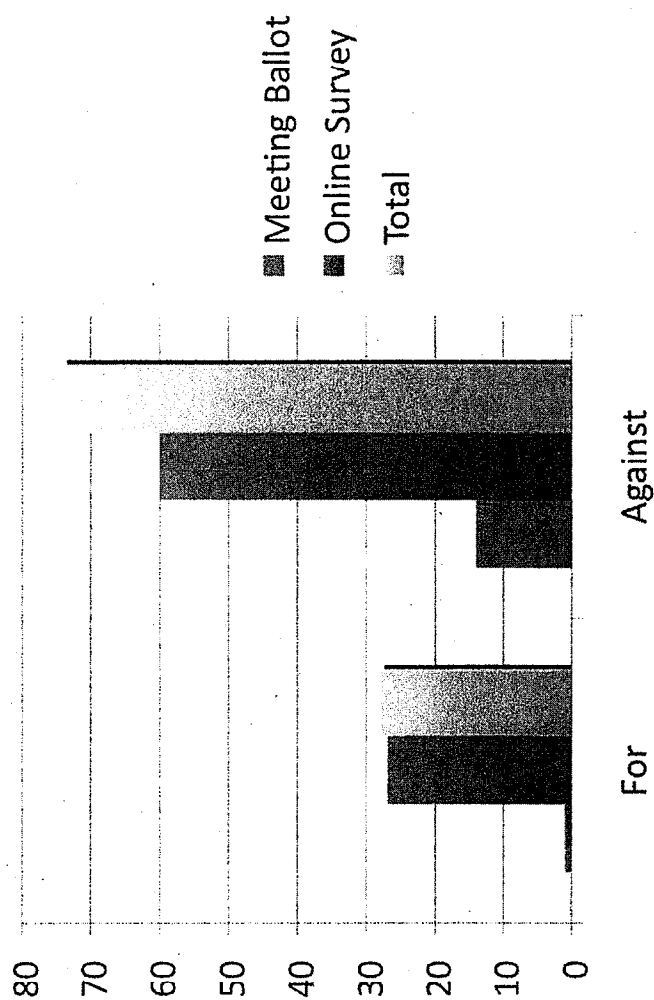


There was a strong preference for term limits regardless of whether terms are longer or not

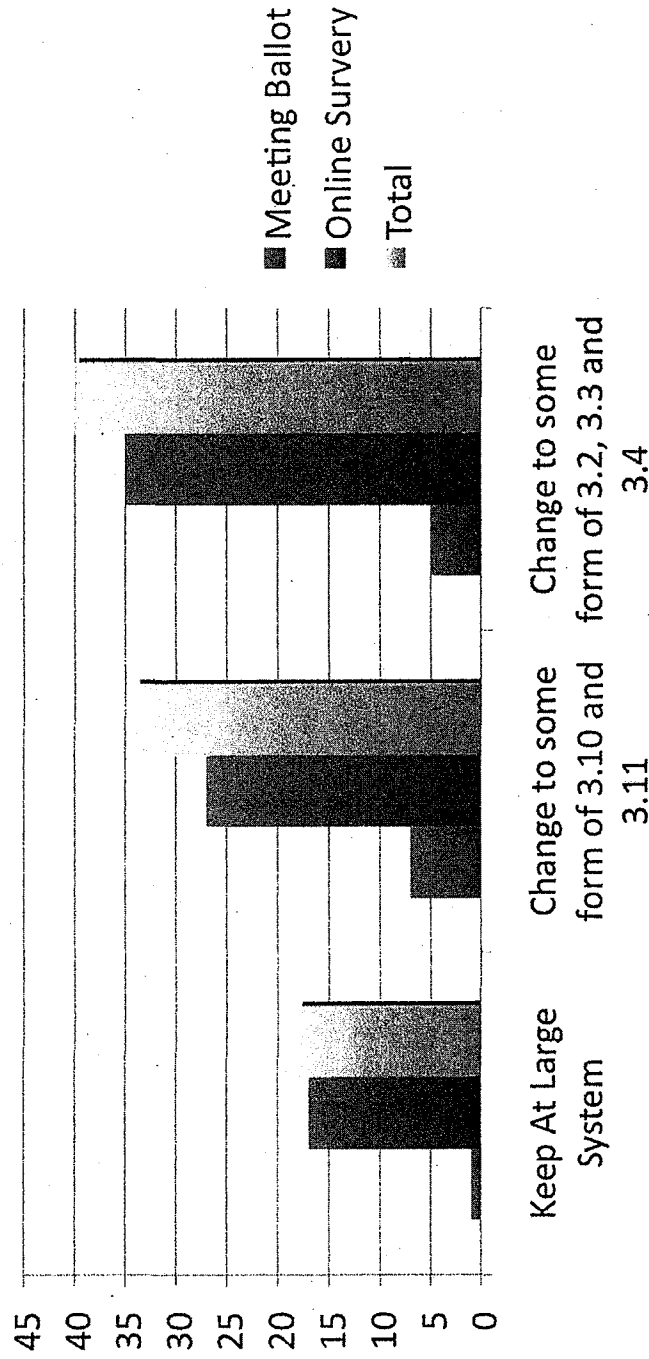
Comments on Term Length and Term Limits



3. Charter amendment proposing a change from non-partisan to partisan elections



4. Charter amendment proposing a change from "At Large" elections for Council Members to some form of district elections. The chart below does not show all of the options, but does show those the KCA believes offer the best solutions.



Options 3.10 and 3.11 are variations on multiple Council members in multiple districts. Options 3.2, 3.3, and 3.4 are variations on single-member districts with consideration for Lanai and Molokai.

Non-partisan elections are better

Cooperation between elected officials belonging to different parties is more likely.

Political parties are irrelevant to providing services at the local level. Not needed at the local level where major social issues are not decided.

Top two vote-getters from the primary will compete in General election. Allows general election of top two candidates, instead of one from each party.

Good candidates would not run in a primary of the weakest party.

Republican candidates now run as Democrats, thus deceiving the electorate.

In partisan elections, a party with one primary candidate will have its voters jump to the other party and vote for the weakest candidate.

All registered voters—including Independents and other third-party members—would be enfranchised in every election, significantly expanding the electorate

By removing party labels from the ballot, candidates who hope to be competitive would no longer feel forced to register in the Democratic Party.

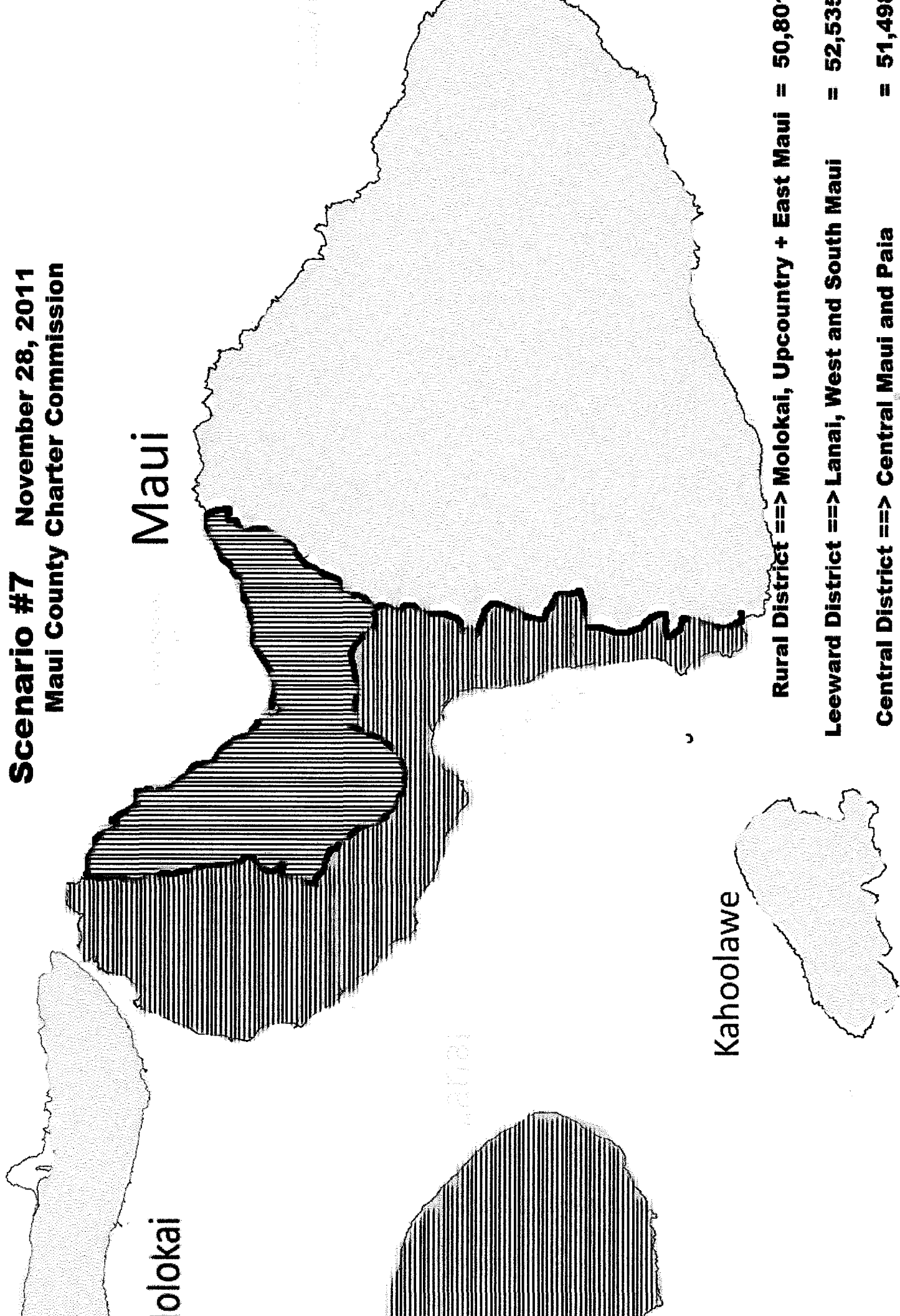
Since incumbents almost always win re-election when they're not term-limited, non-partisan elections would force incumbents to broaden their appeal, thus encouraging politicians to serve all the people rather than the interests of a particular party.

Members of a minority political party have reduced ability to represent their constituents.

Putting it on the ballot as a charter issue may take voter attention away from some other more important charter amendments.

112811 - written testimony rec'd from Dick Mayer

Scenario #7 November 28, 2011
Maui County Charter Commission



RECEIVED
CORPORATION COUNSEL

2011 NOV 25 AM 10:54

To: Chairman & Members
Maui County Charter Review Commission
Wailuku, HI 96793

From: Tony Ramil

Date: November 23, 2011

Re: On Maui News Editorial, "Not Much In Common", Nov. 20, 2011

May I share with you a Letter to the Editor which I submitted to The Maui News on their editorial "Not much in common", Nov. 20, 2011, addressing their comments on the proposal to establish Three County Council Districts, Three area residency seats per District, for the County of Maui.

Respectfully submitted,



TONY RAMIL

112811 - Written Testimony rec'd from Tony Ramil



TONY RAMIL

438 Hoala Drive, Kihei, HI 96753
Tel. 808 879-9186 or 808 244-3611

November 21, 2011

Letter to the Editor
The Maui News
100 Mahalani Street
Wailuku, HI 96793

www.mauinews.com
letters@mauinews.com

Re: Maui County Charter Review--On the Proposed Three County Council Districts, with Three Residency Seats Each District

In the Maui News editorial "Not much in common" (Nov. 20, 2011), you asked: "If geographical areas in a district are not contiguous (or as near to contiguous as a county with three islands can come), then what shared values, shared problems are their shared councilors going to represent or address?"

At the outset, from the fact that Maui, Lanai and Molokai, three "sister islands", form one county, there is a shared convention ("values") in their history and government, that has been recognized and observed for more than 50 years ago where the islands of Lanai and Molokai each have a representation in the County policy-making body--the Board of Supervisor (1955 to 1968), and then the County Council (1969 to the present). During said period, the island of Maui, the "big sister", has had seven representative seats in said County policy-making body.

It is an established structure of representation that has come to define the governance of Maui County. A restructuring of the composition of the Council and the election of the members so as to virtually deprive either or both Lanai and Molokai of a resident representative in the Council would be a disenfranchisement of the residents of the two "sister islands" of Maui.

Under the current County charter, the nine Council members are elected at large countywide, seven members with defined residency areas on Maui, and one member each with residency on Lanai and Molokai. The countywide at-large voting is meant to emphasize that the Council members are to discharge their duties having in mind the good of all of Maui County. The residency feature is meant to have the Council member from the specified area to be particularly responsive to the needs of said area.

The proposal to establish three County Council districts, with each district electing three council members from three defined areas within the district, retains the rationale behind at-large voting. The members are expected to find a way to work together to respond to the concerns and needs of their common constituencies, and then to work with the members from the other districts to promote the good of all of Maui County.

As one County, there is a commonality as well as an interweaving of values or concerns among all sectors of Maui, Lanai and Molokai, e.g., those relating to employment, housing, peace and order, public safety, parks and recreation, infrastructure, environment, agriculture, sustainability, and so on. For sure, there is always the shared task of how to allocate portions of the one proverbial pie among the various sectors of Maui, Lanai and Molokai

In the proposed three districts, Lanai would be linked with Maui through a shared district with Wailuku and West Maui. Molokai would be linked with Maui through a shared district with Kahului and South Maui. East Maui (Hana-Keanae-Kailua), Makawao-Haiku-Paia, and Upcountry (Pukalani-Kula) would form the third district. Three islands, three districts, three council members in each district, linked together through their representatives in the County Council, working together for the good of all of Maui County.

With three districts, the voters in each district would have greater opportunity to know and interact with the Council candidates, and the votes from the smaller residency areas would carry greater weight in the over-all district vote count.

"Why not Wailuku and Kahului in the same district?" You asked. They do "touch"--you noted. But so does West Maui and Wailuku. And so does Kahului and South Maui.

With West Maui and Wailuku in the same district, one can cite shared values or concerns (apart from those mentioned above) relating to preserving the natural beauty, or the extent of any developments to be allowed on the sides or slopes of, the West Mountains, their common boundary. There are shared values or concerns relating to the visitor industry, and for a well-maintained Honoapiilani Highway and other infrastructure serving both areas--for hundreds of Wailuku residents, apart from West Maui residents, do work in the hotels and resorts in Lahaina and Kaanapali.

With Kahului and South Maui in the same district, one can mention shared values or concerns relating to the sugar cane plantation, which cover much of the area between the two localities, and for the reason that many of their residents work in the sugar cane fields. Likewise there are shared values or concerns relating to the visitor industry, and for a well-maintained Mokulele Highway, Piilani Highway, and other infrastructure in both areas--for hundreds of Kahului residents, apart from South Maui residents, work in the hotels and resorts in Kihei, Wailea and Makena--and also, hundreds of South Maui residents work in the shopping centers, financial companies, and other business establishments in Kahului.

The proposed three Districts essentially retain the current nine residency seats in the Council, a very representative apportionment, so structured that allows the representation of the major geographical and cultural sectors of the County in the County Council.



TONY RAMIL

To: Charter Commission
 From: Sally Raisbeck
 Date: 11/28/11

Subject: REsponse from the Police Commission to my letter of Nov 22, and questions.

I enclose the response I received from the Police Commission. In particular, I notice that they "do not direct or oversee operational strategy of the department".

I think it is clear that the Commission regards its mandate as very narrow, meaning that effectively there is no public avenue for oversight of the department.

Perhaps the Charter Commission should consider whether the duties of the Commission should be expanded, if the Commission is to serve a useful function.

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

----- Original Message -----

Subject:Response to Letter

Date:Mon, 28 Nov 2011 07:40:07 -1000

From:Leil Koch <aceman.maui@gmail.com>

To:<sallyraisbeck@hawaii.rr.com>

CC:Cynthia E. Sasada <Cynthia.Sasada@mpd.net>

Dear Ms Raisbeck:

Thank you for your email and questions. I will attempt to answer in the order asked.

1) The Maui County Police Commissions' duties are as follows:

Review and submit department's annual budget request to the Mayor

Review and investigate any charges brought forth by the public against the conduct of the Department or any of its employees and submit a written report of its findings and recommendations to the Chief of Police for the Chief's disposition

Appoint or terminate with cause, the Chief of Police

Your question regarding guidelines, policies etc of the department should be directed to the Chief of Police.

2) This question should be directed to the Chief of Police and or Corporation Counsel.

3) The Maui Police Commission does not direct or oversee operational strategy.

4) This question should be directed to the Chief of Police

5) The Maui Police Commission does not direct or oversee operational strategy of the department.

6) Not really a question - beyond the scope of the Commission anyway

11/28/11 - Written testimony rec'd from Sally Raisbeck

7) That you would also have to ask the Chief of Police. The Commission doesn't comment on ongoing investigations - if any - it handles. Internal Affairs issues are also not made public.

8) We have had approximately 25 complaints filed with the Commission. Six have/are being investigated. The remaining were dismissed, turned over to the Chief for further action or denied.

This item is not on the agenda. You may, as any member of the public, provide public testimony for 3 minutes prior to the start of a Commission meeting. Thank you for your email and concerns for Maui County and the Maui Police Department.

Sincerely,

Leil Koch
Chair Police Commission

To: Maui Police Commission
From: Sally Raisbeck
427 Liholiho Street Wailuku HI 96793 808-244-9604,
sallyraisbeck@hawaii.rr.com
Date: November 22, 2011

Subject: Policy regarding acceptable use of force by police

To the Police Commission:

There are widespread demonstrations occurring in sympathy with the Occupy Wall Street Movement, The 99% Movement, etc. There have been numerous Internet videos showing the reactions of police in communities such as New York, Denver, Seattle, Portland, Oakland, UC Berkeley, UC Davis, etc.

At the moment, the video of the police pepper-spraying seated students at UC Davis, and the photograph of the 84-year-old woman pepper-sprayed in Seattle have gone viral on the Internet.

1. I would like to know what guidelines the Maui Police Department has in place for officers dealing with unarmed protesters. I would also like to know if the Police Commission has discussed potential problems that could arise on Maui and developed policies about the use of force during demonstrations. Surely it is better to have policies in place in advance, rather than dealing with incidents after they occur.
2. I would also like to know what instructions police officers receive regarding the constitution and the interpretation of the First Amendment.
3. The courts are beginning to distinguish between the use of force to repel actual attack, and the use of force to enforce compliance with orders. Has the Police

Commission considered this distinction?

4 . What are the rules regarding use of tasers? use of pepper spray? use of rubber bullets (if the MPD uses them) use of batons?. use of dogs? Are there other non-lethal methods used by the MPD?

5 . What are the instructions to officers about whether citizens have a constitutional right to photograph or video their actions in a public place?

(My concern is made greater because of the incident last April, when publisher Tommy Russo was told by a police officer that Russo had no right to photograph him in the Wailuku public parking lot, and confiscated his cell phone)

6. I also still have a major concern about the incident in Paia a few years ago, when a woman was shot dead by a police officer in downtown Paia in the afternoon. According to comments on the Internet, that was the same police officer as in the Russo incident.

7. I would like to know what investigation, if any, the Police Commission made of these incidents, and what the outcome was. Was there a report from Internal Affairs about them, and were you given that report?

8. I would also like to know how many complaints were filed during 2011 so far, and how many were investigated by the commission.

Please let me know by email or letter when this communication will appear on your agenda.

Thank you for any information you can give me about my concerns.

Sincerely,

A Concerned Citizen

Sally Raisbeck

427 Liholiho Street Wailuku HI 96793 808-244-9604 sallyraisbeck@hawaii.rr.com

cc: Maui Charter Commission