

MAUI COUNTY CHARTER COMMISSION PUBLIC MEETING  
County Council Committee Room, Maui  
Monday, November 19, 2001  
8:30 a.m.

PRESENT

Terryl VencI, Chair  
R. Sean McLaughlin, Vice-Chair  
Vince Bagoyo  
Bill Fuhrmann  
Gwen Hiraga  
Stephen Holaday  
Stephen Petro  
Erlinda Rosario  
Donn Takahashi

STAFF

Brian Moto, Corporation Counsel  
Jon Van Dyke, Charter Commission Analyst  
Ke`ala Pasco, Charter Commission Assistant

EXCUSED

Karolyn Mossman

CALL TO ORDER

The meeting was called to order at 8:30 a.m. Commissioners present: Bagoyo; Fuhrmann; Hiraga; Holaday; Petro; Rosario; Takahashi. Commissioner Mossman is excused and Vice-Chair McLaughlin is expected to attend. Mr. Van Dyke is present via conference call. Also present: Brian Moto and Ke`ala Pasco.

As no testifiers were present at the moment, Chair VencI went ahead with the agenda. The minutes from November 5 were accepted with a minor change to page 12. Motion was made (Petro), seconded (Rosario), and unanimously approved.

Motion was made (Holaday), seconded (Takahashi), and unanimously approved to accept a fax from Eydie Treutler for the record. Chair VencI reported that the Mayor is working on finding an eleventh commissioner for the vacancy.

Mr. Van Dyke shared comments on the last meeting. He is looking into the voting situation by trying to get data, giving it a lot of thought, and going through all the testimonies and minutes. Two strong desires have become evident to him: keeping representatives for Lana`i and Moloka`i on the County Council (a fair amount of testimony supports the districting approach). An idea that might be worth considering is based on the Big Island, which has some at-large and some districting. So of the four at-large council members, two would be from Maui, one from Lana`i, and one from Moloka`i. He's offering this as one solution to conflicting views, and will have data to look at for the next meeting. We'd need to provide the language to make changes. The Commission could put forth one or two possibilities and get feedback, then make further adjustments to present to the public.

Commissioner Bagoyo said it appears that Mr. Van Dyke's suggestion is going back to what we used to have; we need to know the reasoning behind the change eight to ten years ago to the current configuration. Mr. Van Dyke said his proposal is different. Inevitably, council members have to run a countywide campaign; his proposal would have some council members elected from some districts. 1/5 of the county would vote for each of these five candidates. This would be less costly (a grass roots campaign). Residents would have more of a link to their community because a few at-large seats would ensure that people came from those areas. Residency requirements for candidates are for five years; around the country they have always been upheld. Cons of the residency requirement would be that it reduces flexibility, and it may

prevent voters from picking their candidate of choice. A one-year residency requirement would be an appropriate, logical suggestion to make. Ninety days is on the short side.

Regarding the vacancy of office when one is convicted of a felony, moral turpitude is ambiguous. Add the word "felony" in those sections to make that crystal clear. The case of Mirikitani needs to be clarified; he's still sitting in office because he hasn't been sentenced. Eliminate references to being in the same party (3-4). 3-3 says if a county member is adjudicated guilty of a felony, he shall immediately forfeit office. We need to know when they should leave office; there is concern about when an official is supposed to resign. Mr. Moto's legal opinion is that for the forfeiture of a public office, the trigger is the sentencing. So the question is whether the charter would provide a different provision from what the state provides.

Chair Vencl asked Mr. Van Dyke to keep a "yes/no/housekeeping list." He said he'd have it for the next meeting.

### TESTIMONY

MR. JIM SMITH

Mr. Smith, a resident of Ha'iku, discussed the following:

- 1) He has concerns regarding talk of corporations in Chapter 2. He has experience as far as observation and participation in proceedings. There should be within the department of corporation counsel a "public justice commission." When corporation counsel advocates for an agency or a branch, it sometimes does it in a way that appears to be biased. He referenced the case of Berger 295US 78 on page 88. Corporation counsel is missing the manifestation of this; there is a public duty. It's adrift and not defined. A commission was advised to let all people speak. This idea is not new, but since then we've experienced some conflict. If you were to prioritize the issues that have galvanized this community, it would be corporation counsel. Identify the issue.
- 2) In 148f3 on page 1109, regarding attorney/client privilege to the president ... it's the responsibility of government lawyers to assist and nurture public confidence. Vice-Chair McLaughlin identifies corporation counsel as an issue, saying that there was also concern expressed about the balance corporation counsel has. He asked what if they were to be given a greater ability; Mr. Smith thinks it's a bad idea. Looking at something you can't touch. Accountability is ... judicial, legislative ... circumvented and corrupted; something needs to be done. Mr. Smith asked why is there no trust.

MS. BARBARA LONG

Ms. Long wanted to hear Mr. Moto's response regarding licensing agreements by the Mayor approved by council (not ordinances). Regarding boards and commissions: it doesn't talk about gender. It's important to have balanced consideration, so put something about gender equity. Of all applications that have come in for boards and commissions, she knows a number of women have been overlooked. Vice-Chair McLaughlin said it's not on our agenda today but keep your eyes open; we'd like to hear your comments on boards and commissions. Ms. Long concluded by adding one caveat: please do not eliminate one iota of public participation; increase it.

Chair Vencl turned to the Discussion of Article VIII of the Charter (excluding Planning, Water, Public Works, and Ethics). The excluded departments will be taken up later so their

representatives can be present. She asked that the commissioners look at each department for housekeeping issues, and asked Mr. Van Dyke to keep up with the list.

In response to Ms. Long's question, Mr. Moto said that since 1982, every legislative act of the council should be by ordinance. This was shortened and simplified as a result of actions by the previous charter commission to eliminate things that were obvious or redundant.

Discussion ensued about the need to set a minimum qualification or requirement for Maui County. Commissioner Takahashi asked if the charter was the right place to do that, saying that if we're going to put someone in a more permanent position, he doesn't think it's a charter issue. The Charter does provide for some kind of experience, but the guidelines are not so specific. Commissioner Petro said while he understands what Commissioner Bagoyo is trying to say, he doesn't think we should be so constrictive. The appointing authority should have some criteria. It's important, but he doesn't think the Charter is the right vehicle. Commissioner Bagoyo said he understands setting up a minimum standard, but he still thinks some positions require a minimum of qualifications; he said we need to discuss and come up with some recommendations (he thinks the college requirement is too restrictive).

Chair Vencl said she spoke with Roy Hiraga about the Reapportionment Commission. District maps will be filed.

Discussion about minimum qualifications continued. Commissioner Petro said a wise, competent mayor would appoint competent people; it's his job. Vice-Chair McLaughlin asked which mechanism of accountability corrects that and allows the maximum of accountability; the mechanism is the Commission. Mr. Van Dyke said that the current Charter does provide the minimum for quite a few of the directors, but it's hard to have an individual standard to fit everyone. He tends to agree that the Mayor should have flexibility (there has to be a way that they are qualified).

Commissioner Holaday said we talked about this before (creating inefficiency). It's agreed that the Mayor should have flexibility, but it's been mentioned before that department heads should have some kind of a degree. How can we improve the current system and make it better?

Chair Vencl asked if we want to offer a minimum of a college education for certain departments. Let's go through each department. Commissioner Takahashi said that most have a minimum of five years' experience. Maybe that's where the compromise could be: three years in this capacity. It doesn't mention "successful"; maybe we want to tweak the words. Commissioner Bagoyo said experience, education, or a combination of both should be required.

Commissioner Fuhrmann asked how we know if all of these departments actually have this kind of experience. Mr. Moto replied that he's never personally had to check, and he doesn't know if there's a formal review process. Nothing in the Charter addresses what should happen if someone fails to have the minimum requirements. The current Charter doesn't address what would happen if someone were appointed and it was proven that they failed to meet the requirements. Commissioner Takahashi pointed out that if we're going with these requirements, then the chief would have to have some as well.

Chair Vencl brought the attention to Management, the first department to look at. She asked if anyone had any suggestions for this department. Vice-Chair McLaughlin's suggestion is take this out to the community for further discussion. Commissioner Bagoyo stated that he had some concerns about how the department heads are confirmed by the County Council. He believes

the Mayor should have flexibility and some minimum requirements. Commissioner Petro said the managing director should not be approved by the Council. Commissioner Hiraga reminded everyone that we're not voting on that. Vice-Chair McLaughlin said the point is that the managing director is a key position, and if the Mayor appoints a managing director and the Council approves, then the Council has a certain timeframe. The public is allowed to meet the managing director; it's essential in a democracy that the candidate faces the public. Commissioner Hiraga asked that the proposal be made. Commissioner Petro reiterated that by saying it's a matter of philosophy; we've stated our positions and how we feel, so take a vote. Vice-Chair McLaughlin made the motion. There was no second; the motion died.

Chair Vencl brought up the experience issue. Should it be five years be in an administrative capacity, in public or private administration, or both? Mr. Van Dyke said he interpreted it as the commissioners felt there shouldn't be public confirmation of any additional department heads. Chair Vencl replied that the first assessment is correct. The Commission won't take the issue out to the public again or broaden the confirmation by the Council any more than it is right now. Mr. Van Dyke asked if that was the wish of the other commissioners, to which Commissioner Bagoyo replied that the motion failed, but it may still be included at some point in time.

Chair Vencl reiterated that the Commission is to make decisions on items to be taken back to public hearings. Mr. Van Dyke said he wants to respect the decision of the group, but like Commissioner Petro said, we're satisfied with it unless we get a tremendous amount of feedback. Vice-Chair McLaughlin said the purpose of the discussion would be too narrow, and to proceed with the question. The Commission decided not to discuss it now; Commissioner Bagoyo's comment is appreciated, but move forward.

Chair Vencl asked for comments on management. Commissioner Takahashi said "shall have had five years experience" is not enough to be the managing director; he doesn't understand. Commissioner Bagoyo said that's why he was trying to figure out how we can have some standards. Perhaps we should consider two-year college prep and three years experience in a related field (managing a company or a restaurant) for discussion purposes.

Commissioner Holaday stated the Commission's job is to fix a problem. If there is no problem, get on with it. If you take out minimum requirements, you're open to a lot of discrimination suits. Take it out and get on with it. He moved to take out "professional requirement" in all categories with the exception of those requiring a professional degree. The motion was seconded by Vice-Chair McLaughlin; Commissioners Petro and Bagoyo expressed opposition ("need to set minimum standards"), and the motion failed.

More discussion followed, after which Chair Vencl asked for a motion. Motion was made (Rosario) and seconded (Petro) to leave the language regarding the management department qualifications as is. Opposed: McLaughlin and Takahashi. The motion passed. Chair Vencl called for a ten minute break.

#### BREAK

The meeting was called back to order at 10:30 a.m. Chair Vencl asked if anyone had a motion to change anything in corporation counsel. Commissioner Bagoyo wasn't ready to make a suggestion at this point, but said we should look at this; he wants Mr. Van Dyke's suggestions regarding whether or not there should be a commission that would decide on the duties of corporation counsel (should they take an adversarial position or just provide legal counsel?).

Commissioner Petro explained that the whole idea was to give citizens the right to appeal relative to public concerns. They'd have the opportunity to fight a decision that was made by corporation counsel by appealing to the Public Justice Commission. Mr. Van Dyke asked if the idea was really a practical approach in order to give the public a kind of supervisory clout. Chair Vencl reminded the commissioners that they made a "No" decision regarding counsel and the Mayor to hire and fire (it was left as is). So it's just the Mayor. When Mr. Van Dyke asked about giving assignments to corporation counsel, she replied that the Mayor should have the ability to direct corporation counsel, but they work for both the Council and the Mayor. The question is what duties can or should be given to corporation counsel; Chair Vencl asked Mr. Van Dyke to please look at that. We don't have any comments from the prosecuting attorney or the commissioners.

Moving on to the Department of Finance and issues about the budget date, Chair Vencl asked for comments. Commissioner Bagoyo asked to have the commission reconsider and establish some minimum requirements for this director (college prep in the area of business or county), the reason being that we need to establish some minimum of high standards for this department, which manages all finances for the county. Commissioner Bagoyo's motion for discussion was seconded by Vice-Chair McLaughlin. Commissioner Takahashi said putting in a college degree requirement would be restricting people, and reminded the Commission of the previous motion that passed about leaving all of this alone. Commissioner Bagoyo asked to make an amendment and requested consideration for an exception for this particular department.

Mr. Moto affirmed that the motion could be entertained by the Commission. Commissioner Takahashi asked if there were any other departments that should be included; Commissioner Bagoyo added the Planning Department, which he said is critical.

Chair Vencl brought the Commission back to the Finance Department and the question of having requirements include a college degree in the business area. In favor: Commissioners Bagoyo; Holaday; Rosario; and Takahashi. Against: Vice-Chair McLaughlin; Commissioners Fuhrmann; Hiraga; and Petro. Chair Vencl voted in support of the motion; however, six votes were needed, so the motion died.

Mr. Van Dyke asked how strict the commissioners want to be, asking if they wanted to get this topic out to the public. Commissioners Fuhrmann and Petro said they'd be willing to change their votes to hear what the public has to say.

Vice-Chair McLaughlin asked Mr. Moto and Mr. Van Dyke for guidance on being less formal and moving this along. Mr. Van Dyke suggested taking it to the public since it would be in everyone's interest to get feedback from the public. Commissioner Hiraga disagreed, saying that they shouldn't be adjusting votes required to take it out to the public. Mr. Moto interjected that in terms of procedure, there is an advantage; an alternative would be to make another, slightly different motion that could be voted on as well. Chair Vencl said from her point of view, we're taking these things back out to the community; if we think it should be talked about again in the public, vote yes. Commissioner Bagoyo said he'll respect the decision since the Commission had already voted; however, in the next round of public meetings, it doesn't preclude us from discussing these issues. He'll discuss it either way; items not discussed here can be discussed in another venue.

Chair Vencl wrapped it up, saying we're leaving Finance alone at this point. From her notes, the biggest thing about the Parks Department is whether or not there should be a commission. The director didn't have a particular position. Commissioner Bagoyo said maybe the Mayor's Parks and Recreational Advisory Committee and the Arborist Committee should expand things they

need to do. Commissioner Petro said there was testimony to establish that commission, but he wasn't sure whether they went that route or not.

Commissioner McLaughlin said he's very interested in looking at boards and commissions and how we can accommodate them. There isn't one in Parks right now; that suggestion could be accomplished by ordinance.

Commissioner Holaday asked if we should solve the issue about lifeguards now or later. Commissioner Takahashi asked if the Mayor's 1% goes in Planning or in this dept, and whether it should be discussed. Chair Vencl answered that Open Space is on an agenda by itself, and that she's still waiting for an outline or structure for us. We'll deal with the issue of open space when we get there, and if we do anything about that, we'll deal with it then. Going back to the issue of lifeguards, both the fire chief and parks director said it should remain as is. Nothing else is needed at this point.

Chair Vencl turned the discussion to the Fire Department. Commissioner Petro made a motion to establish a fire commission to replace the safety commission for continuity. The motion was seconded by Commissioner Bagoyo. Chair Vencl said the Commission's first duty would be to hire a fire chief. This commission would be operated similarly to the police commission.

Commissioner Petro included in his motion that the same due process provision that needs to be followed before the firing of the police chief should apply to the fire chief as well. The Fire Commission would include a budget, take complaints from the public, etc.

Chair Vencl asked if Civil Defense would be under the Fire Department or on its own if we're doing away with the Public Safety Commission. She recommends that they be included. Mr. Van Dyke will come back with a recommendation for that.

Vice-Chair McLaughlin said he supports opening discussion. Make a police, fire, and safety commission. When those commissions have real authority, create another such commission for the public to follow, one that would be accountable with the understanding that we look at the broader issue. Chair Vencl said that's another option to look at for next week.

Commissioner Takahashi asked what the advantages for having a fire commission would be besides hiring a fire chief. Commissioner Petro wanted to know if Mr. Van Dyke would recommend that the fire commission assume the responsibilities of the public safety commission, or just maintain their responsibilities. Mr. Van Dyke said he'd discuss it at the next meeting on December 10 (Mr. Van Dyke had to leave for his class at this point).

More discussion followed regarding the duties of the fire commission, then Chair Vencl reminded everyone that there was a motion on the floor regarding taking the idea of a fire commission back to the community meetings; we're keeping the subject alive until the next meeting. The motion was unanimously approved.

Commissioner Bagoyo said he doesn't know why the Fire Department needs to approve plans. Commissioner Hiraga replied that building permits go through many agencies, and she doesn't know if they can just leave everything to Public Works. Chair Vencl asked if there was a particular motion to take it out or leave it alone; Commissioner Bagoyo said to remove item 4.

Chair Vencl called a five minute break so Akaku could change tapes.

BREAK

The meeting was called back to order at 11:13 a.m. Motion was made (Rosario) and seconded (McLaughlin) to leave this alone for now.

Vice-Chair McLaughlin requested Mr. Moto's opinion: the Commission has the authority to create deputy positions; should this authority be extended to other commissions? Mr. Moto replied that as a general rule, with the exception of Public Works and possibly Water, you don't see references to a deputy ... currently in our Charter, certain circumstances shall be made or should be made, like debt service. Other situations, like in the case of the Board of Ethics, no full time or specific positions are created by law ... there are different kinds of appropriations for different positions. Chair Vencl said this issue would be tabled until next time. She'll ask Mr. Van Dyke to look into this.

Vice-Chair McLaughlin had a question regarding departments that answer to commissions. It's very important for him to understand the difference in mechanisms in how these departments interact. He'd like to hear from Mr. Van Dyke a conceptual way to think about a department that is answerable to a commission rather than to the Mayor. He wondered how he would help us with that whole issue, how he'd address these four different chapters now.

Discussion ensued in which Commissioner Takahashi got clarification on the Director of Planning, the Director of the Board of Water Supply, and the police chief, his point being that each of these scenarios is different. It's important and critical to understand these intricacies. He recommended that we proceed cautiously in these different areas because we could make a bad recommendation. Commissioner Petro concurred, saying that if we don't understand it, how can the public understand it and give input. That's why the structure of our county government is so important.

Commissioner Bagoyo said the theme from the first round of public meetings was where to place accountability. It was under the elected official. Do we want to place it on the commission or the elected official? There are pluses and minuses about having commissions work independently. As we move forward, we need to think about where we want to place accountability.

Chair Vencl said she'd like to address Open Space at later time. She wants to look at all intricacies and consider everything that was brought to the table today. Can we leave that for discussion on the same day as Open Space so we can fill up that agenda? Like Commissioner Takahashi, she has a concern that a decision the Charter Commission makes might have ramifications in other areas.

Chair Vencl recommended looking at pros and cons at this point. Commissioner Petro would like Mr. Van Dyke's pros and cons so at least we'd have some ideas.

Having people from specific departments was brought up. Chair Vencl said she doesn't know exactly what to do about that. She has, on occasion, invited them specifically, to no avail. They're fully aware of what we're doing. Maybe it won't be until we get back to the public. She doesn't know what more to do.

Vice-Chair McLaughlin said this is a really important discussion, but in addition to how we should handle boards and commissions, he'd still like to hear from Mr. Van Dyke on public structure; it'd be helpful to see an organizational chart for the County.

Regarding the section on Personnel Services, Commissioner Takahashi said that "personnel" is an outdated term. "Human Resources" reflects the most current terminology.

Commissioner Petro added that the directors of this department, the Department of Water Supply, and the Department of Liquor Control don't have a due process clause. There should be a due process clause for all three of them. This motion was seconded by Commissioner Rosario.

Commissioner Bagoyo asked what the reason was for due process as it becomes very tedious. Commissioner Petro replied that if there's cause for removal, the director should be told why he or she is being asked to leave.

Vice-Chair McLaughlin was really shocked at how much authority is vested. He's going to try to see who these people really are. He supports the motion of how we're going to authorize these commissions to hire and fire. How do you tell a commission that has so much authority already how to hire and fire? He added a housekeeping measure: wording should be changed to "shall believe."

Following further discussion, Chair Vencl reminded the commissioners that the motion is that with water, liquor, and personnel services, we should add something about due process. She's trying to get a consensus regarding due process for removal of a director.

Commissioner Bagoyo said he believes in due process but is concerned about putting that in the Charter because it poses some liability on the county. He's always believed in the system and that there is in fact due process. If you feel you've been treated unfairly, you'll have the civil court to take your complaint.

Much discussion followed regarding the definition of due process. Chair Vencl said it seems that if we simply add the verbiage that a person gets due process in the Charter, then each department could do it, but it'd be in the Charter. Commissioner Bagoyo said we need to define it; it could be a very cumbersome process. Commissioner Petro retorted that the wording is quite clear. "Due process" is as it is written under the firing of the police. Commissioner Holaday said he thinks we need help from a labor lawyer.

Commissioner Fuhrmann made a motion to defer this until we get clean language, then take it back to the public. Commissioner Takahashi wants Mr. Moto to ask legal counsel and a labor specialist to go through this Charter to see if there are any current legal issues, and bring that back to us.

Chair Vencl said there's a motion on floor, and asked what the commissioners what they wanted to do. Defer the motion until we get the language? Commissioner Bagoyo said he supports some form of due process as long as we come up with a clean, concise, defined way. We don't want to expose the county to liability.

Chair Vencl said that Mr. Craddick and Mr. Goode will be present at our next meeting. The meeting will be on December 10.

Vice-Chair McLaughlin said email communications shared with Chair Vencl should be available to the public. When we communicate via email, that should be part of public record.

Chair Vencl said we will be discussing Water and Public Works on the 10<sup>th</sup>. Planning and Ethics will be on the 17<sup>th</sup>.



Commissioner Bagoyo asked if Mr. Van Dyke is preparing the information that we will take out to the public because he wants to make sure we get those things ahead of time so we can review and be prepared. He wants the matrix of things we've already agreed to. Chair Vencl replied that we'll begin the next meeting with a summary or working document that will grow. She can ask him about the summary ahead of time. Commissioner Bagoyo reminded her that it's important to also put that in the binder.

Commissioner Petro said the quicker we get the pros and cons of issues for our public the better; there's so much to consume and review. It's not fair to the public to have them see the information for the first time on January 16; they need it ahead of time.

Vice-Chair McLaughlin thanked Chair Vencl, saying her efforts, along with the Mayor's, are really critical, as are the web page and the public file here at the County building. In addition to the official County of Maui website, there is now maicharter.net. He encouraged members to look at the web sites, contribute their own ideas, and to discuss this out in the community. He hopes we use all possible venues such as editorials, speak out sessions, and PSAs.

BREAK

Chair Vencl thanked Akaku. The meeting was adjourned at 12:35 p.m.

  
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Ke'ala Pasco, Charter Commission Assistant

Organizational Chart – Executive Branch -- County of Maui  
(Draft - Jon M. Van Dyke – Nov. 25, 2001)

Executive Officials Appointed by the Mayor (without Council approval)

- \* Managing Director (8-1)(five years of administrative experience)
- \* Finance Director (8-4)(five years of financial experience and three years of administrative experience)
- \* Director of Public Works and Waste Management (8-5)(five years of administrative experience)
- \* Director of Parks and Recreation (8-6)(five years of administrative experience)
- \* Fire Chief (8-7)(five years of experience in fire control, three years of administrative experience)
- \* Planning Director (8-8.2)(five years of planning experience, three years of administrative experience)
- \* Director of Housing and Human Concerns (8-10)(five years of administrative experience)

Executive Officials Appointed by the Mayor (with Council approval)

- \* Corporation Counsel (8-2)(confirmed by Council; removal by Mayor requires Council approval)(must be an attorney licensed in Hawai'i with at least three years of practice) – Deputy Corporation Counsel are appointed by Corporation Counsel and serves at the pleasure of the Corporation Counsel
- \* Prosecuting Attorney (8-3)(confirmed by Council; removal by Mayor requires Council approval)(must be an attorney licensed in Hawai'i with at least three years of practice) – Deputy Prosecuting Attorneys are appointed by the Prosecuting Attorney and serve at the pleasure of the Prosecuting Attorney

Executive Officials Not Appointed by the Mayor

- \* County Clerk (5-2)(appointed by Council)
- \* Director of Personnel Services (8-9.2)(appointed by the Civil Service Commission)("thoroughly familiar with the principles and methods of personnel administration")
- \* Director of the Department of Water Supply (8-11)(appointed by the Board of Water Supply)(three years of administrative experience; either Director or Deputy Director must be a registered engineer)(Deputy Director is appointed by the Director)
- \* Chief of Police (8-12.3)(appointed by Police Commission)(five years of experience in law enforcement, three years of administrative experience)(right to a hearing before being removed from office).
- \* Director of the Department of Liquor Control (8-13.4)(appointed by Liquor Control Commission)(five years of experience in law enforcement, three years of administrative experience)

### Constitutionally-Established Boards and Commissions

- \* Board of Variances and Appeals (8-8.7)(nine members)(appointed by Mayor with Council approval)
- \* Public Safety Commission (8-7.4, 8-15.1)(nine members)(appointed by Mayor with Council approval)
- \* Maui Planning Commission (8-8)(nine members)(appointed by Mayor with Council approval)
- \* Moloka'i Planning Commission (8-8)(nine members)(appointed by Mayor with Council approval)
- \* Lana'i Planning Commission (8-8)(nine members)(appointed by Mayor with Council approval)
- \* Civil Service Commission (8-9.4)(five members)(appointed by Mayor with Council approval)
- \* Board of Water Supply (8-11.3)(nine members)(appointed by Mayor with Council approval)
- \* Police Commission (8-12.2)(nine members)(appointed by Mayor with Council approval)
- \* Liquor Control Commission (8-13.2)(nine members)(appointed by Mayor with Council approval)
- \* Liquor Control Adjudication Board (8-13.3)(nine members)(appointed by Mayor with Council approval)
- \* Cost of Government Commission (8-14.2)(nine members)(appointed by Mayor biennially with Council approval)
- \* Salary Commission (8-16.1)(nine members)(appointed by Mayor with Council approval)
- \* Board of Ethics (10-2)(nine members)(appointed by Mayor with Council approval)
- \* Charter Review Commission (14-3)(eleven members)(appointed by Mayor with Council approval)

[County has some 34 boards and commissions in total – most are not mentioned in the Charter.]

### Legislative Staff

- \* Office of Council Services (3-7)

## MAUI CHARTER COMMISSION AMENDMENTS

### Possible Amendments Considered

(as of Nov. 19, 2001)

(Draft - Jon M. Van Dyke, Commission Analyst)

### Definitely to Be Presented to the Community for Input in the January-March 2002 Meetings

\* (3-2) Length of term of Council members – extend from two years to four years with staggered terms for Council members – reduction in number of consecutive terms permitted (from five to three)(?) – or elimination of term limits(?)

### Still Under Consideration for Possible Presentation to the Community in the January-March 2002 Meetings

\* (Article 3) Should Council members be considered to be "full-time"? Should the Salary Commission (8-16.1) continue to have authority to establish their salary, but with additional guidelines?

\* (3-1) Should there be any adjustments in manner in which Council members are elected – should the geographical descriptions of the nine geographical areas described in 3-1 be adjusted in light of the recent reapportionment, or for any other reasons? – should a change be considered from the current system whereby all nine Council members are elected "at-large" (by voters countywide, with members having residences in nine separate geographical areas) to a system utilizing some at-large and some districting seats

\* (3-2 and 7-2) Should a candidate receiving more than 50% of the vote in the first special election for Council or Mayor be deemed elected?

\* (3-3 and 7-3) Residency requirement for candidates for office – now 90 days – should it be lengthened? Who determines whether the qualification requirements are met? Court?

\* (3-6.5 and 3-8.2) Should Council members be able to ask for reports from and ask questions directly to county employees without going through the Mayor? Should violations be impeachable offenses?

\* (4-1) What is the effect of a "resolution" enacted by the Council? Should this be clarified?

\* (Article 8) Minimum qualifications for department heads – college degree? – or equivalent experience? – should such minimums be in the Charter, or removed altogether? – or should qualifications be listed separately for each department head? – should experience levels be raised from 3-5 years to 8-10 years?

\* (Article 8) Deputy directors – are they needed in all departments?

\* (8-2) Corporation Counsel – process of giving assignments to – can Council and its members give assignments directly, or must they go through the Mayor?

\* (8-2) Public Justice Commission to provide oversight over Corporation Counsel – to determine its proper role – is it to be as an advocate or adversary, or to provide legal advice – how to balance responsibilities to Mayor with those to County Council? – How are assignments to be given to the Corporation Counsel?

\* (8-6) Should there be a Parks Commission? – What would be its role? Who should it report to?

\* (8-7) Should there be a Fire Commission? – to replace (or supplement) the Public Safety Commission (which now has jurisdiction over Fire and Civil Defense)? With power to hire and fire the Fire Chief? – what due process should be included before any action would be taken? – should Civil Defense remain with the Public Safety Commission? Handle citizen complaints? Should lifeguards be under this Commission? Emergency medical services (now run by the State)? Should it be called the Fire and Public Safety Commission? Should the same due process protections governing removal of the Chief of Police cover the Fire Chief?

\* (8-8) Planning Commission – responsibilities in relation to County Council (regarding, for instance, SMA permits and other CZM issues) – right to intervene – role of CACs – what role should Community Plans play? – deadlines – neighborhood boards?

\* (8-11) Water Board – Should it have more autonomy? – Or less? – Should it have the power to determine rates? [Now rates are determined by the Board, but come into force only if approved by the Mayor and the Council, and the Mayor's approval can be vetoed by a two-thirds vote of the Council.] Should Board members have engineering experience? At least some? Should board members be paid? Does the Water Dept. need a second Deputy Director?

\* (Article 9) Budget process – should there be a cap on indebtedness? Should the dates regarding the development of the budget be coordinated more closely with the dates utilized by the legislature?

\* (Article 9 & 8-6) Open space – Should 1% (or more) of the annual budget be designated for the purchase of open space?

\* (Article 10) Issues related to ethics – problem on Lana`i related to employees of Lana`i Company – eliminate 10-4.1.d (because it is inconsistent with other provisions)?

\* (Articles 11 & 12) Initiative and recall – are the number of signatures required too high? Should they be based on actual voters or registered voters?

\* (13-2) Gender equality on boards and commissions?

\* (13-11) Runoff elections – how should they be conducted?

\* (13-2) Are there too many boards and commissions [currently 34, with 14 established in the Charter]? Should some be consolidated? Should the length of service be reduced from five to three years? Should they continue to be required to meet in county facilities?

\* (8-16.1) Salary Commission – should any adjustments be made in its composition or functions?

#### No Longer Under Consideration for Presentation to the Community

\* (7-2) Extension of the length of the term of the Mayor

\* (Article 8) Council confirmation of department heads and managing director (other than Corporation Counsel and Prosecuting Attorney)

\* (8-1.2) Changes regarding the qualifications for Managing Director

\* (8-2.2) Corporation Counsel – process of removal

\* (8-3) Changes regarding qualifications and responsibilities of Prosecuting Attorney

\* (8-8.2) Changes regarding minimum qualifications for Planning Director

\* (13-11) Instant Runoff Voting

Housecleaning Matters– Technical Matters Requiring Changes

\* (3-1) Language referring to geographical boundaries of geographical areas for Council seats.

\* References to political parties (in light of the nonpartisan elections) – filling vacancies (3-4.1), boards and commissions (13-2.2)

\* 1982 Charter Commission sought to remove all sexist language, but Charter still contains language that is not sex-neutral – “chairman” “vice-chairman” (3-5.1, 3-5.2;13-2(a), 9-18, 13-2.9); “he” (4-3.1, 4-3.2, 10-2.5, 10-4.1.b, 12-5.2, 12-9); “his” (8-15.1, 10-4.1.a, 10-4.1.b, 10-4.1.c, 12-3.4.b, 12-5.2); “him” (8-1.3.f,10-4.1.a) [Charter sometimes refers to “presiding officer” of the Council (3-5.1, 4.3) – should a consistent terminology be used – “chair”?][Do we still need the second sentence in 13-15 “When any personal pronoun appears in this charter, it shall be construed to mean either sex.”]

\* (3-3, 7-3) Process of determining when a vacancy on the Council has occurred – current language refers to the time a member “is adjudicated guilty of a felony” (or for the mayor, “guilty of a crime”)– but should it be the time of “sentencing”? – Uniform Status of Convicted Persons Act – – Should the language in 3-3 and 7-3 be made consistent – now “felony” for council members but “crime involving moral turpitude” for the mayor? If “moral turpitude” is going to stay in the Charter, should it be defined?

\* Capitalization of “To” (3-6.4); “Planning” in 8-8.4 [otherwise departments and titles are not capitalized – should we keep that format?][Are these just typos?]

\* Hawaiian language spellings of proper names?

\* Reference to 2001 in 14-3 (Charter Review Commission)

\* Delete Section 14-4 (Special Charter Commissions) as obsolete

\* 15-1 seems somewhat obsolete, as well – update? In fact, all of Article 15 seems like it is no longer applicable or relevant.