



2011-2012

MAUI COUNTY CHARTER COMMISSION

FINAL REPORT

MARCH 30, 2012

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2011-2012 MAUI COUNTY CHARTER COMMISSION FINAL REPORT

BACKGROUND:

The eleven members of the 2011-2012 Maui County Charter Commission ("Commission") were nominated by Mayor Alan M. Arakawa on January 26, 2011, and were subsequently confirmed by the County Council by Resolution No. 11-31, on April 1, 2011. The members appointed and confirmed were:

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

ORGANIZATION:

The Commission's first meeting was held on May 9, 2011. Mayor Alan M. Arakawa, selected Joshua A. Stone to Chair the Commission. The Commission elected Wayne N. Hedani to serve as Vice Chair of the Commission. The Commission adopted organizational and procedural rules for the conduct of its business.

The Commission sought to hire a Commission Analyst, and a Commission Secretary. The Commission was successful in hiring Jon M. Van Dyke and Sherry P. Broder, collectively, as the Commission Analyst. The Commission was unsuccessful in hiring a Commission Secretary.

Unexpectedly, on November 29, 2011, Jon M. Van Dyke passed away. The Commission was saddened and held a moment of silence for him at its meeting of December 12, 2011. The Commission was very grateful to have had the opportunity to work with Jon M. Van Dyke, and to benefit from his wealth of experience in law as well as having served as the previous Commission Analyst for the Maui County Charter Commission in 2001-2002. The Commission was thankful that his wife, Sherry P. Broder, was able to continue on as the Commission Analyst.

The Commission was also advised throughout by Edward S. Kushi, Jr., First Deputy Corporation Counsel, and aided by representatives of the Office of the Mayor, particularly, Executive Assistant, Michael Molina. Department of the

Corporation Counsel staff, Lisa A. Kahuhu, assisted with the duties of Commission Secretary. Court Reporter Tonya S. McDade of Certified Shorthand Reporters Maui, was hired to record the minutes of all meetings.

The Commission established a website at www.mauicounty.gov and an email address at charter.commission@co.maui.hi.us. All documents, agendas, minutes, and meeting schedules were posted on the website, and email notifications to subscribers were sent immediately after the postings.

The Commission followed all the rules established by the State's Sunshine Law in posting agendas in a timely fashion, and in allowing public testimony at all of its meetings.

A public binder was also created for review at the Department of the Corporation Counsel Office, as well as being available at all of the meetings.

The Commission met twice a month, and held its 2011 regular meetings at the Department of Planning's conference room located at Kalana Pakui Building, Suite 200, 250 South High Street, Wailuku. The 2011 regular meetings were scheduled as follows:

- Monday, May 9, 2011
- Monday, May 23, 2011
- Monday, June 13, 2011
- Monday, June 27, 2011
- Monday, July 11, 2011
- Monday, July 25, 2011
- Monday, August 15, 2011
- Monday, August 29, 2011
- Monday, September 12, 2011
- Monday, October 10, 2011
- Monday, October 24, 2011
- Monday, November 14, 2011
- Monday, November 28, 2011
- Monday, December 12, 2011

The Commission held its first round of public meetings in order to develop a record of public concerns and proposals regarding the Maui County Charter. These public meetings were held on the following dates, and at the following locations:

Wednesday	June 8, 2011	Mayor Hannibal Tavares Community Center, Pukalani	6:30 p.m.
Monday	June 13, 2011	Kahului Community Center, Kahului	6:30 p.m.

Tuesday	June 21, 2011	Paia Community Center, Paia	6:30 p.m.
Tuesday	July 5, 2011	Helene Hall, Hana	6:30 p.m.
Monday	July 11, 2011	Mitchell Pau`ole Center, Molokai	6:30 p.m.
Wednesday	July 13, 2011	Lahaina Civic Center, Lahaina	6:30 p.m.
Wednesday	July 20, 2011	Lanai Community Center, Lanai	7:30 p.m.
Monday	July 25, 2011	Kihei Community Center, Kihei	6:30 p.m.

The Commission established a Matrix (master list of proposals) which was updated regularly as proposals were received. A total of 125 plus proposals were received by the Commission.

The Commission established an Active Proposal List which included proposals from the Matrix that the Commission determined they would like to review further.

From the initial 125 plus proposals, the Commission moved numerous proposals to the Active List, and subsequently voted to have 21 proposals put into draft language. These 21 proposals were then put forth to the public and a second round of public meetings was held as follows:

Monday	December 12, 2011	Lahaina Civic Center, Lahaina	6:30 p.m.
Tuesday	December 13, 2011	Kihei Community Center, Kihei	6:30 p.m.
Wednesday	December 14, 2011	Mitchell Pau`ole Center, Molokai	6:30 p.m.
Monday	January 9, 2012	Paia Community Center, Paia	6:30 p.m.
Wednesday	January 11, 2012	Lanai Community Center, Lanai	6:30 p.m.
Wednesday	January 18, 2012	Wailuku Community Center, Wailuku	6:30 p.m.
Thursday	January 19, 2012	Helene Hall, Hana	6:30 p.m.
Wednesday	January 25, 2012	Mayor Hannibal Tavares Community Center, Pukalani	6:30 p.m.

After the second round of public meetings, the Commission continued with its deliberations at its regular meetings held at the Department of Planning's conference room located at Kalana Pakui Building, Suite 200, 250 South High Street, Wailuku, scheduled as follows:

Monday, February 13, 2012
Monday, February 27, 2012
Monday, March 5, 2012
Monday, March 19, 2012

The Commission voted to put 11 of the 21 proposals through to the ballot. The Commission took its final votes on March 19, 2012, and approved this report for transmission to the Mayor and County Council.

CHARTER COMMISSION REPORT:

The report that follows presents the proposed amendments to the Revised Charter of the County of Maui (1983) ("Charter"), as amended in 2003, 2006, and 2010, resulting from the deliberations of the 2011-2012 Maui County Charter Commission.

**RECOMMENDATIONS FOR SUBSTANTIVE CHANGES
TO THE MAUI COUNTY CHARTER**

**PROPOSAL ONE - ARTICLE 3, COUNTY COUNCIL TERM LIMITS,
SECTION 3-2**

The Commission recommends that:

1. Section 3-2, Subsection 5 of the Charter be amended to read as follows:

"Section 3-2(5). The term of office of council members shall be for [two (2) years,] four (4) years, beginning at twelve o'clock meridian on the second day of January following their election. Effective January 2, 2015, no [No] member of the county council, from any residency area, shall serve more than [five consecutive full terms] three (3) consecutive terms, whether such terms are two-year or four-year terms of office."

2. Section 15 of the Charter be amended to add a new section to be appropriately designated and to read as follows:

"Section 15-4. Transition Provisions Relating To Staggering Of Council Members' Terms. The terms of council members shall be staggered commencing on January 2, 2015, and shall be implemented in accordance with this section as follows: in the 2014 election, the five (5) council members

who receive the highest number of votes shall be elected to serve four (4) year terms; the remaining four (4) council members shall be elected to serve a two (2) year term commencing on January 2, 2015, provided that in the 2016 election, these council positions serving such two (2) year terms shall be elected to serve four (4) year terms commencing on January 2, 2017."

The ballot question would be as follows:

Shall Section 3.2, of the Charter of the County of Maui be amended to:

(a) Change the term of office for Council members from two (2) to four (4) years; and

(b) Limit the term to no more than three (3) consecutive terms; and

(c) Have the terms be staggered?

PROPOSAL TWO - ARTICLE 8, CHAPTER 7, SECTION 8-7.4 ASSIGNING OCEAN SAFETY AND RESCUE FROM THE DEPARTMENT OF PARKS AND RECREATION TO THE DEPARTMENT OF FIRE AND PUBLIC SAFETY

The Commission recommends that:

3. Section 8-7.4 of the Charter be amended to read as follows:

"Section 8-7.4. Powers, Duties and Functions. The fire chief shall: 1. Be the administrative head of the department.

2. Provide and perform fire fighting, rescue, shoreline and ocean rescue and safety, and first-responder emergency services in order to save lives and property from fires and other emergencies arising on land, sea, and hazardous terrain, including the mitigation and stabilization of hazardous materials and incidents relating to the same.

3. Provide public education programs related to fire prevention, shoreline and ocean rescue and safety, and public safety.

4. Train, equip, maintain, and supervise the force of fire fighting, shoreline and ocean rescue and safety, and emergency rescue personnel.

5. Investigate the cause, origin and circumstances of fires.

6. Adopt rules relating to the protection of persons and property against fires.

7. Monitor the standards for construction and occupancy of buildings for the purposes of fire prevention and life safety and approve building plans as provided by law.

8. Exercise such other powers and duties as may be assigned by the commission or as may be provided by law."

4. Article 15 of the Charter be amended to add a new section to be appropriately designated and to read as follows:

"Section 15-5. Upon adoption of the proposed 2012 amendment to Section 8-7.4, the Maui County Department of Fire and Public Safety shall provide the timetable for the transition to include the functions of shoreline and ocean rescue and safety."

The ballot question would be as follows:

Shall Section 8-7.4 of the Charter of the County of Maui be amended to assign shoreline and ocean rescue and safety to the Department of Fire and Public Safety?

**PROPOSAL THREE - ARTICLE 3, COUNTY COUNCIL, NEW SECTION 3-8,
OFFICE OF THE COUNTY AUDITOR**

The Commission recommends that:

5. Article 3 of the Charter be amended by adding new sections to be appropriately designated and to read as follows:

Section 3-8.1. Declaration of Policy. It is declared to be the policy of the county to promote economy, efficiency and improved service in the transaction of the public business in the legislative and executive branches of county by:

1. Limiting expenditures to the lowest amount consistent with the efficient performance of essential services, activities, and functions.
2. Eliminating duplication and overlapping of services, activities, and functions.
3. Consolidating services, activities, and functions of a similar nature.
4. Abolishing services, activities, and functions not necessary to the efficient conduct of government.

Section 3-8.2. Office of County Auditor and County Auditor.

1. There is established an office of the county auditor, to be headed by a county auditor who shall be appointed by the county council, by a majority vote of its membership, and shall serve for a term of six years. The county auditor may be re-appointed, or a successor appointed, by the council for subsequent terms of six years. The county auditor may hold over until a successor is appointed. The salary of the county auditor shall be determined by the salary commission. The council, by a two-thirds vote of its membership, may remove the county auditor from office at any time for cause. The county auditor shall be exempt from the civil service.

2. The county auditor shall possess adequate professional proficiency for the office, demonstrated by relevant certification as a certified internal auditor or certified public accountant, and have at least five years of experience in the field of auditing, evaluation, or analysis. The county auditor shall have a bachelor's degree in accounting, business administration, or public administration or related field.

3. Except for exercising the right to vote, neither the county auditor nor any staff member of the office of the county auditor shall support, advocate, or aid in the election or defeat of any candidate for county public office.

4. The county auditor shall appoint the necessary staff as shall be authorized by law. Persons appointed to such positions shall be exempt from the civil service and shall serve at the pleasure of the county auditor.

Section 3-8.3. Powers, Duties and Functions. 1. The county auditor shall have the duty and power to conduct or cause to be conducted:

a. The independent annual financial audit of the county, as authorized by Section 9-13 of this charter;

b. Other program, financial, or performance audits or evaluations regarding county organizations, operations, and regulations; and

c. Performance or financial audits of the funds, programs, or activities of any agency or function of the county, as the county auditor deems warranted; provided that, before each fiscal year, the auditor shall transmit a plan of the audits proposed to be conducted during the fiscal year to the mayor and the council, for review and comment, but not approval.

2. Audit findings and recommendations shall be set forth in written reports of the county auditor, a copy of which shall be transmitted to the mayor and to the council, which shall be public records, except as provided by law.

3. For the purposes of carrying out any audit, the county auditor shall have full, free, and unrestricted access to any county officer or employee and shall be authorized to examine and inspect any record of any agency or operation of the county, to administer oaths and subpoena witnesses, and compel the production of records pertinent thereto. If any person subpoenaed as a witness or compelled to produce records shall fail or refuse to respond thereto, the proper court, upon request of the county auditor, shall have the power to compel obedience to any process of the county auditor and to punish, as a contempt of the court, any refusal to comply therewith without good cause. Notwithstanding Section 3-6(6), the county auditor may, without council approval, retain special counsel to represent the county auditor in implementing these powers.

4. The county auditor shall submit its budget to the county council and its budget shall include the cost of government's budget subject to Article 9, Section 9-2(1).

Section 3-8.4. Cost of Government Commission. For the purpose of carrying out the policy set forth herein, in accordance with section 13-2 of this charter, the mayor with the approval of the council shall appoint a cost of government commission consisting of nine members. The commission shall be advisory to the county auditor.

The commission shall have the power and duty to:

1. Study and investigate the organizations and methods of operations of all departments, commissions, boards, offices, and other instrumentality of all branches of the county government and determine what changes, if any, may be desirable to accomplish the policy set forth herein.

2. Be authorized to secure directly from any department, commission, board, office, or any other

instrumentalities of all branches of the county government or from any individual officer or employee of the county, information, suggestions, estimates, and statistics necessary to carry out its duties.

3. Submit an annual report of its findings and recommendations to the mayor, council, and county auditor.

Section 3-8.5. Definitions. For the purpose of this section, the following definitions shall apply:

"Agency or operation of the county" includes any executive agency, semi-autonomous agency, council office, and other establishment of county government supported, in whole or in part, by county or public funds.

"Council office" includes the council itself, the office of a council member and the council member's immediate staff, the office of the county clerk, and the office of council services. This definition shall not be construed as excluding the office of the county auditor from the legislative branch.

"Record" includes any account, book, paper, and document, and any financial affair, notwithstanding whether any of the preceding is stored on paper or electronically."

6. Article 9, Section 9-13 of the Charter, relating to Audit of Accounts, be amended to read as follows:

Section 9-13. Audit of Accounts. Within six (6) months after the beginning of each fiscal year, [the county council shall provide for] the county auditor shall conduct or cause to be conducted an independent financial audit of the funds, accounts, and other evidences of financial transactions of the county and of all operations for which the county is responsible[.] for the audited fiscal year. The audit shall be [made] conducted by a certified public accountant or firm of certified public accountants[, designated by the council,] who have no personal interest, direct or indirect, in the fiscal affairs of the county or any of its operations. The audit shall include both financial accountability and adequacy of the financial and accounting system. If the State makes such an audit, the [council] county auditor may accept it as satisfying the requirements of this section. The scope of the audit shall be in accordance with the terms of a written contract [to be] recommended by the county auditor and signed by the council chair[,] as the contracting officer for the legislative branch, which contract shall encourage recommendations for better financial controls and procedures and shall provide for the completion of the audit within a reasonable time after the close of the previous fiscal year. A copy of the audit reports shall be filed with the county clerk and shall be a public record[.], unless otherwise provided by law.

In case of the death, resignation, or removal of the director of finance, the council shall cause an independent audit to be made of the finance director's accounts."

7. Article 15 of the Charter, relating to Transitional Provisions, be amended to add a new section to be appropriately designated and to read as follows:

"Section 15-5. Transfer of Audit Functions to the Office of the County Auditor. 1. All lawful obligations and liabilities owed by or to the office of council services relating to financial and performance audits on June 30, 2013 shall remain in effect on July 1, 2013. The obligations and liabilities shall be assumed by the office of the county auditor.

All contracts held by the office of council services relating to financial and performance audits which are to remain effective after June 30, 2013 shall be assumed by the office of the county auditor. The contracts shall continue in effect until fulfilled or lawfully terminated.

All financial and performance audit activities administered by the office of council services on June 30, 2013 shall be assumed by the office of the county auditor on July 1, 2013.

2. On July 1, 2013, all records, data, and information held by the office of council services relating to financial and performance audits which have not been completed as of June 30, 2013 shall be transferred to the office of the county auditor."

8. Article 8, Chapter 16, should be deleted in its entirety as follows:

"[Section 8-16.1. Declaration of Policy. It is declared to be the policy of the county to promote economy, efficiency and improved service in the transaction of the public business in the legislative and executive branches of county by:

1. Limiting expenditures to the lowest amount consistent with the efficient performance of essential services, activities, and functions.

2. Eliminating duplication and overlapping of services, activities, and functions.

3. Consolidating services, activities, and functions of a similar nature.

4. Abolishing services, activities, and functions not necessary to the efficient conduct of government.

Section 8-16.2. Cost of Government Commission. For the purpose of carrying out the policy set forth herein the mayor with the approval of the council shall biennially

appoint a cost of government commission consisting of nine members. Each such commission shall:

1. Prepare and submit to the mayor a request for an appropriation for the operation of the commission.

2. Study and investigate the organizations and methods of operations of all departments, commissions, boards, offices and other instrumentality of all branches of the county government and determine what changes, if any, may be desirable to accomplish the policy set forth herein.

3. Be authorized to secure directly from any department, commission, board, office, or any other instrumentalities of all branches of the county government or from any individual officer or employee of the county, information, suggestions, estimates, and statistics necessary to carry out its duties.

4. Submit a report of its findings and recommendations to the mayor and council not later than eleven months after its appointment.

Section 8-16.3. Term of Commission. Members of the Cost of Government Commission shall serve for staggered terms of two years, with an initial appointment of four members to serve two year terms and five members to serve one year terms. A member may be reappointed, but shall not serve on the commission for more than a total of four years.]”

The ballot question would be as follows:

Shall the Charter be amended to establish an independent Office of the County Auditor, to provide for the appointment and removal of an independent County Auditor by the County Council, to define the County Auditor’s duties and powers in order to increase accountability and efficiency of County operations, to attach the Cost of Government Commission as an advisory board to the County Auditor, and to make other clarifying, conforming, transitional, and related amendments?

PROPOSAL FOUR - ARTICLE 3, COUNTY COUNCIL, SECTION 3-5,
PROCEDURE; MEETINGS; RULES AND JOURNAL; VOTING; REQUIRE
INTERACTIVE COMMUNICATIONS ACCESS FOR PUBLIC TESTIMONY AT
ALL COUNTY COUNCIL AND COUNTY COUNCIL COMMITTEE MEETINGS

The Commission recommends that:

9. Section 3-5 of the Charter be amended to add a new subsection to be appropriately designated and to read as follows:

"Section 3-5(5). To the extent capable, the council shall provide interactive communications access for the residents of Hana, Lana'i, Moloka'i and other geographic areas as the council shall deem appropriate and reasonable to all county council meetings and county council committee meetings. Said access shall include, but not be limited to, the ability of the public to testify, of council members to ask questions, and of the public to respond to questions."

The ballot question would be as follows:

Shall Article 3, County Council, of the Charter of the County of Maui be amended to require interactive communications access for public testimony at all County Council and County Council committee meetings for the residents of Hana, Lana'i, Moloka'i and other geographic areas as the Council deems appropriate and reasonable?

PROPOSAL FIVE - AMEND ARTICLE 14, CHARTER AMENDMENT, TO ADD A NEW SECTION TO REQUIRE THAT THE CHARTER BE REVISED AND PUBLISHED TO INCLUDE ALL NEW SIGNIFICANT AMENDMENTS ADOPTED

The Commission recommends that:

10. Article 14 of the Charter be amended to add a new section to be appropriately designated and to read as follows:

"Section 14-4. Publication of Maui County Charter.
The Maui county charter shall be revised and published in its entirety following any special or general election on any proposed charter, or revision or amendment thereto to include all new significant amendments adopted."

The ballot question would be as follows:

Shall Article 14, Charter Amendments, be amended to add a new section to require that the Maui County Charter be revised and published to include all new significant amendments adopted?

PROPOSAL SIX - ARTICLE 13, GENERAL PROVISIONS, SECTION 13-2, BOARDS AND COMMISSIONS, REQUIRE THE COUNTY OF MAUI TO FUND THE DEFENSE OF MEMBERS OF ALL COUNTY OF MAUI BOARDS AND COMMISSIONS AND TO IDEMNIFY SAID MEMBERS

The Commission recommends that:

11. Section 13-2 of the Charter be amended by adding a new subsection to be appropriately designated and to read as follows:

"Section 13-2(18). The county shall provide the defense by the corporation counsel or funds to pay for the defense of members of all Maui county boards and commissions, and shall indemnify all members of boards and commissions in the event of a civil action as a result of the bona fide and good faith discharge of their official duties and indemnify said members in the event of the lawful performance of their duties."

The ballot question would be as follows:

Shall Article 13, General Provisions, of the Charter of the County of Maui be amended to require the County of Maui to fund the defense of members of all County of Maui boards and commissions in the bona fide and good faith discharge of their official duties and indemnify said members in the event of civil action as a result of the lawful performance of their duties?

PROPOSAL SEVEN - ARTICLE 3, COUNTY COUNCIL RESIDENCY REQUIREMENTS

The Commission recommends that:

12. Section 3.3 of the Charter, should be amended to read as follows:

Section 3.3. Qualifications. To be eligible for election or appointment to the council, a person must be a citizen of the United States, a voter in the county, [a resident of the county for a period of ninety (90) days next 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.] and be a resident in the area of the county from which the person seeks to be elected for a period of one year before the filing of nomination papers. If a council member ceases to be a resident of the county, or ceases to be a resident of the council member's residency area during the council member's term of office, or if a council member is adjudicated guilty of a felony, the council member shall immediately forfeit office and the seat shall thereupon become vacant."

The ballot question would be as follows:

Shall Section 3.3 of the Charter of the County of Maui be amended to increase the time period for residency requirements in the County of Maui, and from the area which the person seeks to be elected from 90 days to 1 year before a candidate for council files nomination papers?

PROPOSAL EIGHT - ARTICLE 7, MAYOR RESIDENCY REQUIREMENTS

The Commission recommends that:

13. Section 7.3 of the Charter be amended to read as follows:

"Section 7-3. Qualifications. Any citizen of the United States who is a voter of the county and a resident of the county for a period of at least [ninety (90) days] one (1) year next preceding the filing of nomination papers shall be eligible to be mayor. Upon removal of the mayor's residence from the county, the mayor shall by that fact be deemed to have vacated the office of mayor. If the mayor ceases to be a voter of the county, or is adjudicated guilty of a felony, the mayor shall immediately forfeit the office of mayor."

The ballot question would be as follows:

Shall Section 7.3 of the Charter of the County of Maui be amended to increase the time period for residency requirement in the County of Maui from 90 days to 1 year before a candidate for Mayor files nomination papers?

PROPOSAL NINE - ARTICLE 8, CHAPTER 15, DEPARTMENT OF ENVIRONMENTAL MANAGEMENT, TO ADD ENVIRONMENTAL PROTECTION AND SUSTAINABILITY TO THE POWERS, DUTIES, AND FUNCTIONS OF THE DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

The Commission recommends that:

14. Section 8-15.3 of the Charter be amended to read as follows:

"Section 8-15.3. Powers, Duties and Functions. The director of environmental management shall: 1. Supervise waste management and control of pollution, including recycling, litter control, and protection of the unique beauty of Maui [County.] county.

2. Plan, design, build, operate, and maintain solid waste collection, processing and disposal systems, including recycling programs.

3. Plan, design, build, operate, and maintain the county's sewer treatment plants, pump stations, sewer lines, reclaimed water distribution systems, and related programs.

4. Guide efforts to optimize opportunities for environmental, natural resource protection, sustainability, conservation, and restoration.

[4.]5. Perform such other duties and functions as shall be assigned by the mayor."

The ballot question would be as follows:

Shall Section 8-15.3 of the Charter of the County of Maui be amended to add the following to the Powers, Duties and Functions of the Director of the Department of Environmental Management:

Guide efforts to optimize opportunities for environmental, natural resource protection, sustainability, conservation, and restoration?

PROPOSAL TEN - ARTICLE 8, CHAPTER 7, DEPARTMENT OF FIRE AND PUBLIC SAFETY, SECTION 8-7.2; ARTICLE 8, CHAPTER 9, DEPARTMENT OF PERSONNEL SERVICES, SECTION 8-9.4; ARTICLE 8, CHAPTER 12, DEPARTMENT OF POLICE, SECTION 8-12.2; ARTICLE 8, CHAPTER 13, DEPARTMENT OF LIQUOR CONTROL, SECTION 8-13.2, TO PROVIDE CONSISTENCY IN THE PROCESS IN WHICH THE VARIOUS COMMISSIONS OF THE LISTED DEPARTMENTS THAT APPOINT ITS DIRECTORS OR CHIEFS HANDLE THE EVALUATION AND REMOVAL OF ITS DIRECTORS OR CHIEFS

The Commission recommends that:

15. Article 8, Chapter 7, Section 8-7.2 of the Charter be amended to read as follows:

"Section 8-7.2. Fire and Public Safety Commission.

The fire and public safety commission shall consist of nine members appointed by the mayor with the approval of the council. The fire and public safety commission shall:

1. Adopt such rules as it may consider necessary for the conduct of its business and regulation of the matters committed to its charge by law.

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

3. Review the operations of the department of fire and public safety and the civil defense agency and make recommendations for changes that may be desirable to improve the performance of emergency functions and the provision of public safety services.

4. Receive, review, and investigate any charges brought forth by the public against the conduct of the department of fire and public safety or any of its members and submit a written report of its findings and recommendations to the fire chief for disposition.

5. [Evaluate at least annually] Annually review and evaluate the performance of the fire chief and submit a report to the mayor and the council.

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

7. Have such other powers and duties as may be provided by law.

Except for purposes of inquiry or as otherwise provided in this charter, neither the commission nor its members shall interfere in any way with the administrative affairs of the department."

16. Article 8, Chapter 9, Section 8-9.4 of the Charter, should be amended to read as follows:

"Section 8-9.4. Civil Service Commission. The civil service commission shall consist of five members appointed by the mayor with the approval of the council.

The civil service commission shall:

1. Adopt rules having the force and effect of law to carry out the provisions of the civil service laws of the State.

2. Request an annual appropriation for the operation of the department.

3. Hear appeals, in accordance with law, by any officer or employee aggrieved by any action by the director of personnel services or by an appointing authority.

4. Advise the mayor and director of personnel services on problems concerning personnel administration.

5. Annually review and evaluate the performance of the director of personnel services and submit a report to the mayor and the council.

[5.]6. Have such other powers and duties as may be provided by law."

17. Article 8, Chapter 12, Section 8-12.2 of the Charter be amended to read as follows:

"Section 8-12.2. Police Commission. The police commission shall consist of nine members appointed by the mayor with the approval of the council.

The police commission shall:

1. Adopt such rules as it may consider necessary for the conduct of its business and regulation of the matters committed to its charge by law.

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

3. Receive, review and investigate any charges brought forth by the public against the conduct of the department or any of its members and submit a written report of its findings and recommendations to the chief of police for the chief's disposition.

4. Annually review and evaluate the performance of the chief of police and submit a report to the mayor and the council.

[4.]5. Have such other powers and duties as may be provided by law."

18. Article 8, Chapter 13, Section 8-13.2 of the Charter be amended to read as follows:

"Section 8-13.2. Liquor Control Commission. The liquor control commission shall consist of nine members appointed by the mayor with the approval of the council.

The liquor control commission shall:

1. Prepare and submit a request for an annual appropriation for the operation of the department.

2. Adopt rules having the force and effect of law for the administration of liquor control in the county and to carry out provisions of the liquor control laws of the State, including, but not limited to, the fixing of liquor license fees.

3. Grant, renew, or refuse applications for licenses for the manufacture, importation and sale of liquor in the county under applicable laws and regulations.

4. Annually review and evaluate the performance of the director of liquor control and submit a report to the mayor and the council.

[4.]5. Have such other powers and duties as may be provided by law not in conflict with the provisions of this section."

19. Article 8, Chapter 13, Section 8-13.4 of the Charter be amended to read as follows:

"Section 8-13.4. Director of the Department of Liquor Control. 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 control commission only after being informed in writing of the charges which 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 had a minimum of five years experience in law enforcement, at least three of which shall have been in an administrative capacity."

The **ballot question** would be as follows:

Shall Chapters 7 (Department of Fire and Public Safety), 9 (Department of Personnel Services), 12 (Department of Police), and 13 (Department of Liquor Control) of Article 8 of the Charter be amended to provide consistency in the process in which the various commissions of the listed departments that appoint its directors or chiefs handle the evaluation and removal of its directors or chiefs?

PROPOSAL ELEVEN - PREAMBLE

The Commission recommends that:

20. The Preamble of the Charter be amended to read as follows:

WE, THE PEOPLE OF THE COUNTY OF MAUI, mindful of our Hawaiian history, heritage and culture and our uniqueness as a four island county, dedicate our efforts to fulfill the philosophy decreed by the Hawaii State motto, "Ua mau ke ea o ka aina i ka pono," ["The life of the land is perpetuated in righteousness."]

[WE, THE PEOPLE OF THE COUNTY OF MAUI,] In order to secure the benefits of the best possible form of county government and to exercise the powers and assume the responsibilities of county government to the fullest extent possible, we do hereby adopt this charter of the County of Maui, State of Hawai`i."

The **ballot question** would be as follows:

Shall the Preamble of the Maui County Charter be amended to add that the people of the County of Maui being mindful of their Hawaiian history, heritage and culture and uniqueness as a four island County shall dedicate their efforts to fulfill the philosophy decreed by the Hawaii State motto, "Ua mau ke ea o ka aina i ka pono," ["The life of the land is perpetuated in righteousness."]?