

Post-It™ brand fax transmittal memo 7671		# of pages ▶ 1
To Teryl Vencil	From B. Long	
Co. Charter Comm.	Co.	
Dept.	Phone # 878-8529	
Fax # 244 3094	Fax #	

October ²² 20, 2001

TO: Maui County Charter Commission

FROM: Barbara Long

Thank you for your attention and interest in my testimony on October 8th.
In response to some Commissioners' comments:

Re. appointment of qualified persons to Planning Commission (and to other boards and commissions). Article 6, Section 6.2 (2) states "no appointing authority shall appoint any person...until satisfied by proper investigation that the person...is fully qualified by experience and ability to perform the duties of the office or position." (underlining mine). Perhaps your counsel could provide additional language for this section which would ensure the type of investigation, qualifications, ability, etc. pertinent.

Re. the Council's part in nominating Planning Commissioners etc., only two on each commission (unless resignations occur) are made each year, and beginning in the Fall, with the Mayor's selection by February, the County accepts applications from volunteers. My experience has been that those residents who have volunteered by sending in their applications for Boards and Commissions do a more informed, considered job as commissioners than those who have been asked to apply by the Administration (often at the last minute). There are always many applications on file; however, only the application forms of those nominated by the Mayor are available to Councilmembers, who do NOT then have an opportunity to review other potential qualified and interested volunteers for Boards and Commissions. Can this be changed?

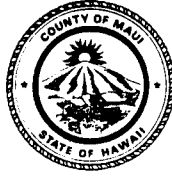
I would also like to point out that there is presently NO requirement for equal GENDER REPRESENTATION on Boards and Commissions! The Board of Variances has only one woman, the Urban Design Review Board has NONE!!! At the very least, county boards and commissions should have balanced gender requirements.

And thank you for your serious consideration of a new County Director of Cultural and Historic Resources. Presently there is a huge gap between the identification of such resources and the creation and implementation of a preservation plan that is county wide, and addresses the land use, planning, permitting and economic aspects of Maui's prehistoric and historic resources. Only with the expertise of a trained, experienced preservation director can Maui hope to retain its unique sense of place and its long-term value as a community and a destination.

Mahalo nui loa!

Barbara Long

JAMES "KIMO" APANA
Mayor



JAMES B. TAKAYESU
Corporation Counsel

DEPARTMENT OF THE CORPORATION COUNSEL

COUNTY OF MAUI
200 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793
TELEPHONE: (808) 270-7740 FAX (808) 270-7152

~~August 3, 2001~~ *October 11, 2001*

The Honorable Earl Anzai
Attorney General
Office of the Attorney General
425 Queen Street
Honolulu, HI 96813

Re: Request for an opinion relating to Chapter 50, Hawaii Revised Statutes, pertaining to county charter commissions

Dear Attorney General Anzai:

At a recent meeting of the Maui County Charter Commission, the Chair and members of the Commission requested that our office inquire into the status of our request, made by letter dated August 3, 2001, for the Attorney General's opinion regarding Chapter 50, Hawaii Revised Statutes, pertaining to county charter commissions.

On behalf of the Charter Commission, we reiterate our continued and sincere interest in your opinion on the issues posed in our Department's August 3, 2001 letter. It is our understanding that Deputy Attorney General Charleen Aina has been assigned the task of responding to our request, and we look forward to receiving a response.

Thank you for your assistance in this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Brian T. Moto".

Brian T. Moto
Deputy Corporation Counsel

cc: James B. Takayesu, Corporation Counsel
Terryl Vencl, Chair, Charter Commission
The Hon. Patrick S. Kawano, Chair, County Council
Myles Inokuma, Executive Assistant, Office of the Mayor

County of Maui- Fire, Rescue, and Emergency Services Commission
Standard of Excellence

The broad spectrum of emergency services has grown in Maui County and along with this growth, the responsibilities to the Maui Fire Department have seen a significant increase. Changes in the county charter reflect an addition of rescue responsibilities in 1984 and hazardous material response in 1992. The new challenges facing our fire department are more difficult then ever before in the history of the fire service. Terrorism, confine space rescue, structural collapse and trench rescue, high angle and low angle rope rescue, swift water rescue, heavy surf rescue are disciplines which require specialized training. Our County Charter needs revisions to reflect the changes in national consensus and standards regarding fire and emergency services. Our values need to promote a standard of performance that is second to none.

Performance = Preparation

Preparation = Education + Training

Thus, a Standard of Excellence for Public Safety

The purpose of the proposed "Fire, Rescue and Emergency Services Commission" will provide Vision, Consensus Building, and Empowerment to our fire fighters, providing key factors to the success of our service.

Written testimony from Elvin Kamoku- Maui Division Chair
Hawaii Fire Fighters Association- Local 1463
Phone No. 875-0898
October 8, 2001

*To Brian
From Fe'ala*

CONFIDENTIAL
NOV 14 2001 10:07 AM

October 8, 2001

TO: Maui County Charter Commission

FROM: Barbara Long

①

I strongly oppose any change in the SMA authority which now resides in the Maui Planning Commission. My 5-year experience on the Planning Commission covered a number of contentious SMA applications (AmFac's Kaanapali Beach Resort timeshare, Kaanapali Beach Hotel's proposed shoreline setback variance for a new restaurant). There were a number of applications by affected parties to intervene, which resulted in a quasi-judicial process, served the public well, and brought about complete disclosure of environmental and infrastructural problems and allowed for mitigating measures. Moving the Coastal Zone Management (SMA) determination process out of the Planning Commission will curtail the intervention procedure, and thus limit the public's right to participate in thorough review.

The SMA process can be reviewed in order to provide more fairness, however. First, the Planning Commission should review the EA or prep EIS, which -- if it is prepared by the applicant -- often does not present a full disclosure of Community Plan policies or impacts.

Second, the office of the councilmember whose district the application is located within should be somehow involved. There should be a formal method of advocacy for environmental, infrastructural and other concerns, and a more balanced presentation by the developer/applicant. Time limits for both applicant and opposing viewpoints need to be reviewed, to fairly cover all pertinent points and avoid formal intervention. But as a public resource, intervention MUST be a viable option in the SMA discussion.

Other Charter Concerns:

②

Recognizing the emphasis on specialized tourism, and the importance of Maui's culture, history, and sense of place to a successful visitor economy as well as to the quality of life of Maui residents, it is time to acknowledge that there is, at present, no Maui County advocate for the recognition, protection and preservation of Maui's prehistoric, missionary, plantation, ethnic, architectural, whaling and monarchy sites and history. Therefore I propose the Charter mandate a County Director of Cultural and Historic Resources, to be a qualified, experienced professional in the field, to provide advice, guidance, programs, coordination in all County matters affecting these resources. *either in Planning, Maui or Maui*

graduate?

③

Also, job-related criteria for Director positions should, at the minimum, require an appropriate degree in the field and ten years of experience (with some of that preferably off-Maui). Measures MUST be considered that will eliminate the appearance of impropriety and apparent conflict of interest resulting from the "revolving-door" of consultant-director-consultant now existing. Leadership qualities, effectiveness and past positive experience should be criteria. All Department Heads MUST be approved by County Council.

in similar communities

The Charter should list ALL Boards and Commissions under their respective administrative departments. The Parks Department needs to have a new

*Maui
Dir ?*

Parks Commission working with the department and the Arborist Committee to determine specific district needs and deficiencies, and to ensure better public input into the development and maintenance of Maui's parks, greenways, bike paths, equestrian trails, beach access, etc.

In addition to the above, I support:

Changing term of Council to four years, in a staggered manner

Ensure a community=plan=compliant process for administrative review of all CIP projects annually, , and include ALL county departments, including the Water Department/Board! ADD to Section 7-5.7: "Control, manage and execute the annual operating budget and capital program in compliance with the community plans."

Blackburn

Written Testimony Supporting Changes to the Maui County Charter Regarding the Department of Fire Control

1. Testimony regarding qualifications for the Fire Chief and Deputy Fire Chief.

The missions of fire and emergency services departments have dramatically changed in the last 15 years. From only fire related response and functions, fire and emergency service departments have evolved into being responsible for all emergency services, except law enforcement in the United States. Changes to the Maui County Charter include addition of rescue responsibilities in 1982, and hazardous materials in 1992. The challenges facing our fire departments are more difficult than ever before in the history of fire services. New challenges include terrorism, confined space rescue, structural and trench collapse, and many other areas of specialized response. Training or experience within our own jurisdiction will not prepare our leaders for this changing environment.

Our County Charter needs to be revised to reflect the national consensus and standards regarding fire and emergency services. Our selection process, which sets very minimum standards for our fire leaders, is outdated. I have enclosed a copy of the Executive Fire Officer Development Program from the National Fire Academy, as one of the criteria that should be encouraged for our future leaders. Its interesting that all the top chiefs for the Maui Police Department are graduates of the FBI Police Academy, yet not one of Maui Fire personnel at the chief rank (Fire Chief, Deputy Fire Chief or Assistant Fire Chief (3) has ever attended an Executive Fire Officer Program Class at the National Fire Academy. The City and County of Honolulu adopted a fire commission a couple of years ago and their top leaders have master's degrees in business and are graduates of the Executive Fire Officer Program at the National Fire Academy. The changes in vision and leadership skills are apparent within the Honolulu Fire Department. We need to set the standard now for our future leaders. Just having administrative experience or time as a fire captain or assistant fire chief within Maui County does not get our personnel ready for the next level. College degrees in fire science, public or business administration need to be set as criteria for advancement to our top levels of management. Attendance at the National Fire Academy should be encouraged for all the different levels of fire fighters, and top managers need to have the educational experience that attendance at the NFA in Maryland brings. We must learn from the other fire departments that have, or are going through the challenges Maui County now faces. The framework of our leaders ought to be built around the national standards of the fire service, not the limited framework of the County of Maui, or State of Hawaii. Vision, consensus building, and empowerment will be the keys to our success as a fire service.

Leaders
good people
but need
more
qualifications

2. Inclusion of Medical Response in the County Charter for the Maui Fire Department.

While teaching fire and emergency law for Maui Community College, I came across this area of liability, which may be of concern to the Charter Commission.

- a. Was a duty created by statute or other law that required fire or emergency service organization to respond?

At this time our fire department is responding to many medical calls. Yet it is not specifically spelled out within our duties in the County Charter. I have concerns due to the lawsuit in Honolulu regarding the house fire in Palolo Valley in which the Honolulu Fire Department was sued for responding to a medical call, during which time a fire called was received and people died. I am asking the commission to investigate if medical response should be added as one of our primary duties within the County Charter, similar to the additions of rescue and hazardous materials.

3. Transfer of the Beach Lifeguards to the Maui Department of Fire Control

At this time the Beach Lifeguards are under the Department of Parks and Recreation. As the Maui Department of Fire Control has rescue protection under its charter responsibilities, and beach lifeguards are an emergency rescue function, it would make sense to have the all the emergency rescue functions within the same department. After 4:30 PM when the lifeguards go off duty, jet skis, four wheel drive quads, pickup trucks with emergency lights and other equipment is not available for ocean or beach response. Also many of our ocean responses are a joint effort, the Maui Fire Rescue Boat(s), Helicopter and shoreline engine companies, are working with the Lifeguards and their equipment. Problems with communications and operating guidelines would be solved. The public would be better served by less duplication of equipment along with more equipment availability twenty-four hours a day, better supervision, and more timely response. Emergency services fit better under the fire department than the Department of Parks and Recreation.

4. Establishment of a Fire Commission

The national trend is establishment of a fire commission with the authority to hire and remove the fire chief. The commission serves as a conduit between the political process, public involvement, and the fire fighters. A fire commission properly set up will foster educational and managerial criteria for our leaders, along with helping our current leaders put the present the agenda of the fire department without undue political influence. Maui County has gone from a very rural community, to a community with wildland-urban fire interface, very large occupancies, hazardous chemicals, and all the problems of a modern community. Most locations on the mainland can call for mutual aid, within Maui County we are spread over three islands, and mutual aid is minimal. We must be better, our tourism economy is built on the perception of safety and fun in Hawaii. Our charter needs to reflect the changes in our community, and provide for the best professional emergency services for our community

Supplemental Information:

INFORMATION REGARDING THE EXECUTIVE FIRE OFFICER PROGRAM, NATIONAL FIRE ACADEMY

EXECUTIVE DEVELOPMENT (R123)

Executive Development is the entry course for the Executive Fire Officer Program (EFOP). It is intended to assist fire service personnel in developing effective management and leadership skills as they make the transition from manager to senior executive. Through a combination of theory, case study analysis, reflection, introspection, and self/observer-based assessment, students learn how to enhance team development and apply action research.

Executive Development course units include working as a team, individual professional development, research, problem-solving, following and leading, ethics, creativity and innovation, marketing in the public sector, organizational change and development, outside perspectives, service quality, legal aspects of fire protection, and research project reports.

Executive Development serves as a bridge between the Management Series and the Executive Fire Officer series. Participation assumes the successful completion of the Management Series or equivalent instruction.

ACE Recommendation: In the graduate or upper division baccalaureate degree category, 3 semester hours in Personnel Management, Public Administration, Organizational Behavior, Management, or Fire Science as an elective. Students who are EFOP participants will be eligible to receive graduate-level credit with successful completion of the Applied Research Project.

Postcourse Requirement for EFOP Students: An Applied Research Project is a required postcourse activity.

SELECTION CRITERIA FOR EFOP

The EFOP target audience is current and emerging executive-level leaders in fire and emergency services organizations. The selection criteria are divided between two requirements areas: Service Requirement and Academic Requirement.

Service Requirement

- Chiefs of department or equivalent.
- All other chief officers.
- Chief officers or equivalent who head major bureaus or divisions within a fire department, e.g., suppression, prevention, training, emergency medical services, etc.
- Chief officers and senior deputies of State governmental fire organizations, e.g., State Fire Marshals and State Directors of Fire Training.
- Other individuals who are serving in "key leadership" positions. Please refer to "Key Leaders" selection criteria below.

Academic Requirement

Applicants must have attained an Associate's degree or greater from a regionally accredited institution of higher learning. No exception will be made to this requirement.

Beginning October 1, 2009, (FY 2010), applicants must have attained a minimum of a Bachelor's degree.

"Key Leaders" Selection Criteria

The EFOP is USFA's premier executive education program with a limited capacity of participants each year. The primary audience is executive-level chief officers; however, beginning in FY 02 a limited number of non executive-level applicants who are serving in "key leadership" positions will be considered for the EFOP. Once the minimum Academic Requirement has been demonstrated, candidates will be selected on the following criteria:

- An advanced academic degree from a regionally accredited college or university.
- Successful completion of the NFA Leadership Development Program or comparable training.
- Unique perspectives that broaden the diversity of EFOP.
- Strength of the department chief's or sponsor's recommendation, commitment to supporting the applicant's participation and description of the applicant's potential impact on the organization.
- Personal accomplishments and significant contributions to the fire and emergency services and/or the community.
- Potential for future impact on the fire service.

It is expected that the number of applications for these limited number of positions will be very competitive in nature. Therefore, applicants are encouraged to carefully review all of aforementioned and following selection/application elements.

*Office of Admissions, Building 1, Room 216
National Emergency Training Center
16825 South Seton Avenue
Emmitsburg, MD 21727-8998*

EFOP candidates who have complied with the EFOP minimum prerequisites will be forwarded a secondary, essay-based application form. Both application forms, as well as the accompanying materials, will be evaluated in assessing each applicant's qualifications for EFOP acceptance. Final selection is competitive due to the limited number of available slots. Each applicant will be notified in writing as to either acceptance or non-acceptance into the EFOP. Qualified women and minority candidates are encouraged to apply.

REQUIREMENTS FOR CONTINUING ELIGIBILITY

Because of the intense competition for admission to the EFOP, the Academy has very stringent requirements for continuing eligibility. Reduction of a participant's rank or responsibility, either voluntarily or involuntarily, will result in removal from the EFOP. Changes in a participant's employment status during the 4-year period of the program may alter eligibility to continue in the EFOP. Any such change must be brought to the attention of the Academy immediately in order to determine continuing eligibility. Participants are required to notify the NETC Office of Admissions

in writing immediately if they cannot attend a scheduled course; otherwise, they will be removed from the EFOP.

NOTE: Future participation in EFOP courses is contingent upon the successful completion of the required Applied Research Projects. The participant bears the responsibility for any travel costs associated with course cancellation, for failing to complete the required research in a timely manner.

CONDITIONAL ACCEPTANCE TO EFOP

Individuals who have completed EFOP courses in a non-EFOP status later may elect to apply for the EFOP. Those interested in this must follow the application process stated earlier. If the applicant is accepted, consideration will be extended toward any EFOP course(s) already completed. If the course(s) completed is accepted as a valid equivalency, the individual will be provided a period of time to complete the Applied Research Project(s) for the course(s) completed. These research project(s) must be completed before the applicant participates in the next scheduled EFOP course.

PARTICIPATION AS A NON-EFOP PARTICIPANT

Each year a limited number of spaces is available for individuals interested in taking an EFOP course, but not as part of the 4-year program. This may be the result of not meeting the academic degree requirement, and/or not wanting to commit to the 4-year time period and research project requirements. In either case, participants still must qualify by rank/position. Non-EFOP applicants for EFOP course offerings should follow the General Admissions Application process.

EXECUTIVE FIRE OFFICER PROGRAM CURRICULUM

1st Year

Course: Executive Development (R123)

Requirement: Applied Research Project

2nd Year

Course: Strategic Management of Change (R130)

Requirement: Applied Research Project

3rd Year

EFOP Participants Accepted Prior to FY01
<i>Student elects one of the following courses:</i>
<u>Advanced Leadership Issues in Emergency Medical Services (R151)</u>
<u>Executive Analysis of Fire Service Operations In Emergency Management (R306)</u>
<u>Executive Planning (R506)</u>
<u>Fire Service Financial Management (R333)</u>
<u>Strategic Analysis of Community Risk Reduction (R309)</u>
<i>Requirement: Applied Research Project</i>

EFOP Participants Accepted in FY01 and Beyond
<i>Course: New Risk Reduction/Prevention course scheduled to be out in FY 2003</i>
<i>Requirement: Applied Research Project</i>

4th Year

Course: **Executive Leadership (R125)**

Requirement: Applied Research Project

When the final Applied Research Project has received a passing grade, the student is awarded the Executive Fire Officer Program Certificate

FEMA/USFA/NFA ANNOUNCES CHANGES TO THE EXECUTIVE FIRE OFFICER PROGRAM (EFOP)

The Executive Fire Officer Program (EFOP) has existed since 1985 with over 1,500 senior fire executives having successfully completed this professional development opportunity. The US Fire Administration (USFA) announces a number of changes to the EFOP. During 2000, various activities were conducted to review and assess the EFOP. A variety of constituency groups offered recommendations, and USFA already has incorporated a variety of changes. Other modifications will be implemented over the next 2 years. Following is a summary of the most notable changes:

- **Target Audience:** The EFOP target audience will largely remain the same, but beginning in FY 02 USFA will feature a "Key Leaders" participation component. A limited number of non executive-level applicants who are serving in "key leadership" positions will be considered for the EFOP. Please refer to the "Key Leaders Selection Criteria" for more

information.

- *Four Year Core Curriculum:* Presently EFOP features a three-year core curriculum with an additional year consisting of a choice between five elective courses. USFA strongly believes that the EFOP experience should include an executive level curriculum devoted to risk reduction and prevention. A new curriculum will be designed and offered beginning in FY 03. Therefore, this curriculum will affect EFOP participants who enter EFOP in FY 01 and later.
- *Academic Requirement:* All EFOP applicants must presently possess a minimum academic achievement of an Associates Degree from a regionally accredited college or university for further consideration. Beginning October 1, 2009, all applicants must possess a minimum of a Bachelor's degree from a regionally accredited college or university. This requirement is consistent with the International Association of Fire Chiefs "Chief Fire Officer Professional Designation" program.

A variety of other changes have either been made or will be enacted to improve the completion of Applied Research Projects, the EFOP Graduate Symposium, existing courses within the EFOP, and other programmatic areas.

Recent Job Announcements for Emergency Service Managers or Fire Chiefs

EMERGENCY SERVICES MANAGER

Salary: \$59,375 - \$83,547 /yr.

New Castle County Government

New Castle, Delaware

New Castle County Government, Delaware is actively recruiting for a manager to direct and coordinate the overall activities of the County's emergency services and communications. Must have five (5) years progressively responsible experience at a managerial level in the area of emergency services or a related field and possession of a Bachelor's Degree from an accredited college or university with major course work in business administration, public administration or related field.

Please submit formal applications to

NCC Office of Human Resources
87 Reads Way
New Castle, DE 19720-1648
(302) 395-5180

Closing date for application: December 28, 2001.

FIRE CHIEF

Salary: The City of Claremore offers a competitive salary and benefits package that include employer paid Health, Dental, Life and Disability Insurance for employees.

City of Claremore

Claremore, Oklahoma

The City of Claremore invites qualified individuals to apply for the position of Fire Chief. Claremore is a rapidly growing, full service city of approximately 20,000 citizens, located 20 miles north of Tulsa, Oklahoma on historic Route 66. Our fire department consists of 44 paid firefighters at three (3) stations with plans for additional stations and personnel. Our stations and personnel have state of the art equipment available for fire prevention, fire suppression, first responder, Haz-mat, training, investigation, code enforcement and public education.

Duties and Responsibilities: This position will report to the City Manager and perform a variety of technical, administrative and supervisory work in planning, organizing, directing and implementing fire prevention, suppression and emergency medical services to prevent or minimize the loss of life and property by fire and emergency medical conditions.

Qualifications: Bachelor's Degree in Fire Service, Public Administration, or a closely related field is required. Ten (10) years experience in fire service work with at least three of those years as a Battalion Chief or equivalent position and must be able to meet the requirements and be accepted by the Oklahoma Firefighters Pension and Retirement System. Graduation from the National Fire Academy Executive Fire Officer Development Program will be preferred.

Please send resume' to:

Mike Worden, Director of Personnel
City of Claremore
P.O. Box 249
Claremore, OK 74018
918-341-7527 * FAX: 918-341-1318

Closing date for application: This position will be open until filled.

Written Testimony by Joseph G. Blackburn, Fire Rescue Captain, Maui Fire Department Ph. 242-1478 email: BLACKBURJ001@hawaii.rr.com Graduate EEFO Program, NFA: Masters in Educational Administration, University of Hawaii, Bachelor of Science in Public Fire Administration and Business Administration

PROPOSED COUNTY CHARTER AMENDMENT

The following question to amend the Charter of the County of Maui is being submitted to the people to be voted upon at the General Election on November 7, 2000:

QUESTION NO. _____

Shall the County Charter be amended by changing the name of the Department of Fire Control to the Fire Department, and by designating the Public Safety Commission as the Fire Commission with the responsibility of appointing and removing the Fire Chief and performing other duties concerning the Fire Department?

YES _____
NO _____

The adoption of this proposal will establish a fire commission to ensure qualified and profession leadership and personnel for the Fire Department, as well as enhance public oversight of the departmental operations.

1. It is hereby proposed that Article 8, Chapter 7 of the Charter of the County of Maui be amended to read as follows:

"Section 8-7.1. Organization. There shall be a fire department consisting of a fire commission, a fire chief, a deputy fire chief and the necessary staff.

Section 8.7.2.2 Fire Commission. The fire commission shall consist of nine members appointed by the mayor with the approval of the council. The fire commission shall:

1. Adopt such rules as it may consider necessary for the conduct 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 of any of its members and submit a written report of its finding and recommendations to the fire chief or his disposition.
4. Have such other powers and duties as may be provided by law.

Section 807.3. Fire Chief. The fire chief shall be appointed and may be removed by the fire commission. The chief may be removed by the fire commission only after being informed in writing of the charges which are resulting in his dismissal, and after being given a hearing before the commission. The fire chief shall have had a minimum of five years of experience in a fire department, at least three of which shall have been in a responsible administrative capacity. **The fire chief shall have had a minimum of 15 years experience in a fire department, at least five years of which shall of been in a captains position or higher. Equivalent of BS or BA degree. The fire chief and deputy fire chief shall serve a maximum of six years.**

Section 807.4. Duties and Functions of the Fire Chief. The fire chief shall:

1. Be the administrative head of the department.
2. Provide and perform firefighting and emergency rescue services in order to save lives and property from fires and from emergencies arising on land, on the sea and hazardous terrain, including the mitigation and stabilization of hazardous materials and incidents relating to the same.
3. Train, equip, maintain and supervise a force of firefighting and emergency rescue personnel.
4. Investigate the cause, origin and circumstances of fires. Monitor the construction and occupancy standards of buildings for the purposes of fire prevention and life safety and approve building plans as provided by law.
5. Adopt rules relating to the protection of persons and property against fires.
6. Exercise such other duties, powers or functions as shall be provided by law of assigned by the mayor.
7. **Appoint the deputy fire chief and the private secretary to the fire chief. The Deputy fire chief shall have had a minimum of 10 years of experience in a fire department, five of which is at the suppression level, and at least five years of which shall of been in a captains position or higher. Equivalent of AA degree.**

Section 8-7.5. 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 and emergency rescue which shall be based on qualified and professional leadership and personnel. In order to achieve this purpose, the fire department shall be conducted in accordance with the following:

1. Standards for recruitment shall be designed to attract into the department persons with high degrees of education, intelligence and personal stability.
2. Promotions and other personnel actions shall be based and appropriate standards of merit, ability, and work

performance. **Written Testing, Performance evaluations, and Seniority shall be part of the all promotional processes in equal percentages.**

3. **Appropriate training shall be provided to the maximum extent possible and practicable.**
4. **Provide supervisory personnel with management and supervisory education as provided by the National Fire Academy or equivalent to the maximum extent possible and practicable.**

2. **It is hereby proposed that Article 15 of the Charter of the County of Maui be amended by adding a new section to be designated and to read as follows:**

"Section 15-6. Transition Provisions Concerning Fire Commission. The fire chief serving on December 31, 2000 shall serve as interim fire chief. Should the fire chief vacate or be removed from office before appointment of a fire commission:

1. **The deputy fire chief shall serve as interim fire chief; or**
2. **The mayor may commission an interim fire chief."**

Council Chair
Patrick S. Kawano

Council Vice-Chair
Dain P. Kane

Residing Officer Pro Tempore
Charmaine Tavares

Council Members
Alan M. Arakawa
Robert Carroll
G. Riki Hokama
Jo Anne Johnson
Michael J. Molina
Wayne K. Nishiki



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

October 1, 2001

Director of Council Services
Ken R. Fukuoka

RECEIVED

2001 OCT -2 AM 8:54

OFFICE OF THE MAYOR

RECEIVED

Charter Commission

OCT 11 2001

Honorable James "Kimo" Apana
Mayor, County of Maui
Wailuku, Hawai'i 96793

APPROVED FOR TRANSMITTAL

Grant You Chun 10/03/01
Mayor Date

For transmittal to:

Ms. Terryl Venci, Chair
and Members of the Charter Commission
County of Maui
Wailuku, Hawai'i 96793

Dear Ms. Venci and Members:

**SUBJECT: ETHICAL STANDARDS REGARDING LANA'I
PLANNING COMMISSION (PAF 01-208)**

I understand that the Charter Commission may consider proposals to ease ethical standards for the Lana'i Planning Commission.

During the previous term, the Council "filed" (or rejected) a proposed Charter amendment with a similar purpose, as reflected in Committee of the Whole Committee Report No. 99-65 (attached).

I hope this information is helpful. If you have any questions, please contact me or Legislative Attorney David Raatz at the Council Office.

Sincerely,

P. Kawano
PATRICK S. KAWANO
Council Chair

paf:dmr:01-208e
Attachment

COUNCIL OF THE COUNTY OF MAUI
COMMITTEE OF THE WHOLE

April 16, 1999

Committee
Report No. 99-65

Honorable Chair and Members
of the County Council
County of Maui
Wailuku, Maui, Hawaii

Chair and Members:

Your Committee of the Whole, having met on March 29, 1999, makes reference to the following:

1. County Communication No. 95-246, from former Councilmember Thomas P. Morrow, transmitting a letter dated June 27, 1995, from Matthew M. Bailey expressing concerns about restrictions against Lanai Company, Inc. ("Lanai Company") employees who serve on County boards and commissions;
2. County Communication No. 96-123, from the Council Chair, transmitting a copy of a letter dated April 16, 1996, from Bob Hera to the Mayor, submitting his resignation as a member of the Lanai Planning Commission, and stating his opposition to the Board of Ethics' ruling disallowing commissioners who work for Lanai Company from voting on Lanai Company's land use applications; and
3. Committee Report No. 96-123, from the Committee of the Whole, recommending that a revised proposed resolution entitled "PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983) RELATING TO THE PLANNING COMMISSIONS AND THE CODE OF ETHICS" pass first reading and be ordered to print.

Your Committee notes that County Communication No. 95-246 was referred to the Committee of the Whole (1995-1997 Council term) at the August 4, 1995 Council meeting.

COUNCIL OF THE COUNTY OF MAUI
COMMITTEE OF THE WHOLE

April 16, 1999
Page 2

Committee
Report No. 99-65

Your Committee further notes that County Communication No. 96-123 was referred to the Committee of the Whole (1995-1997 Council term) at the May 15, 1996 Council meeting.

Your Committee further notes that Committee Report No. 96-123 was recommitted to the Committee of the Whole (1995-1997 Council term) at the August 21, 1996 Council meeting.

By memorandum dated May 30, 1996, the Committee requested that the Department of the Corporation Counsel provide (1) information concerning the existence of the Maui County Board of Ethics' ("Board") rulings placing restrictions on Lanai Company employees serving on boards and commissions; and (2) a legal opinion outlining the legal arguments for and against the imposition of such restrictions.

By memorandum dated June 10, 1996, a Deputy Corporation Counsel transmitted copies of five advisory opinions issued by the Board and summarized the legal basis for the opinions. In the memorandum, the Deputy Corporation Counsel informed the Committee that:

1. A member of a board or commission may participate in discussions of matters affecting the member's employer after disclosing the member's interest, but may not vote on the matter; and
2. Under certain circumstances, a Lanai Company employee may be prohibited from serving on a board or commission specifically impaneled to review issues affecting Lanai, but the Board has never issued an opinion on the matter.

At its meeting of June 18, 1996, the Committee met with the Corporation Counsel, two Deputy Corporation Counsel, and an Executive Assistant to the Mayor.

The Committee discussed the impact of the Code of Ethics' restrictions on Lanai Company employees' participation as members of the Lanai Planning Commission. The Committee noted that it believed a majority of Lanai residents

COUNCIL OF THE COUNTY OF MAUI
COMMITTEE OF THE WHOLE

April 16, 1999
Page 3

Committee
Report No. 99-65

are employed by Lanai Company, yet are excluded from participating in Lanai Planning Commission decisions that affect them.

The Corporation Counsel stated that the prohibition against Lanai Planning Commission members voting on matters affecting their employers frequently prevents the Commission from attaining a quorum.

The Executive Assistant to the Mayor explained that an effort is made during the nomination process to avoid nominating members to the Lanai Planning Commission with possible conflicts of interests. To his knowledge, two members of the Commission have been prohibited from voting on Lanai Company matters. One member became employed by Lanai Company after being appointed to the Commission. Another member was a Lanai Company employee who was a union member and not a management-level employee.

He explained that the Lanai Planning Commission currently has eight members, due to the recent resignation of the member employed by Lanai Company. None of the remaining eight members are Lanai Company employees. The pool of members is drawn from State workers, private businesses, and retired workers.

The Committee discussed the possibility of a Charter amendment to exempt Lanai Company employees from the Code of Ethics' restrictions, to allow them to vote on matters affecting Lanai Company.

A Deputy Corporation Counsel noted that the County's Code of Ethics' restrictions against voting on matters affecting a member's employer are more stringent than comparable Code of Ethics' provisions for other counties and the State.

A Deputy Corporation Counsel explained that a lessee's financial interest in a lease of land owned by Lanai Company is not an interest that would trigger the prohibition against voting on matters affecting Lanai Company. He further explained that the prohibition would be triggered, however, if a member's spouse or dependent child were an employee of Lanai Company. To his knowledge, no member of the Lanai Planning Commission has been prohibited from voting due

COUNCIL OF THE COUNTY OF MAUI
COMMITTEE OF THE WHOLE

April 16, 1999
Page 4

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to the employment of a family member or because of a lease of land from the Lanai Company.

The Committee noted that a vote of six members of the Council is required to pass a resolution to place a proposed Charter amendment on the ballot. The Committee discussed the apparent lack of sufficient support for such a resolution and the time constraints involved in passing a resolution in time for the next General Election ballot.

The Committee decided to defer the matter to give individual Council members an opportunity to consult with the Department of the Corporation Counsel, and to draft proposed Charter amendment resolutions.

The Committee deferred the matter pending further discussion.

By letter dated July 1, 1996, B. Martin Luna, Esq., Carlsmith Ball Wichman Case & Ichiki, posed three legal questions concerning Code of Ethics' constraints on employees of Lanai Company serving on County boards and commissions.

At its meeting of July 2, 1996, the Committee met with a Deputy Corporation Counsel.

The Committee discussed the need for individual Council members to consult with the Department of the Corporation Counsel and to draft proposed Charter amendment resolutions prior to scheduling the matter for discussion.

The Committee requested that the Department of the Corporation Counsel provide written answers to the questions posed in Mr. Luna's July 1, 1996 letter.

The Committee deferred the matter pending the receipt of proposed Charter amendment resolutions from Committee members.

By memorandum dated July 29, 1996, a Deputy Corporation Counsel provided written answers to the questions posed by Mr. Luna.

By memorandum dated August 5, 1996, Councilmember Alan Arakawa transmitted a copy of a July 12, 1996 memorandum from a Deputy Corporation

COUNCIL OF THE COUNTY OF MAUI
COMMITTEE OF THE WHOLE

April 16, 1999
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Counsel, transmitting a draft proposed resolution entitled "PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983) RELATING TO THE PLANNING COMMISSIONS AND THE CODE OF ETHICS".

The purpose of the proposed resolution is to amend the Maui County Charter to permit up to four members of the Lanai Planning Commission who are employees of the Lanai Company or its affiliates to vote on matters affecting their employers' interests. The proposed resolution specifically exempts such employees from complying with Sections 10-4.1.c and 10-4.1.f of the Code of Ethics, Article 10 of the Maui County Charter.

By memorandum dated August 6, 1996, Councilmember Sol Kaho`ohalahala transmitted a copy of a facsimile memorandum dated August 5, 1996, from Gerald G. Rabaino, a Lanai resident, in support of the draft proposed resolution submitted by Councilmember Arakawa.

At its meeting of August 6, 1996, the Committee met with the Corporation Counsel and a Deputy Corporation Counsel.

The Committee noted that the majority of Lanai residents are employees of Lanai Company or its affiliates, yet the residents who serve on the Lanai Planning Commission are currently barred from voting on matters before the Commission because of interpretations of the Code of Ethics. The Committee discussed its concerns about placing a cap on the number of Lanai Company employees who serve as members of the Lanai Planning Commission that would be exempt from the Code of Ethics' restrictions. The Committee decided to maintain the four-member limitation.

The Committee noted that resolutions initiating Charter amendments require two readings on separate days, passed by a vote of six or more members of the Council.

The Committee voted to recommend that the draft proposed resolution pass first reading and that the communications be filed.

COUNCIL OF THE COUNTY OF MAUI
COMMITTEE OF THE WHOLE

April 16, 1999
Page 6

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The Committee received a revised proposed resolution entitled "PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983) RELATING TO THE PLANNING COMMISSIONS AND THE CODE OF ETHICS" containing nonsubstantive revisions.

The Committee's recommendations were set forth in Committee Report No. 96-123.

At its meeting of August 21, 1996, the Council recommitted Committee Report No. 96-123 without approval.

At its meeting of December 3, 1996, the Committee recommended that County Communication Nos. 95-246 and 96-123 and Committee Report No. 96-123 be referred to the Council Chair for the term beginning January 2, 1997, for a recommendation as to referral or other disposition.

At its meeting of January 9, 1997, the Council referred County Communication Nos. 95-246 and 96-123 and Committee Report No. 96-123 to the prior Council's Committee of the Whole (County Communication No. 97-4).

At its meeting of November 17, 1997 on Lanai, the Committee met with a Deputy Corporation Counsel. The Committee received testimony from two Lanai Company vice presidents in support of the proposed Charter amendment and from a Lanai resident in opposition to the proposed Charter amendment. The Committee noted that State law on conflicts of interest could affect the impact of the proposed Charter amendment and that, therefore, it would be beneficial to receive guidance from the Attorney General. In addition, the Committee noted that the proposed Charter amendment would amend the Code of Ethics and that, therefore, it would be beneficial to receive guidance from the Board of Ethics. The Committee deferred consideration of the matter pending the receipt of advisory opinions from the Attorney General and the Board of Ethics, respectively.

By letter dated December 29, 1997, the Committee Chair requested that the Attorney General provide an advisory opinion regarding the impact of the proposed resolution to initiate a Charter amendment entitled "PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI

COUNCIL OF THE COUNTY OF MAUI
COMMITTEE OF THE WHOLE

April 16, 1999
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Committee
Report No. 99-65

(1983) RELATING TO THE PLANNING COMMISSIONS AND THE CODE OF ETHICS".

By letter dated December 29, 1997, the Committee Chair requested an advisory opinion from the Board of Ethics regarding the impact of the proposed resolution to initiate a Charter amendment entitled "PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983) RELATING TO THE PLANNING COMMISSIONS AND THE CODE OF ETHICS".

By letter dated January 12, 1998, Deputy Attorney General Russell A. Suzuki informed the Committee that the Department of the Attorney General would refrain from providing a legal opinion on the question presented, in deference to the Corporation Counsel and the Board of Ethics

By letter dated January 16, 1998, Deputy Corporation Counsel Gary W. Zakian informed the Committee that the Board of Ethics would be considering the Committee Chair's request for an advisory opinion on January 22, 1998.

By memorandum dated February 3, 1998, the Committee Chair transmitted a news article entitled "Board recommends limiting employee voting".

By letter dated February 19, 1998, Anthony L. Ranken, Chair, Board of Ethics, transmitted a response from the Board of Ethics and a copy of the minutes of the January 22, 1998, Board of Ethics meeting. Your Committee notes that the Board expressed opposition to the proposed Charter amendment because it would weaken the Code of Ethics' conflict-of-interest provisions.

By County Communication No. 98-350, the Chair of the Committee recommended that the Committee be discharged from consideration of County Communication Nos. 95-246 and 96-123 and Committee Report No. 96-123 and that the communications be referred to the Council Chair for the term beginning January 2, 1999.

At its meeting of January 11, 1999, the Council referred County Communication Nos. 95-246 and 96-123 and Committee Report No. 96-123 to your Committee of the Whole (County Communication No. 99-8, As Amended).

COUNCIL OF THE COUNTY OF MAUI
COMMITTEE OF THE WHOLE

April 16, 1999
Page 8

Committee
Report No. 99-65

At its meeting on Lana`i, your Committee met with a Deputy Corporation Counsel. Your Committee received testimony from two Lanai residents in opposition to the proposed Charter amendment. Your Committee noted the Board of Ethics' opposition to the proposed Charter amendment and voted to recommend that the matter be filed.

Your Committee of the Whole RECOMMENDS the following:

1. That County Communication No. 95-246 be FILED;
2. That County Communication No. 96-123 be FILED; and
3. That Committee Report No. 96-123 be FILED.

Adoption of this report is respectfully requested.

COW:CR:9923aa:dr

Council Chair
Patrick S. Kawano

Council Vice-Chair
Dain P. Kane

Residing Officer Pro Tempore
Charmaine Tavares

Council Members
Alan M. Arakawa
Robert Carroll
G. Riki Hokama
Jo Anne Johnson
Michael J. Molina
Wayne K. Nishiki



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

October 1, 2001

Director of Council Services
Ken R. Fukuoka

RECEIVED

2001 OCT -2 AM 8:54

OFFICE OF THE MAYOR

RECEIVED

Charter Commission

OCT 11 2001

Honorable James "Kimo" Apana
Mayor, County of Maui
Wailuku, Hawai'i 96793

APPROVED FOR TRANSMITTAL

Grant Lynn Chun 10/03/01
Mayor Date

For transmittal to:

Ms. Terryl Venci, Chair
and Members of the Charter Commission
County of Maui
Wailuku, Hawai'i 96793

Dear Ms. Venci and Members:

**SUBJECT: PUBLIC INFORMATION REGARDING CHARTER
COMMISSION'S DELIBERATIONS (PAF 01-208)**

I commend you for your efforts to keep the public informed about your deliberations, particularly through the creation of a website. I would like to respectfully offer a few suggestions that may enhance your existing public-information efforts. May I suggest that the Charter Commission consider instituting the following practices:

1. Include within each meeting agenda a list of all items to be discussed;¹
2. Post each meeting agenda at the meeting site, at least six days in advance;² and

¹ See § 92-7(a), Haw. Rev. Stat. (2001) ("The board shall give written public notice of any regular, special, or rescheduled meeting, or any executive meeting when anticipated in advance. The notice shall include an agenda which lists all of the items to be considered at the forthcoming meeting, the date, time, and place of the meeting, and in the case of an executive meeting the purpose shall be stated.") (emphasis added).

² See § 92-7(b), Haw. Rev. Stat. (2000) ("The board shall file the notice in the office of the lieutenant governor or the appropriate county clerk's office, and in the board's office for public inspection, at least six calendar days before the meeting. The notice shall also be posted at the site of the meeting whenever feasible.") (emphasis added).

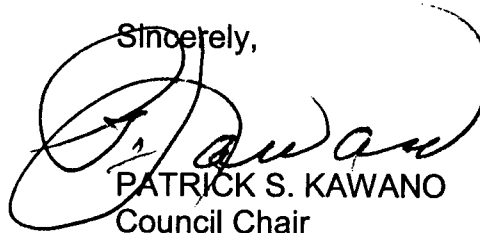
Ms. Terryl Venci, Chair
and Members of the Charter Commission
October 1, 2001
Page 2

3. Maintain a "master agenda" listing of all items that are pending before the Charter Commission and all official correspondence.

The Council has adopted these practices, which has helped to not only inform the public, but also to improve the efficiency of the legislative process.

Thank your consideration of these suggestions. If you have any questions, please contact me or Legislative Attorney David Raatz at the Council Office.

Sincerely,



PATRICK S. KAWANO
Council Chair

paf:dmr:01-208d

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Charter Commission
SEP 24 2001

CAROLE JOY AMERAL, CIC
INSURANCE ASSOCIATES, INC.
P.O. BOX 10415
LAHAINA, HI 96761

PHYSICAL ADDRESS: 181 LAHAINALUNA #E

Ph 283-8283 Fax 661-0916 e: chaseh1way@aol.com

SEPTEMBER 23, 2001

TERYL VENCL
CHAIRMAN
MAUI COUNTY CHARTER COMMISSION

VIA FAX : 244-3094

RE: RESIGNATION OF POSITION

I REGRET TO INFORM YOU THAT, DUE TO MY CONTINUING HEALTH PROBLEMS, I FEEL IT IS NECESSARY TO RESIGN MY COMMISSION . IT IS UNFAIR TO THE REST OF THE MEMBERS THAT I HAVE TAKEN MANY ABSENCES DUE TO MY HEALTH PROBLEMS AND I SEE THAT I WILL BE MISSING OCTOBER MEETINGS AND THE LAST TWO WEEKS OF NOVEMBER AND THE FIRST WEEK OF DECEMBER.

I APOLOGIZE THAT IT HAS TAKEN SO LONG FOR ME TO GET THIS RESIGNATION TO YOU. I HAD FELT THAT I WOULD BE ABLE TO CONTINUE, BUT WITH MY HEALTH ISSUES, I CANNOT.

THANK-YOU FOR ALLOWING ME THE OPPORTUNITY TO SERVE WITH YOU ALL.

SINCERELY,

Carole Joy Ameral
CAROLE JOY AMERAL

C. EARL STONER, JR.
P.O. BOX 806
PUUNENE, MAUI, HAWAII 96784
TELEPHONE (808) 877-3329
FACSIMILE (808) 877-0648

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Charter Commission
OCT 08 2001

September 21, 2001

Sean McLaughlin
333 Dairy Road
Kahului, HI 96732

Subject: **CHARTER COMMISSION**

Dear Sean:

You and I have had several discussion regards the Department of Water Supply and the Board of Water Supply and their function within the County.

My view is that the frustration of myself, most design engineers, and many contractors and developers throughout Maui is that the Engineering Department of the Department of Water Supply holds to its standards as if they are absolutes while pretty much all private sector representatives that are involved with water designs and installation realize that there needs to be some flexibility.

It is easier for the DWS engineering administration to simply say, "this is the way it is, do it!" and force people to design and construct facilities to those standards. But often times money that is expended meeting those standards where the standards are not absolutely necessary could better be expended for water exploration, storage, and related facilities.

I think to a man every developer, contractor, and design engineer would prefer to see money spent on water improvements efficiently spent. This can only be done through some give and take on the part of DWS.

With the present setup at of the Department of Water Supply we have a Director who is supposed to administer general water policy as well as the Engineering Department and who answers to a non-professional board

Page 2
September 21, 2001

appointed by the Mayor. While many of the board members, I'm sure have learned about water policy and development through experience, many of them are ill equipped to make decisions in the many areas that they are asked to review. This would not be a problem if the board would appoint and satisfactorily compensate a top-notch water administrator. However the history of the Department is that mediocre administrators have been placed in charge of the Department. Many of them were either incapable or unwilling to administer the entire area of water administration for the County.

Presently a case exists where we have an administrator who is probably capable in some areas, but is totally unwilling to override or modify the decisions made by the Engineering Department. Therefore anyone installing water improvements on the island where some controversy occurs with respect to design or standard installations must go to the Board in an effort to revise decisions of the Engineering Department. This is both time consuming and is often non effective due to the fact that the Board is made up of non professionals who have limited, if any knowledge of the specifics of construction detail for water improvements.

The bottom line here is that the Department of Water Supply simply has no accountability. Consequently they can make decisions at the Engineering Department level that have a chilling effect and are non cost effective for design engineers, contractors, developers, and simply individuals building residences or small projects.

Several design engineers have told me that they are afraid to argue points with the Engineering Department too strongly on any given project as they fear reprisals on future projects, so they simply knuckle under and do what they are told rather than arguing for efficiency of design. The result is a waste of money which could be better spent as noted above on the efficient development of water facilities throughout the County.

I would like to see the Department of Water Supply and its Board placed under the County Administration which would at least create accountability

at the administrative and legislative levels i.e., the Mayor and the Council. I

Page 3

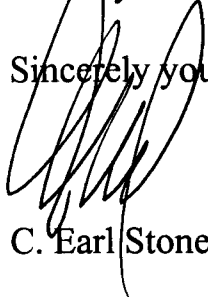
September 21, 2001

would like to see the Board makeup modified to include a high percentage, perhaps 70-75% professionals, that is people with knowledge of water development facilities and engineering. These professionals should be design engineers, contractors, developers, or others who can exhibit either education or experience levels in areas of water operations to assure a reasonable level of expertise.

I would be very happy to provide you further information if you require it. I hope the Charter Commission will consider these suggestions as I believe that they will result in more efficient government for our island County.

Thank you.

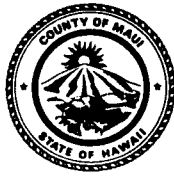
Sincerely yours,



C. Earl Stoner, Jr.

CES/tlo

JAMES "KIMO" APANA
Mayor



JAMES B. TAKAYESU
Corporation Counsel

MAUI COUNTY BOARD OF ETHICS
C/O DEPARTMENT OF THE CORPORATION COUNSEL
COUNTY OF MAUI
200 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793
TELEPHONE: (808) 270-6280

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Charter Commission
SEP 20 2001

September 19, 2001

Ms. Terryl Vencl
Chair, Charter Commission
1727B Wili Pa Loop
Wailuku, Hawaii 96793

Re: Proposed Charter Amendments

Dear Chair Vencl:

On behalf of the Maui County Board of Ethics ("Board"), I thank you for this opportunity to submit the following recommendations for consideration by the Charter Commission.

These recommendations are in response to your letter, dated May 18, 2001, requesting comments and suggestions from the Maui County Board of Ethics concerning possible amendments to the Revised Charter of the County of Maui (1983), as amended ("Charter"). Our recommendations were developed as a result of a number of meetings and discussions held by the Board regarding your request.

The proposed Charter amendments are set forth in Ramseyer format and each amendment is followed by a brief explanation of its purpose.

(1) Charter Section 10-2.2.c

"Render advisory opinions with respect to application of this Article on request. All requests for advisory opinions shall be answered within forty-five (45) days of [its filing;] receipt by the board of information sufficient to render an opinion; failure to submit an advisory opinion with the forty-five (45) days shall be deemed a finding of no breach of this Article."

Ms. Terryl Vencl
Chair, Charter Commission
September 19, 2001
page 2

Comment:

The Charter currently requires that the Board of Ethics render an advisory opinion within forty-five days after the "filing" of a request for an advisory opinion. However, the mere fact that someone has submitted or "filed" such a request does not necessarily mean that the Board has all the information necessary to render a full, complete, and accurate opinion. In most cases, the Board must, in rendering an advisory opinion, obtain relevant documents and the testimony of witnesses to fully inform the Board of those facts necessary to make a just decision on the matters involved.

The proposed amendment of Section 10-2.2.c, by replacing the word "filing", recognizes the practical necessity for complete information and at the same time retains a meaningful and timely deadline for Board action.

(2) Charter Section 10-2.5

"If any officer or employee, or former officer or employee, obtains an advisory opinion from the board and governs himself accordingly, or acts in accordance with the opinions of the board, he shall not be held liable for violating [any of] the provisions of this article[.] addressed by the advisory opinion."

Comment:

The Charter currently provides that a County officer or employee, or former officer or employee, who has obtained an advisory opinion, "shall not be held liable for violating any of the provisions" of the Code of Ethics. (Emphasis added.)

However, each advisory opinion is limited to the facts and ethical rule or rules discussed in the opinion; therefore, the Charter's reference to "any" provision of the Code of Ethics is too broad for purposes of ensuring immunity from liability. The Charter should be amended to clarify that a person who has obtained an advisory opinion and acts in accordance therewith shall not be held liable for violating the Code of Ethics provisions which form the basis of the opinion.

Ms. Terryl Vencl
Chair, Charter Commission
September 19, 2001
page 3

(3) Charter Section 10-2.e.

"e. Examine all disclosure statements filed and [to] comment on or advise corrective actions to any matters [that may indicate a conflict of interest.] relating to this Article."

Comment:

The word "to" is unnecessary, ungrammatical and should be deleted.

This Charter section, pertaining to review and comment on financial disclosure statements, unnecessarily limits the scope of such comments to matters "that may indicate a conflict of interest." From time to time, and based upon the facts and circumstances relating to, or disclosed by, a financial disclosure, the Board has found it necessary to comment upon matters which pertain to some important aspect of the Code of Ethics other than a perceived conflict of interest. For example, the Board may find it necessary or desirable to comment on the timing or completeness of a disclosure statement or on ethical concerns relating to the disclosure or use of information not available to the public.

(4) Charter Section 10-4.3.

"The county shall not enter into any contract of a value in excess of \$500.00 with an officer or employee or with a firm in which an officer or employee has a substantial interest involving services or property unless the contract is made [after] as a result of competitive [bidding.] procurement."

Comment.

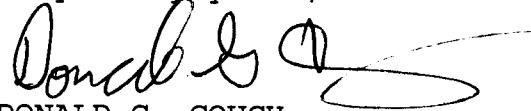
Charter Section 10-4.3 provides for competitive selection as a means of preventing self-dealing in the form of the arbitrary awarding of contracts for goods or services to County officers or employees. However, Section 10-4.3 should be amended to clarify that such contracts should be the result of, and not merely temporally after, a competitive process. Further, because Hawaii procurement laws permit contracts for goods or services to be awarded as a result of a number of procurement methods (such as a request for proposals) and not just sealed

Ms. Terryl Vencl
Chair, Charter Commission
September 19, 2001
page 4

bids, it is appropriate to replace "bidding" with the more general term "procurement."

Please inform the Board if you have any questions or comments on the Board's proposals.

Very truly yours,



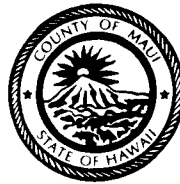
DONALD G. COUCH
Chair
Maui County Board of Ethics

JAMES "KIMO" APANA
Mayor

DAVID C. GOODE
Director

MILTON M. ARAKAWA, A.I.C.P.
Deputy Director

Telephone: (808) 270-7845
Fax: (808) 270-7955



COUNTY OF MAUI
**DEPARTMENT OF PUBLIC WORKS
AND WASTE MANAGEMENT**

200 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793

September 12, 2001

RALPH NAGAMINE, L.S., P.E.
Land Use and Codes Administration

Wastewater Reclamation Division

LLOYD P.C.W. LEE, P.E.
Engineering Division

BRIAN HASHIRO, P.E.
Highways Division

Solid Waste Division

Honorable James "Kimo" Apana
Mayor, County of Maui
200 South High Street
Wailuku, Maui, Hawaii 96793

APPROVED FOR TRANSMITTAL

For transmittal to:

Brantlyn Chum 9/13/01

Date

Ms. Teryl Vencl, Chair
Charter Commission
County of Maui
200 South High Street
Wailuku, Maui, Hawaii 96793

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2001 SEP 13 AM 9:39
OFFICE OF THE MAYOR

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Charter Commission
SEP 19 2001

Dear Chair Vencl:

**SUBJECT: FOLLOW-UP FROM CHARTER COMMISSION MEETING
OF SEPTEMBER 10, 2001**

It was my pleasure to meet with your Commission on September 10, 2001, to talk about a variety of concerns that the Commission has, as well as those presented in my letter.

To follow-up, as requested, I offer the following additional comments:

1. In regards to the Powers, Duties and Functions section, 8-5.3, I concur that the Commission's recommendation to add wording regarding planning of infrastructure needs is appropriate.
2. My answers to your questions regarding the community plan process had to do with the Department of Public Works and Waste Management's follow-up in regards to the provisions of the community plans, as adopted. Specifically, I feel that

Honorable James "Kimo" Apana
For transmittal to:
Ms. Teryl Vencl, Chair
September 12, 2001
Page 2

community plans that employ expected population increases that are acceptable to the community would go a long ways in helping the Department program and plan for improvements to roadways, utilities and drainage infrastructures. By having a population growth that's acceptable in the plan, the Department can then anticipate growth within a given area or a given time frame and be more responsive to the needs of infrastructure. Also, the debate as to whether or not the community plan is policy or defacto zoning also needs to be ended as this, too, adds complexity to the ability for us to plan and program for infrastructure improvements.

3. Regarding the discussion we had as it relates to the overall organizational structure of the Department of Public Works and Waste Management, we are not in favor of folding the Wastewater Division into the Water Department for some of the reasons that were discussed at the meeting. This includes certain efficiencies gained by keeping the Division separate and that the progress in bringing Wastewater into self-sufficiency under its present structure is adequate in meeting the public's needs.
4. My comments as to the second Deputy for the Department was given in response to questions posed in relation to taking certain functions out of the Department. As I discussed, there are a number of ways to configure a Department of Public Works and in many communities, it is very different from one to the next. I feel that the public is being served well under its present structure and given the tremendous demands on the Director and the Deputy, and running a department of this size, a second Deputy position is something that we in the Department can support. Part of this reason has to do with the fact that we at one time had a Staff Civil Engineer which was transferred to the Planning Department when the functions of zoning enforcement and administration went to the Planning Department. There are plenty of issues that do come up where having a similar high-level administrative position within the Department could help the overall efficiency of the Department.

Honorable James "Kimo" Apana
For transmittal to:
Ms. Teryl Vencl, Chair
September 12, 2001
Page 3

If you have any questions regarding any aspect of this letter, feel free to contact me at 270-7845.

Sincerely,



DAVID GOODE
Director

DG:jso

c: James "Kimo" Apana, Mayor
Milton Arakawa, AICP, Deputy Director of Public Works and Waste
Management

s:\david\charter2

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Charter Commission
SEP 24 2001

September 12, 2001

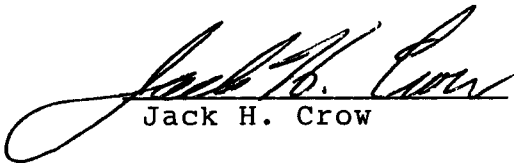
Maui County Charter Commission
c/o Mayor's Office
Wailuku, Hawaii

Dear Sirs;

I am currently serving on the Cost of Government Commission. There are nine members on the Commission and their term of office is two years. This results in changing about half of the Commission every year. This large turnover of Commission members every year greatly reduces the effectiveness of the Commission because it usually takes several monthly meetings for the new Commissioners to become effective.

Based on my experience on the Commission I recommend that the term of office be increased to three years with a maximum of two consecutive terms. This will greatly increase the effectiveness of the Commission and provide the continuity necessary for the Commission's investigation of the cost of the Maui County government operations.

Sincerely



Jack H. Crow

10 Wailea Ekolu Place #914
Kihei, HI 96753
879-7904

RECEIVED
2001 SEP 18 PM 3:27
OFFICE OF THE MAYOR

MAYOR/MGMT OFFICE	By	Handle	Comment	See Me	Print Reply	File Log
MAYOR	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
GRANT	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
MICHELE	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
CALVIN	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
PAT	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DAVID	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
BRIAN	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DENNY	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
MYLES	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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SECTY	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

M787

September 17, 2001

buck@tiki.net

Maui County Charter Review Commission
 C/O Mayor Kimo Apana
 County Bldg
 Wailuku, HI 96793

RECEIVED
Charter Commission
 SEP 24 2001

2001 SEP 19 PM 3:06

RECEIVED

Dear Charter Review Commission members;

I have served on two county commissions, and in 1991, I conducted a one-day public forum in the Council Chambers on *County and State Boards and Commissions*. What I learned from the public at that forum, and have witnessed over the years, is that the greatest deterrent to serving on most of the boards and commissions is the five-year term. For many people this is a commitment that is just far too long. Let me offer the following as a benchmark for commitment that I took from a U.S. Census report.

Of first marriages that end in divorce, many end in the first 3 to 5 years. (As one example, for first marriages ending in divorce among women aged 25 to 29, the median length of marriage before divorce in 1990 was 3.4 years; U.S. Bureau of the Census, 1992, p. 4).

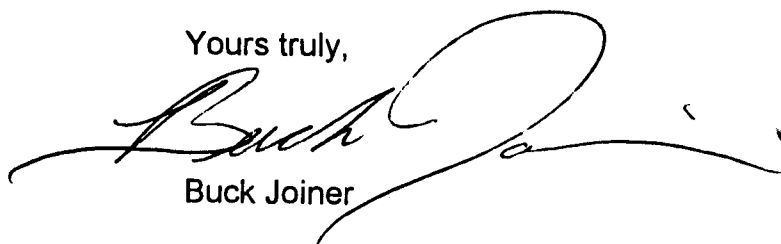
The question then, if many people end a commitment "till death do us part" in 3.4 years or less, how can you get good people to volunteer for five years? Each of you volunteered to serve on the Charter Review Commission because it is a short-term commitment. How many of you, as dedicated, qualified citizens have, or would, volunteer for a five year commitment? This is a real question that I hope you address with an open show of hands at your commission meeting.

I would like to suggest that the term for all boards and commissions be changed to three years with the possibility of a one-term reappointment. I believe that this change will result in a larger number of volunteers, of higher qualification for these positions. I also believe that those who do volunteer will fulfill their commitment.

In an effort to enlighten the public on the nature of each of the boards and commissions and the opportunity to serve, I will address this issue on my Hot Topics TV program on Nov. 19. This is the time that the Mayor will be soliciting applications. During that program I will try to have the participants discuss the length of the commitment for boards and commissions and ask how that affects the number and quality of volunteers.

Thank you for your time and effort on the Charter Review Commission.

Yours truly,



Buck Joiner

Council Chair
Patrick S. Kawano

Council Vice-Chair
Dain P. Kane

Residing Officer Pro Tempore
Charmaine Tavares

Council Members
Alan M. Arakawa
Robert Carroll
G. Riki Hokama
Jo Anne Johnson
Michael J. Molina
Wayne K. Nishiki



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

September 19, 2001

Director of Council Services
Ken R. Fukuoka

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2001 SEP 19 PM 4:10

OFFICE OF THE MAYOR

RECEIVED
Charter Commission
SEP 24 2001

APPROVED FOR TRANSMITTAL

Honorable James "Kimo" Apana
Mayor, County of Maui
Wailuku, Hawai'i 96793

Grant You Chum 9/20/01

Mayor Date

For transmittal to:

Ms. Terryl Vencl, Chair
and Members of the Charter Commission
County of Maui
Wailuku, Hawai'i 96793

Dear Chair Vencl and Members:

**SUBJECT: ELIMINATION OF DEPARTMENT OF WATER
SUPPLY'S SEMI-AUTONOMOUS STATUS
(PAF 01-271)**

Thank you for accepting this testimony in support of a Charter amendment to eliminate the Department of Water Supply's "semi-autonomous" status. In my opinion, the Department of Water Supply should be subject to mayoral management and legislative oversight, like other departments.

I support the elimination of the Department of Water Supply's semi-autonomous status for the following reasons:

1. Consistent with democratic principles, elected officials should be directly accountable for the management and policies of the Department of Water Supply, which controls the County's precious water resources and systems. Currently, the Department's policies are established by an unelected Board of Water Supply and implemented by a Director of Water Supply who is hired and fired solely at the Board's discretion. Because the Department of Water Supply's actions so significantly affect the County's long-term economic and environmental conditions, we can no longer tolerate this lack of public accountability.

2. Water issues should be closely considered during the County's land-use and planning processes. Indeed, every major development issue pending before the Council raises water concerns. But because the Department of Water Supply and the Department of Planning are not part of the same management rubric, the necessary coordination between the departments is lacking. This hinders the Council's ability to make well-informed decisions.
3. Even beyond the land-use context, government efficiency would be improved if the Department of Water Supply functioned as part of the Administration. As then-Mayor Linda Lingle stated in 1998: "In order to increase our efficiency, we need to be able to integrate the functions of planning, wastewater management, capital improvements financing, and water supply. However, because the Department of Water Supply is structurally divorced from the rest of the Administration, that integration is difficult to achieve."¹
4. The Department of Water Supply and Board of Water Supply have been frequently criticized for their policies and actions in recent years. But my support for the elimination of the Department's semi-autonomous status is not premised on such criticism. This proposal stands on its own merit, regardless of the performance of current appointees, and should not be regarded as punitive. I am supporting the proposal simply to ensure that the public has a voice in one of the most critically important County departments. Still, placing this Charter amendment on the ballot would provide the public with an opportunity to comment on the effectiveness of the County's current water management.
5. Finally, I note that this proposal appears to have broad community support. I have quoted Mayor Lingle, but the elimination of the Board of Water Supply's semi-autonomous status appears to be widely backed by members of all political parties, as well as business, environmental, and other groups.

¹ Testimony of Mayor Linda Lingle to Committee of the Whole, Maui County Council (June 29, 1998).

Ms. Terryl Venci, Chair
and Members of the Charter Commission
September 19, 2001
Page 3

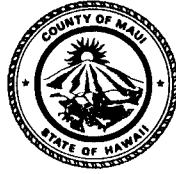
Thank you for your consideration of my testimony in support of the elimination of the Department of Water Supply's semi-autonomous status.

Sincerely,


ROBERT CARROLL
Councilmember

paf:dmr:01-271a

JAMES "KIMO" APANA
MAYOR



RECEIVED 200 South High Street
Wailuku, Maui, Hawaii USA
96793-2155
Telephone (808) 270-7855
Fax (808) 270-7870

2001 SEP 20 AM 11:55

OFFICE OF THE MAYOR

OFFICE OF THE MAYOR

e-mail: mayors.office@co.maui.hi.us

Ke'ena O Ka Meia

COUNTY OF MAUI

Kalana O Maui

RECEIVED
Charter Commission
SEP 24 2001

September 14, 2001

The Honorable James "Kimo" Apana
Mayor, County of Maui
Wailuku, Hawaii

APPROVED FOR TRANSMITTAL

Brant Yun Chun 9/20/01
Mayor Date

For transmittal to:

Ms. Terryl Venci
Chair, Charter Commission
Wailuku, Hawaii

Dear Chair Venci:

Thank you for the opportunity to provide our recommendations on possible revisions to the Charter of the County of Maui. The Salary Commission respectfully requests that the Charter be amended to require a permanent Salary Commission, composed of nine members serving staggered five-year terms.

Currently, the term of the Salary Commission runs concurrently with the term of the Mayor. Therefore, every four years, the entire membership of the Salary Commission is replaced with new members. Because of this, there is no continuity between one Salary Commission and the next Salary Commission. It is our feeling that the Salary Commission should be like the other commissions where no more than two members are replaced each year.

Again, thank you for this opportunity to offer our recommendation to the Charter Commission. Should you require additional information, please feel free to contact me at (808) 525-6640.

Very truly yours,

Scott Matsuura
for SCOTT MATSUURA
Chair, Salary Commission

Subj: Testimony for Commission
Date: 9/5/01 4:30:35 PM Pacific Daylight Time
From: dannyg@flex.com (Daniel Grantham)
To: TVenc1@aol.com

Dear Charter Review Commissioners,

Please accept this statement I am passing on for your consideration from an author who prefers to be called a "Child of Nature".

RECEIVED
Charter Commission
 SEP 05 2001

My beloved Mother works hard for the people who sell her beauty and her charms to wealthy visitors, visitors who trust their hungry bodies to her warm embrace.

"I do it for my children," she whispers, keeping not a penny for herself: "They need the money, and there are jobs..."

My Mother lets her large body be milked dry to feed big corporations, while her children eat imported and expensive foods, for which we need the money and the jobs...

My Mother's most delicious edges are painted and made up to appeal to expensive and jaded tastes, and her children are no longer welcome there except to clean up and keep nature within bounds.

Every year, the welcoming places my Mother was still able to share with us, her children, shrink and disappear under a tide of cement and walls because yes, we need the money, and there are jobs...

Ah! My Mother works so hard welcoming for those who sell her charms, and sometimes they give me a paying job.

I need all the paying jobs I can get, because it is so expensive now to live with my Mother's new owners, and all the land and water is in short supply, except to those who milk my Mother dry.

But there are jobs, says someone who sounds like my Mother. It is hard to recognize her behind the fences, the gates, the no trespassing signs, the cars and lights and poles and ever bigger stores, the never ending noise and traffic, the ever growing buildings that block my view of her beauty.

Maybe I can move away and find my Mother some place else where this disfiguring disease is not so far advanced, although I have this terrible suspicion that this same disease has caused all these wealthy people to come here and try to wall off a little piece of my Mother for themselves.

Is there a doctor in the house? We need a healing.

Daniel Grantham, HC 1, Box 47, Haiku, HI 96708

----- Headers -----
 Return-Path: <dannyg@flex.com>
 Received: from rly-zd02.mx.aol.com (rly-zd02.mail.aol.com [172.31.33.226]) by air-zd04.mail.aol.com

Wednesday, September 05, 2001 America Online: TVenc1

Bill Fuhrmann

63 Ke'anini Drive

Post Office Box 183

Hana, Maui, Hawai'i 96713

Telephone: Home - (808) 248-8300 Office - (808) 248-7294

To: Terryl Vencl, Chair
Date: 06 September 2001
Subject: Additional Information

In order to have a more complete understanding of the issues concerning the following "community concerns":

1) "community plans to be considered law, not just guides"

I understand that (a) a "legal opinion", by then Deputy Corporation Counsel Kelly Cairns, and (b) a "court decision" (sometimes referred to as the Kamaole Point decision) refers to the "legal" standing of a community plan, may give the Charter Commission some additional insight into this "community concern". Am requesting that both the "legal opinion" and "court decision" be provided our Charter Commission.

2) "the ethical question concerning citizens/employees of employer/landowner participating as commissioners on issues concerning same employer/landowner";

I understand the Board of Ethics issued a ruling on this matter. This "ruling" may give the Charter Commission some additional insight into this "community concern". Am requesting that such ruling, including any background information considered by the Board in developing its ruling, be provided our Charter Commission.

3) "boards and commissions to be covered by Charter"

Am requesting information on all boards, commissions and committees, which are part of County government, including their functions and responsibilities, be provided our Charter Commission.

I am requesting that our Charter Commission request Deputy Corporation Counsel, Brian Moto, provide, at his earliest convenience, all information requested and any other information he may consider relevant regarding these "community concerns".

Council elected by district has merit

COMMENTARY

By AL SPARKS

Would Maui's County Council be more accountable to and provide better service to "the people" if they were elected by districts of equal population?

This is a question being considered by the Charter Review Commission. As a panel of citizens responsible for recommending Charter Amendments to the voters next fall, we are very interested in public opinion on this issue. Currently, council members do not represent districts. Our system is an at-large one in which all nine council members are elected by voters from the entire county. The catch is that eight of the council members are required to reside in particular areas. This system assures that each defined area of our county has a resident on the council, even though electoral control over the resident member is shared with the whole county.

True single-member-district systems have several advantages. It is easier and less costly for candidates to run in a district rather than the entire county. This means effective campaigns can be run by people without a lot of money or name recognition, which encourages a larger number and diversity of candidates.

True district systems are far less confusing to the voters. People are used to the idea of each region electing its representative to serve on the legislative body. The at-large with residency system confuses many voters and leads to ill-informed voting and a breakdown in accountability between electorate and elected.

At-large systems allow a majority, whether defined by geographic area, ethnic identity or political views, to dominate in the election of all the council seats. Currently, in Maui County all the candidates for council seats need to focus most of their attention on the concerns of the urban areas where the overwhelming majority of the voters reside. The unique concerns of the minority of

voters in the outlying rural areas have little chance of substantially influencing any of the nine council elections. As a significant portion of a district, a rural area could have real influence on its district member on the council.

Political scientists have found that those elected by districts tend to be more oriented toward providing direct service to individual constituents than those elected in at-large systems. There is more personal contact between the citizens and their elected council members.

Because of their constitutionally required equal populations, true districts assure approximately equal numbers of well-qualified candidates for each seat on the council. Residency requirement areas in at-large systems need not be equal in population, and areas with a smaller population will typically field fewer well qualified candidates. This not only gives some candidates a large advantage, it may also dilute the overall quality of the elected council.

But there are disadvantages. Members elected by a district will make their district their primary focus, while those elected at-large have more of a county-wide perspective. The fear is that spending decisions may illogically favor some districts over others simply because of the differences in political effectiveness of council members.

A survey of nearly 1,000 elected council members in 218 cities in 42 states found that while members elected by districts do pay special attention to the needs of their district, they also consider it important to focus on the entire city. The authors of this study concluded that the difference between district elected and at-large elected members in this regard "should not be exaggerated." Also, it is important to remember that few of the issues that come before the council affect only one area of the county.

MAUI NEWS

4/19/92

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Charter Commission

AUG 29 2001

Unfortunately, Maui County cannot be divided up into a reasonable number of equal districts without combining Lanai and Molokai with other parts of the county. This means that each of these islands would be part of a district that also would include part of Maui. Canoe districts are not welcomed by anyone.

Although Lanai and Molokai would no longer be guaranteed a resident of their island on the council, they would have a lot more electoral control over their district's member than they do now. Lanai would be about 20 percent of its district and Molokai about 58 percent of its district. This is enough voters to make candidates in those districts pay very careful attention to the needs of those islands. Also, those concerned about canoe districts should remember that our current system is really one in which all nine council members are elected by a two canoe district — the three island County of Maui.

There will be a public meeting sponsored by the Maui County Council of Community Associations on Wednesday for the purpose of discussing this and some other Charter issues. This meeting will be held at 7 p.m. in the Kahului Public Library Meeting Room. Citizens can also attend Commission meetings and testify, or send written comments to: Maui County Charter Commission, P.O. Box 307, Kahului, HI 96732.

Al Sparks is a member of the Maui County Charter Review Commission.

PROPOSED CHARTER AMENDMENT

"True Council Districts"

BE IT ENACTED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. Article 3, Section 3-1, Maui County Charter, is amended to read as follows:

"Section 3-1. COMPOSITION. There shall be a ~~council~~ council composed of nine members [who shall be elected at large]. One member shall be elected from each of nine districts. Candidates shall be nominated and elected in accordance with the election laws of the state.

[Of the nine members elected to the council, one shall be a resident of the Island of Lanai, one a resident of the Island of Molokai, one a resident of the residency area of East Maui, one a resident of the residency area of West Maui, one a resident of the residency area of Makawao-Haiku-Paia, one a resident of the residency area of "Upcountry" comprising Pukalani-Kula-Ulupalakua, one a resident of the residency area of South Maui, one a resident of the residency area of Kahului, and one a resident of the residency area of Wailuku-Waihee-Waikapu. The county clerk shall prepare the nomination papers in such a manner that candidates desiring to file for the office of council member shall specify the residency area from which they are seeking a seat. The ballots for the primary and general election shall, nevertheless, be prepared to give every voter in the county the right to vote for each and every council seat.

1. The East Maui (Hana-Keanae-Kailua) residency area shall consist of the 3rd, 4th, and 5th Precincts in the 12th Representative District.
2. The West Maui residency area shall consist of the 1st, 2nd, and 3rd Precincts of the 7th Representative District and the 1st Precinct of the 8th Representative District.
3. Wailuku-Waihee-Waikapu residency area shall consist of the 2nd, 3rd, 4th and 5th Precincts, of the 8th Representative District, the 5th, 6th, and 7th Precincts of the 9th Representative District and the portion of the 6th Precinct of the 8th Representative District north of Pohakea Gulch.

4. The Kahului residency district area shall consist of the 1st, 2nd, 3rd, and 4th Precincts of the 9th Representative District and the 3rd Precinct of the 10th Representative District.

5. The South Maui residency area shall consist of the 3rd, 4th, 5th, and 6th Precincts of the 11th Representative District and the portion of the 6th Precinct of the 8th Representative District south of the Pohakea Gulch.

6. The Makawao-Haiku-Paia residency area shall consist of 4th, 5th, 6th, and 7th Precincts of the 10th Representative District and the 1st and 2nd Precinct of the 12th Representative District.

7. The Upcountry (Pukalani-Kula-Ulupalakua) residency area shall consist of the 1st, and 2nd Precinct of the 10th Representative District and the 1st and 2nd Precinct of the 11th Representative District.

The precincts described are those official precincts and boundaries thereof for the 1992 General Election of the State of Hawaii as described in the Notice of Intent and the election Proclamation of the Honorable Benjamin J. Cayetano, Lieutenant Governor of the State of Hawaii, dated the fifteenth day of June, 1992.] "

SECTION 2. Article 3, Section 3-3, is 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] district from which the person seeks to be elected. 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] district during the council member's term of office, or if the council member is adjudicated guilty of a felony, the council member shall immediately forfeit office and the seat shall thereupon become vacant."

SECTION 3. Article 3, Maui County Charter, is amended by adding a new section to be designated as Section 3-10 and to read as follows:

"Section 3-10. COUNTY REAPPORTIONMENT COMMISSION.

(a) There shall be a county reapportionment commission which shall establish the boundaries of the council districts.

(b) The initial reapportionment commission shall consist of nine members. One member shall be a resident of each of the current council residency areas of East Maui, West Maui, Wailuku-Waihee-Waikapu, Kahului, South Maui, Makawao-Haiku-Paia, Upcountry, the Island of Molokai, and the Island of Lanai. The members shall be appointed by the mayor and confirmed by the council in the manner prescribed in Section 13-2.



MAUI COASTAL LAND TRUST
PO BOX 330731
KAHULUI, HI 96733
(808) 244-LAND (244-5263)
Fax (808) 875-2306

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Charter Commission
AUG 29 2001

August 29, 2001

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DIRECTORS**

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Mercer 'Chubby'
Vicens

Dear Charter Commission Members:

Mayor Apana recently proposed a charter amendment to create a special fund to purchase open space. Maui Coastal Land Trust (MCLT) supports the Mayor's general proposal.

Maui's citizens support this proposal as well. A year ago, when the Trust for Public Lands (TPL) surveyed Maui voters, it found that 70% favored setting aside a percentage of the county budget for the purchase of open space.

Many County Council members have expressed their support for a similar proposal as well. However, some Council members thought the subject should be given to the voters. With the Charter Commission's assistance, we now have the opportunity to let the voters speak.

The pressure on our open space is accelerating. The need to preserve our scenic vistas, beaches, shoreline fishing, camping, rural atmosphere and natural areas has never been more acute. If we don't start doing it now we may never have the opportunity.

These issues are not only important to the quality of life of those of us who are fortunate enough to live on Maui but vital to our visitor industry. People from all over the world travel spend thousands of dollars to visit one of the most isolated islands in the world specifically because of what it has to offer: a pristine natural environment. If we lose that natural environment, we lose what makes Maui special, and what drives Maui's economy.

The Mayor's proposal called for a 1% funding level. When considered against past expenditures and future needs that may not be enough. MCLT suggests the Charter Commission permit further debate from interested parties on the appropriate funding level.

Regardless of the amount, this appropriation to open space can have a significant positive impact on Maui's acquisition of open space. Money set aside in this fund can be leveraged substantially with private donations, matching funds from government grants, and the issuance of bonds. Maui has been missing out on these opportunities because currently there is no county money available to leverage.

MCLT requests that the Charter Commission recommend an open space charter amendment. MCLT, with the assistance of TPL, a national organization with extensive knowledge in this area, is prepared to assist the Charter Commission in the important process of researching and drafting this amendment.

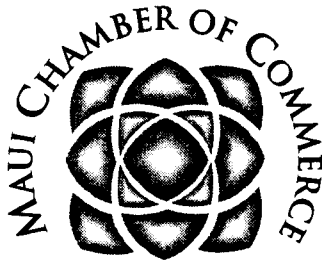
Among the provisions that need to be included in any amendment are the following: (1) An express understanding that the open space appropriations may only be used to acquire open space; and, (2) creation of a committee or board that will permit citizen to meaningfully participate in the land acquisition decisions.

MCLT looks forward to the opportunity to work with the Charter Commission to craft an amendment that will benefit current and future generations by ensuring that Maui remains "*no ka oi*."

Sincerely,

A handwritten signature in black ink that reads "Dave Mackwell". The signature is written in a cursive style with a large, sweeping initial "D".

Dave Mackwell
Chair, MCLT Ad Hoc
Committee Regarding Charter
Commission



August 29, 2001

YOUR BUSINESS FUTURE

Ms. Terryl Vencl, Chairperson
Commission Members
2001 Maui County Charter Commission

Aloha:

My name is Lynne Woods and I testify before you as President of the Maui Chamber of Commerce.

The Chamber of Commerce asks the Commission to consider, for placement on the ballot during the next general election, the issue of changing our County Council terms from two years to four years with a three term limitation.

We also recommend that the County Council positions be considered full time, not part time and that the elected members be offered full time compensation and benefits.

The position of County Council Member is a complex one with much to learn. Two years is not long enough to study and understand the process of governance as well as have the time to develop and carry out the agenda their constituents had elected them to do.

We thank you for all of your many hours of work on the Charter Commission and appreciate your attention to our testimony.

Yours truly,

Lynne Woods
President

Council Chair
Patrick S. Kawano

Council Vice-Chair
Dain P. Kane

Residing Officer Pro Tempore
Charmaine Tavares

Council Members
Alan M. Arakawa
Robert Carroll
G. Riki Hokama
Jo Anne Johnson
Michael J. Molina
Wayne K. Nishiki



Director of Council Services
Ken R. Fukuoka

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

August 29, 2001

Terryl Vencl, Chair and Members
Charter Commission
County of Maui
Wailuku, Hawaii 96793

Dear Chair Vencl and Members of the Maui County Charter Commission:

The Maui County Council has not yet taken an official position on possible amendments to our County Charter. If the Council proposes Charter amendments relating to the planning process or anything else, they will be presented to you at a later date. Tonight I am proposing changes as an individual member of the County Council and as a citizen of Maui County. None of these suggestions have been reviewed by an attorney.

1. **Non-Partisan and Run-Off Elections.** I ask that the Commission resist any temptation to change the non-partisan election process for the Mayor and the Council that was approved by Maui County voters in 1998. We have had only one election for the Council and none for the Mayor under the new process. We need to see how it works before we make any further changes. I am personally a strong supporter of the non-partisan election process. I believe all four counties in Hawaii now have non-partisan elections.

Our current system sends the top two vote-getters in the primary election on to the general election in November even if only two candidates run. This is to ensure the greatest possible participation by our voting public. Historically, we have such a low voter turnout in our primary election that someone could conceivably be elected by only 15% of the voters if a run-off was not required in the general election in November. I don't think any of us want to see that scenario here in Maui County.

2. **District Voting.** If you decide to take a look at district voting for Councilmembers, perhaps you should consider recommending that a separate commission be created to review the entire issue. Such a commission could propose boundaries for the districts – a task which will be quite difficult in our 3-island county. If the voters are interested in pursuing this, it is worthy of thorough reflection and review in its own right.

- 3. Powers of the County Council: Power to Remove Corporation Counsel.** I ask that you consider giving the County Council the power not only to *confirm* the appointment of the Corporation Counsel by the Mayor, but also the power to *remove* the Corporation Counsel from office. The Mayor should continue to have the authority to appoint the Corporation Counsel, with the approval of the County Council, but the Mayor and the Council should share in the power to remove the Corporation Counsel from office.

[Article 3 – County Council, Section 3-6 Powers of the Council; Article 6 – Executive Branch, Section 6-2 Appointment and Removal of Officers and Employees; and Article 8 – County Departments, Chapter 2 – Department of Corporation Counsel, Section 8-2.2 Corporation Counsel.]

- 4. Powers of the County Council: Assigning Duties to Corporation Counsel.** I ask that you consider changing language so that Corporation Counsel performs duties assigned by the County Council as well as those assigned by the Mayor.

The current system assumes that the Corporation Counsel will serve the Mayor and the County Council with *equal* diligence. However, over the years, it seems that eventually most of those in the position of Corporation Counsel give the Mayor's perspective greater weight than that of the County Council. If the Corporation Counsel could be held accountable to both the Mayor and the County Council, perhaps this imbalance would be diminished, if not eliminated.

[Under Article 8 - County Departments, Chapter 2 – Department of the Corporation Counsel, Section 8-2.3 Powers, Duties and Functions. d. "Perform such other duties and functions as shall be assigned by the mayor or County Council."]

- 5. Powers of the Council: Zoning and Land Use Matters. Article 3 – County Council, Section 3-6. Powers of Council** makes no mention of the Council's existing responsibility and authority for legislation regarding zoning and other land use ordinances. I believe it should be spelled out here.

6. **Powers of the Council: Coastal Zone Management.** I request that the Commission consider shifting the authority and responsibility for "all matters relating to the Coastal Zone Management law" from the Planning Commissions to the County Council. An advisory role for the Planning Commissions in these matters would be consistent with their role in other land use matters. Though well-intentioned, the current law places too much responsibility on volunteers who must depend solely on the Planning Department for guidance and support when deciding whether or not to issue an SMA permit for construction along our coastlines. The County Council can be held accountable for its decisions and has more support systems in place to assist Councilmembers.

[See also **Article 8 – County Departments, Chapter 8 – Department of Planning, Section 8-8.4. Planning Commissions, number 4.**]

7. **Mayor: Qualifications.** Under **Article 7 – Office of the Mayor, Section 7-3. Qualifications**, the last sentence now reads: "If the mayor . . . is adjudicated guilty of a *crime involving moral turpitude*, the mayor shall immediately forfeit the office of the mayor." Under **Article 3 – County Council, Section 3-3. Qualifications**, the last sentence reads, in part, "if a council member is adjudicated guilty of a *felony*, the council member shall immediately forfeit office and the seat shall thereupon become vacant."

Please consider changing the language under the Mayor's section so that it parallels the language under the Council's section. This has less to do with a balance of power than with clarity and enforceability.

While I don't expect any of our current Council members or the Mayor to be affected by the wording in these sections, I expect we are all familiar with the situation facing the Honolulu City Council. One member of that City Council has been found guilty of a felony, yet he still remains on the Council. Our Charter already prohibits that. I think that same language would work better in the Mayor's section rather than having the community faced with trying to define "moral turpitude."

8. **Department and Board of Water Supply.** Finally, I ask the Commission to make any and all changes in the Charter necessary to bring the Department and Board of Water Supply and its Director and Deputy under the full authority of the Mayor and the County Council.

Water is a matter of life and death for our lives and our environment. Yet, under our current system, the water department and its board are left out on a limb by themselves to deal with such critical issues. They are left without either the support or the accountability that would be known and understood if both the Mayor and Council worked directly with them, as we do with most other departments.

The Board of Water Supply is comprised of nine very hard-working volunteers who have the difficult and complicated job of trying to get a handle on the complexities of the various public and private water systems in Maui County. The department's director reports to this board. He or she is faced with keeping them fully informed through many lengthy reports and board meetings while they try to fulfill their duties after taking care of responsibilities for their own jobs and families.

Because they are volunteers, the water board is required by our Charter to get approval from the Mayor and Council for changes in water rules and rates. Since neither the Mayor nor the Council are involved in the ongoing work of the Board or the Department of Water Supply, it is often difficult for the department to educate its audience and justify any changes in a way that the public understands and supports. Clearly, the current structure does not work in the best interests of our communities.

Specific Charter changes which would implement these recommendations for the Department of Water Supply are attached.

If you have questions now or later on in your deliberations, please don't hesitate to contact me. My phone number is 270-7939. My email address is Charmaine.tavares@co.maui.hi.us

Thank you for your dedication to the challenging task of reviewing our County Charter and thank you for your consideration of my requests.

Sincerely,



Charmaine Tavares
Councilmember – Upcountry