

RECESSED to Thursday, May 9, 2002, at 9:00 a.m. in the Council Chamber.

COMMITTEE OF THE WHOLE

Council of the County of Maui

Meeting Agenda

**Date: May 8, 2002 (9:00 a.m.) [Council Chamber, 8th Floor, Kalana O Maui Bldg.,
200 South High Street, Wailuku, Maui, Hawai'i]**

website: <http://www.co.maui.hi.us/committees/COW/>

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COMMITTEE MEMBERS

Dain P. Kane, Chair

G. Riki Hokama, Vice-Chair

Alan M. Arakawa

Robert Carroll

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Wayne K. Nishiki

Charmaine Tavares

AGENDA ITEMS ARE SUBJECT TO CANCELLATION. For a confirmation of the meeting date and time, and for tentative scheduling of agenda items, please contact the Committee Staff (Richelle Kawasaki or Pauline Martins) at: Office of Council Services, 200 South High Street, Wailuku, HI 96793, 808-270-7838, 1-800-272-0026 (toll-free from Moloka'i), 1-800-272-0098 (toll-free from Lana'i), 808-270-7686 (fax).

ORAL OR WRITTEN TESTIMONY on the agenda item will be accepted prior to the discussion of this agenda item. Oral testimony shall be limited to three minutes on this agenda item (not each separate proposal). An additional minute to conclude oral testimony may be granted subject to discretion of the Committee Chair. If written testimony is submitted at the meeting, 15 copies are requested. If written testimony is e-mailed or faxed, please submit at least 24 hours before the meeting so that copies can be provided to Council members in a timely manner.

INDIVIDUALS WHO INTEND TO ATTEND THE MEETING AND WHO HAVE DISABILITIES REQUIRING SPECIAL ASSISTANCE should call the Office of Council Services at least three days in advance.

DOCUMENTS ON FILE WITH THE COMMITTEE, which may include correspondence relating to the agenda items below, may be inspected prior to the meeting date. Photocopies may be ordered, subject to charges imposed by law (Maui County Code, Sec. 2.64.010). Please contact the Office of Council Services to make arrangements for inspection or photocopying of documents.

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COW-41

CHARTER COMMISSION RECOMMENDATIONS

DESCRIPTION:

The Committee is in receipt of the following:

1. County Communication No. 02-25, from the Council Chair, relating to the matter of Charter Commission recommendations.
2. Planning Committee Report No. 02-43, transmitting a proposed resolution entitled "PROPOSING AMENDMENTS TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983), AS AMENDED, RELATING TO THE DEPARTMENT OF PLANNING". The purpose of the proposed resolution is to propose a Charter amendment that would provide a basic framework for improved planning that may be further detailed through amendments to the County Code.

MORE →

3. County Communication No. 02-75, from Councilmember Jo Anne Johnson, transmitting a draft resolution entitled "PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983), AS AMENDED, RELATING TO REPRESENTATION OF THE COUNCIL IN LEGAL DISPUTES WITH THE EXECUTIVE BRANCH". The purpose of the draft resolution is to propose a Charter amendment empower the Council to authorize attorneys within the legislative branch to represent the Council in litigation against executive-branch officials.
4. "Final Report of the Maui County Charter Commission", dated April 22, 2002, transmitting the following proposed Charter amendments:
 1. AMEND THE PREAMBLE TO RECOGNIZE THE EQUAL WORTH AND DIGNITY OF EVERY INDIVIDUAL (Section 1-1)
 2. LENGTHEN TERMS OF COUNCILMEMBERS FROM TWO (2) TO FOUR (4) YEARS (Section 3-2(5))
 3. CLARIFY THE RESPONSIBILITIES OF THE CORPORATION COUNSEL (Section 8-2.3): This proposal would establish that the Corporation Counsel is the chief legal advisor and representative of the County of Maui (not just County departments, boards, commissions, officers, and employees) and eliminate the Mayor's authority to assign "other duties and functions" (i.e., the Department of the Corporation Counsel would perform "other duties and functions as may be incident to the department or required by law").
 4. GRANT INVESTIGATORS WORKING FOR THE PROSECUTING ATTORNEY THE POWERS AND PRIVILEGES OF POLICE OFFICERS WHILE ACTING WITHIN THE SCOPE OF THEIR OFFICIAL DUTIES (Section 8-3(3))
 5. BROADEN THE RESPONSIBILITIES OF THE DEPARTMENT OF PUBLIC WORKS AND WASTE MANAGEMENT TO INCLUDE ENVIRONMENTAL MANAGEMENT AND CHANGE ITS TITLE TO THE "DEPARTMENT OF PUBLIC WORKS AND ENVIRONMENTAL MANAGEMENT" (Section 8-5(3))
 6. RENAME THE DEPARTMENT OF FIRE CONTROL TO BE THE "DEPARTMENT OF FIRE AND PUBLIC SAFETY," RENAME THE PUBLIC SAFETY COMMISSION TO BE THE "FIRE AND PUBLIC SAFETY COMMISSION," GIVE THIS COMMISSION THE RESPONSIBILITY TO HIRE AND FIRE THE FIRE CHIEF (WITH DUE PROCESS PROTECTIONS GIVEN TO THE CHIEF) AND TO REVIEW THE BUDGET OF THE DEPARTMENT OF FIRE AND PUBLIC SAFETY, AND CLARIFY THE DUTIES OF THE FIRE CHIEF (Article 8, Chapter 7)
 7. CLARIFY THE RESPONSIBILITIES OF THE DEPARTMENT OF PLANNING WITH REGARD TO LONG-RANGE PLANNING, CULTURAL RESOURCES, ENFORCEMENT, TIMELY DECISION-MAKING, AND THE COMMUNITY PLANS (Section 8-8)
 8. PROVIDE DUE PROCESS PROTECTION IN THE EVENT OF THE TERMINATION OF THE DIRECTOR OF PERSONNEL SERVICES (Section 8-9(2))
 9. RESTRUCTURE THE DEPARTMENT AND BOARD OF WATER SUPPLY TO GIVE IT MORE AUTONOMY (Section 8-11(1))
 10. CREATE A NEW DEPARTMENT OF TRANSPORTATION (Section 8-14): The proposed new department would have the authority to plan for new highways and plan, develop, and regulate public transportation.
 11. STAGGER THE TERMS OF MEMBERS OF THE SALARY COMMISSION (Section 8-16(1)): This proposal is intended to provide greater continuity to the Salary Commission, which now has an entirely new composition after each mayoral election, and to ensure consistency with State law.
 12. COMMIT THE COUNTY TO A PLAN OF OPEN-SPACE ACQUISITION (Article 9 & Section 8-6): This proposal would require that 1% of annual real-property-tax revenues be deposited into an open-space-acquisition fund.

13. AMEND THE ETHICAL STANDARDS GOVERNING DECISIONMAKING ON BOARDS AND COMMISSIONS (Section 10-4(1)(f)): This proposal would allow a member of a board or commission to vote on matters affecting the member's employer unless the member serves in a management position.
14. PROVIDE GREATER NOTICE OF MEETINGS (Section 13-2(11)): This proposal would require that notices of public hearings by boards and commissions be conveyed through the best available means to reach the public, including the most accessible technology.
15. ALLOW BOARDS AND COMMISSIONS TO MEET IN ACCESSIBLE, PRIVATELY-OWNED LOCATIONS (Section 13-9(2)): This proposal would allow boards and commissions to conduct meetings in private facilities, provided they are open to the public.
16. TRANSITIONAL CHANGES: This proposal would address transitional issues that would be raised by enactment of the proposals on Council terms, the Fire and Public Safety Commission, and the Salary Commission.
17. HOUSEKEEPING CHANGES: This proposal would utilize gender-neutral language and Hawaiian place names, redescribe Council residency areas in geographical terms (Section 3-1), eliminate political-party requirements for filling Council vacancies, establish that a "felony" conviction shall forfeit the Mayor's office (instead of a "crime of moral turpitude"), and make technical corrections.

STATUS:

The Committee may consider whether to recommend that the Council suggest any alternatives to the Charter Commission's proposed Charter amendments, pursuant to Chapter 50, Hawaii Revised Statutes. The Committee may also consider other related action.

2000 OFFICIAL GENERAL ELECTION BALLOT CARD

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PROPOSED AMENDMENTS TO THE CHARTER OF THE COUNTY OF HAWAII The full text of the charter amendments covered by this ballot is available for inspection at your polling place. Ask an Election Official for it, if you wish to see it.	6 Should the duties and positions of the safety coordinator's office be transferred to the department of civil service, and the safety coordinator's office then be abolished?	11 Should there be a cost of government commission to promote improvements to the economy and efficiency of government? <input type="radio"/> YES <input type="radio"/> NO
1 Should all county officers -- mayor, county council, and prosecuting attorney -- be elected in nonpartisan elections, with no party identification appearing on the ballot? <input type="radio"/> YES <input type="radio"/> NO	<input type="radio"/> YES <input type="radio"/> NO	12 Should the Hawaii Redevelopment Agency be abolished, and its functions transferred to the planning department? <input type="radio"/> YES <input type="radio"/> NO
2 Should the managing director be given additional responsibilities over all county departments and agencies, and be confirmed by the county council?	7 Should the title of the chief engineer be changed to "director of public works," and should there be stronger qualifications for the following officers: - director of research and development - director of parks and recreation - planning director - director of public works - managing director - manager of department of water supply? <input type="radio"/> YES <input type="radio"/> NO	13 Should the county council be required to meet at least once every three months in North or South Kona? <input type="radio"/> YES <input type="radio"/> NO
3 Should there be a fire commission to appoint the fire chief and advise the fire department?	8 Should the police department have a statement of policy, and the police commission be required to review the operations of the department and to perform an annual evaluation of the chief of police? <input type="radio"/> YES <input type="radio"/> NO	14 Should the liquor commission be increased from seven to nine members, and should one member be a resident of each county council district? <input type="radio"/> YES <input type="radio"/> NO
4 Should the solid waste, wastewater, and recycling programs of the county be transferred from the department of public works to a new department of environmental management, with a new environmental management commission?	9 Should the water commission be renamed the water board, and one board member be a resident of each county council district? <input type="radio"/> YES <input type="radio"/> NO	15 Should a statement of purpose be added to the code of ethics? <input type="radio"/> YES <input type="radio"/> NO
5 Should members of commissions be appointed, if redistricting changes the boundaries so that the member no longer resides within the district?	10 Should the salary commission set the compensation for all appointed directors and deputy directors of departments and executive agencies? <input type="radio"/> YES <input type="radio"/> NO	16 Should a member of a board or commission with a district residency requirement be eligible to serve out the full term, and represent the district to which the member was appointed, if redistricting changes the boundaries so that the member no longer resides within the district? <input type="radio"/> YES <input type="radio"/> NO

THE BALLOT CARD AND ALL CONTESTS BEFORE VOTING

4) PROPOSAL FOUR - ELIMINATE SECOND ELECTION IF A CANDIDATE RECEIVES 50% OF THE VOTE IN THE FIRST ELECTION.

and 7-2) Majority Wins. Revise so that a candidate receiving more than 50% of the vote in the first special election for Council or Mayor will be deemed elected without having to be placed on the ballot a second time.

KCA Board Position

KCA does not support the elimination of run-off elections.

Do not put this question on the ballot.

- Given the typically low voter participation in primary elections, a person could be elected by very few votes after only a primary campaign.
- If this proposal passed it could benefit candidates by reducing campaign costs but at the price of diminishing the power of the electorate.

5) PROPOSAL FIVE - ALLOW COUNCILMEMBERS TO TALK TO AND OBTAIN INFORMATION DIRECTLY FROM COUNTY OFFICERS AND EMPLOYEES.

(3-8.2) Council Access to Information. Revise so that council members can talk to and obtain information from County employees or officers directly (without going through the Mayor), but reaffirm the requirement that council members cannot give orders to County personnel either publicly or privately.

KCA Board Position

KCA supports allowing council members freer access to information.

This proposal, if adopted, would provide council members the same access to information as other county officials and members of boards and commissions. Information flow would be facilitated and the balance of power would be equalized.

Prohibiting Council Members from giving orders to County personnel ensures that the administrative chain of command functions as intended.

Consider amending the proposal to require council members to provide the Mayor a copy of their request.

- The administration should be informed of issues of interest and concern to council members.

Consider amending the proposal to specify how members of boards and commissions can access information from staff.

- To make informed decisions, volunteers serving on boards and commissions need to have access to County information.

6) PROPOSAL SIX - CLARIFY THE RESPONSIBILITIES OF THE CORPORATION COUNSEL

(8-2.3) Department of the Corporation Counsel. Clarify the role of the Corporation Counsel to recognize the broad responsibility of this office to represent the County in a variety of situations (1) by changing the present language of 8-2.3(b) ("Be the chief legal advisor and legal representative of the council, the mayor, all departments, all boards and commissions, and of all officers and employees in matters relating to their official duties.") to a broader formulation ("Be the chief legal advisor and legal representative of the County of Maui, through the council, the mayor, all departments, all boards and commissions, and of all officers and employees in matters relating to their official duties.") and (2) by changing the present language of 8-2.3(d) ("Perform such other duties and functions as shall be assigned by the mayor.") to a broader formulation ("Perform such other duties and functions as may be incident to the department or required by law.").

KCA Board Position

KCA supports clarifying the role of the Corporation Counsel.

The proposed language emphasizes that the Corporation Counsel serves the County of Maui, "through the council, the mayor,..." and does not merely represent the separate entities comprising the county.

Consider amending the proposal to specify how Council/Mayoral disputes will be resolved, ensuring the council the authority to obtain separate counsel in certain instances.

When disputes arise, an effective means of resolving Council/Mayoral disputes could help the County function more efficiently.

Consider amending the proposal to clarify the intent of the phrase "incident to the department" or to delete it.

This phrase seems to narrow the scope of the responsibilities of the Corporation Counsel to "the department", in contradiction to the other proposed language that broadens the responsibility of the office.

7) PROPOSAL SEVEN - BROADEN THE POWERS OF THE DEPARTMENT OF PUBLIC WORKS AND WASTE MANAGEMENT TO INCLUDE PUBLIC TRANSPORTATION AND ENVIRONMENTAL PROTECTION AND CHANGE ITS TITLE TO THE "DEPARTMENT OF PUBLIC WORKS, TRANSPORTATION, AND ENVIRONMENTAL PROTECTION"

(8-5.3) Department of Public Works and Waste Management. Amend the "Powers, Duties and Functions" of the Department of Public Works and Waste Management to give it responsibility over public transportation, broaden its responsibilities regarding environmental protection, eliminate the explicit reference to maintaining county buildings, and change the title of this department to become the "Department of Public Works, Transportation, and Environmental Protection."

KCA Board Position

Revise the proposal as follows: do not increase the size of the existing Department of Public Works and Waste Management.

Combining all functions in one department could result in focusing on only the immediate tasks and crises at the expense of the long-term needs of our environment and transportation problems.

Consider reorganizing the Department's major functions as follows: place the "Transportation Coordination" function within the Long Range Planning Division; establish a separate Department of Public Works with the current Engineering, Highways, and Land Use and Codes divisions; and establish a separate Department of Environmental Services to manage all solid and liquid waste (including recycling, litter control, waste water reclamation) and to promote environmental protection (including flora, fauna, coastal areas, open space, and wetlands).

The separation of functions could bring needed attention and resources to the critical areas of transportation and environment.

Under the current organizational structure, the Department is the largest county department in terms of budget and numbers of employees.

Consider other alternatives, including: create an Environmental Protection division in the Planning Department, leave the Solid Waste division in the Department of Public Works, and either leave the Waste Water division in the Department of Public Works or move it to the Department of Water Supply.

The functions of environmental protection and waste water are placed in various departments in other counties and the decision will need to be based on the overall structure that will best serve the citizens of Maui now, in the next decade, and beyond.

8) PROPOSAL EIGHT - GIVE THE PUBLIC SAFETY COMMISSION THE RESPONSIBILITY TO HIRE AND FIRE THE FIRE CHIEF (WITH DUE PROCESS PROTECTIONS GIVEN TO THE CHIEF), AND TO REVIEW THE BUDGET OF THE DEPARTMENT OF FIRE CONTROL.

(8-7.4) Public Safety Commission. Give the Public Safety Commission the power to hire and fire the Fire Chief (providing the Fire Chief the same due process protections now provided to the Police Chief in Section 8-12.3), and also give the Public Safety Commission the same power to review the budget of the Department of Fire Control that the Police Commission has regarding the Department of Police (in Section 8-12.2(2)).

KCA Board Position

No position, but leave on the ballot for the electorate to decide.

9) PROPOSAL NINE - CLARIFY THE RESPONSIBILITIES OF THE DEPARTMENT OF PLANNING WITH REGARD TO LONG-RANGE PLANNING, CULTURAL RESOURCES, ENFORCEMENT, TIMELY DECISION MAKING, AND THE COMMUNITY PLANS.

* (8-8) Department of Planning. Revise the responsibilities of the Planning Commission by:

** Requiring the Department to prepare and administer (a) long range planning programs to implement the General Plan and (b) a cultural resources management program (Section 8-8.3).

** Requiring the Department to enforce zoning ordinances (Section 8-8.3).

** Requiring the Planning Commissions to review and take action on revisions to the general plan and other land use ordinances and amendments within defined time limits (180 and 120 days) after the final public hearing (Section 8-8.4).

** Clarify the purpose and nature of the General Plan, incorporating language from Hawai'i Revised Statutes Section 226-58 regarding county general plans (Section 8-8.5).

** Clarify the role of the Citizen Advisory Councils in the planning process, by adding language saying that "The community plans generated through the citizen advisory councils and accepted by the planning commission and county council pursuant to the deadlines in this chapter are part of the general plan" (Section 8-8.5).

** Require the County Council to review and take action on revisions to the general plan and other land use ordinances and amendments within defined time limits (one year and 180 days) after transmittal (Section 8-8.6).

KCA Board Position

KCA supports requiring the Department to be responsible for long-range planning and cultural resources. However, revise the proposal to require monitoring of implementation and specify that all of these responsibilities apply to both the Department and the Commissions (8-8.3 and 8-8.4).

Long-range planning and management of our cultural resources will help ensure preservation of our past and promote the County's economic health and the citizens' well being.

KCA supports the proposal to require the Department to enforce zoning ordinances, but consider adding a provision authorizing the Department to utilize the Prosecutor's staff to enforce zoning, the General Plan, the Community Plans, SMA permits, and other requirements.

Enforcement of all elements of the planning process is critical to ensuring that the citizens' visions and plans are carried out

KCA supports the proposal to establish time limits for action by the Commissions and the Council on revisions to the General Plan and land use ordinances. Consider staggering the dates that the Community Plans come to the Council - with no more than two per year, and setting a deadline each year as is done for the budget.

Realistic time limits will expedite the process and address the citizens' frustration with delays. Just as the budget has a deadline each year, the Community Plans could have a deadline of September 1 in the second year of the two year council term.

KCA supports clarifying the purpose of the General Plan and the role of the Citizen Advisory Councils revisions (8-8.5). However, the proposed language on CACs should conform to changes addressed in Proposal Ten for permanent Community District Boards. Also, consider creating a new section (8-8.8 on Community District Boards (and including their responsibilities, authority, membership, staff support, etc.).

10) PROPOSAL TEN - CREATE COMMUNITY DISTRICT BOARDS TO MAKE THE CITIZEN ADVISORY COMMITTEES (CACs) PERMANENT, ADJUST THEIR BOUNDARIES, AND EXPAND THEIR POWERS.

(8-8) Community Advisory Councils (CACs) - Adjust the geographical boundaries of these Councils so that they conform to the boundaries of Council districts, give them a permanent status, and expand their powers (exercised within their geographical limits) to include powers now administered by the Arborist Committee, the Cultural Resources Commission, the Commission on Naming Streets, Parks and Facilities, and the Street Lighting Committee, and possibly, subject to subsequent Council determination, the Hana Advisory Committee to the Planning Commission, the Kula Agricultural Park Committee, the Lana'i Planning Commission, the Maui Planning Commission, the Molokai Planning

Commission, the Napili Bay Civic Improvement District Advisory Committee, the Redevelopment Agency, the Traffic Safety Council, and the Urban Design Review Board.

KCA Board Position

KCA supports the proposal to adjust boundaries of CACs to conform to boundaries of Council districts.

- Making CAC and Council district boundaries the same could strengthen district identity, increase accountability, and reduce current confusion where Council and CAC districts overlap with one community plan in two districts or one district under different community plans. This proposal will need to be considered in conjunction with Proposal One - Adjust Council Districts.

KCA supports the proposal to give CACs permanent status.

- Giving permanent status to the CACs would provide continuity to the planning process at the community level. Citizens who helped develop the Community Plan would be able to monitor its implementation and enforcement and make recommendations for review and revision.

Revise the proposal on expanding the CACs powers as follows: limit expansion of powers; do not reassign specialized, countywide functions to CACs; consider having powers of the CACs established in ordinance.

- Assign the CACs the function of developing the community plan, monitoring its implementation and enforcement, and reviewing and revising it as appropriate.

- The CACs should be assigned only those functions that could be handled locally and do not require countywide perspective. For example, recommendations on street naming and street lighting could be handled appropriately at the CAC level while functions of the Arborist Committee and Cultural Resources Commission require specific expertise and countywide representation. Reassignment of too many specialized functions to CACs would result in a work load beyond the capacity of a volunteer citizen body. Finding qualified volunteers with the expertise required for the specialized functions would be difficult in the pool of citizens available in some districts.

Amend the proposal to specify the method of selecting members and the role of the committees/councils

- The charter proposal should indicate the method of selecting the membership, terms of office, and functions or require these items to be enacted by ordinance. These are important issues that should be addressed if the proposal is before the electorate.

Consider amending the proposal to specify appointment of members by the Council (one appointee per Council Member) and the Mayor (two appointees), with staggered terms and term limits.

- Appointment, rather than election, could help bridge the transition from the current practice of temporary, appointed CACs to permanent CACs.
- Staggered terms could provide "institutional memory" for the CACs and Council.

Consider amending the proposal to rename the CAC's as Citizen Advisory District Committees (CADC's).

- Renaming will better describe the areas the CADCs serve, as well as their role (advisory). The CADCs could be given a specific role in establishing the District Plans and the responsibility for helping to see that they are implemented and enforced.
- The new name will also avoid the present confusion with CACs being referred to as either Citizen Advisory Committees or Community Advisory Councils.

11) PROPOSAL ELEVEN - PROVIDE DUE PROCESS PROTECTION IN THE EVENT OF THE TERMINATION OF THE DIRECTOR OF PERSONNEL SERVICES.

(8-9.2) Director of Personnel Services. Provide the Director of Personnel Services with the same due process protections, in the event of a termination, that are now provided to the Chief of Police in Section 8-12.3.

KCA Board Position

No position, but leave on the ballot for the electorate to decide.

12) PROPOSAL TWELVE - STAGGER THE TERMS OF MEMBERS OF THE SALARY COMMISSION.

(8-16.1) Salary Commission. Amend the appointment process so that the nine members of this Commission will have staggered five-year terms, with one being appointed (with approval of the Council) every year (one in the fifth year), to provide greater continuity.

KCA Board Position

No position, but leave on the ballot for the electorate to decide.

13) PROPOSAL THIRTEEN - COMMIT THE COUNTY TO A PLAN OF OPEN-SPACE ACQUISITION

(Article 9 & 8-6) Open Space. Commit the County to a program of acquiring more land for open space (but leaving the details of the program for subsequent legislative development), by adding language to the Charter that would establish a fund to purchase and conserve lands that are valuable to the public and visitors as parks, recreation areas, open space, view corridors, natural resources, and wildlife habitats, including beaches, coastal areas, forests, watersheds, and cultural and historic sites, with the requirement that the remaining balance in the fund at the end of each fiscal year shall not lapse, but shall remain in the fund, accumulating from year to year.

KCA Board Position

KCA supports the proposal to create a fund for acquiring open-space, with provision for accumulation of fund balances.

A Charter commitment to acquire open space will emphasize the value of these lands for economic and environmental reasons and quality of life for present and future generations.

Funds should not have to be expended annually, because purchase opportunities may occur sporadically and certain parcels may require more than one-year's savings.

Consider amending the proposal to **ensure minimum funding levels**, including: designate a specific funding source and/or require a minimum amount or percent to be contributed annually to the fund. Alternatively, specify that such provisions shall be established by ordinance.

The electorate may be more confident in supporting such a proposal if the amount, source, management, and appropriate use of the fund are specified.

Consider amending the proposal to **assign responsibility of the fund to the Environmental Services Department or Environmental Protection Division as addressed in Proposal Seven.**

14) PROPOSAL FOURTEEN - REDUCE THE SIGNATURE REQUIREMENTS FOR INITIATIVE AND RECALL.

* (Articles 11 & 12) Initiative and Recall. Revise these provisions to enable citizens to utilize these procedures more readily by requiring the signatures of 10% of the number of persons who actually voted in the last general election (rather than the current requirement of 20% of the registered voters) and increasing the time limit to obtain the signatures from 30 to 90 days.

KCA Board Position

KCA supports the proposal only to extend the length of time to collect signatures from 30 to 90 days.

The proposed 90-day time limit is more realistic than the present 30-day limit, given the size of the population and the difficulties in collecting signatures from citizens who spend much of their day at work, in transit, and meeting family obligations.

KCA supports the proposal to **base the number of signatures required on the number who voted in the last general election** rather than those who are registered to vote.

The number of voters in the last general election turnout is more realistic than the number of registered voters because people may be left on the poll lists after they have moved or ceased voting.

Revise the proposal on the number of signatures required by **increasing the requirement from 10 percent to 20 percent** of voters in the last general election.

Reducing the percent of signatures required to 10 percent could make collecting the signatures so easy that elected representatives and the citizenry could be subjected to the inconvenience, expense, and abuses of the process by single-issue and non-local advocacy groups and other such forces.

Revise the proposal by separating the two items on the ballot.

Initiative and recall are two separate articles in the Charter and should be considered independently because they may be initiated by different groups for different purposes.

15) PROPOSAL FIFTEEN - PROVIDE GREATER NOTICE OF MEETINGS

(Section 13-2(11)) Notice of Meetings. Amend this provision to require that notices of public hearings be conveyed through the best available means to reach the public, including the most accessible technology.

KCA Board Position

KCA supports the proposal with the following revisions: **include addresses in addition to TMKs; require notice of all meetings of boards and commissions, in addition to public hearings.**

- The public may not have ready access to TMKs and generally relates to street addresses rather than TMKs.
- The current language of this section addresses only public hearings, not other meetings. Public business conducted by the boards and commissions should be noticed so that members of the public can attend and participate as appropriate.
- The proposed revisions would facilitate public participation in the governmental process by making information on public meetings more accessible and understandable.

16) PROPOSAL SIXTEEN - LOCATION OF MEETINGS.

* (Article 13-9(2)) Location of Meetings. Amend the provision requiring meetings of boards and commissions to be held "in the county building or other publicly owned place" to read "in the county building or in buildings that are accessible to the public."

KCA Board Position

KCA supports the proposal to allow public meetings to be held in any building that is accessible to the public.

- Meeting rooms are scarce and trying to comply with the "letter of the law" can result in inconveniences for members of boards and commissions as well as the public.

17) PROPOSAL SEVENTEEN - ALTERNATIVE OPTIONS REGARDING THE RESTRUCTURING OF THE DEPARTMENT AND BOARD OF WATER SUPPLY

(8-11.1) The Department and Board of Water Supply are now "semi-autonomous," because the rates determined by the Board of Water Supply 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 the Board of Water Supply become more autonomous (with unreviewable power to set rates and set regulations) or should it be integrated fully into the Executive Branch, under the Mayor, like other County departments? Should the Board be authorized to coordinate private water systems to promote the public trust interests in water, while respecting private property rights?

Proposal 17-A - Make the Department and Board of Water Supply More Autonomous

Under this approach, the Board of Water Supply would have the final authority to set water rights and to make decisions regarding the development of water supplies. To ensure proper expertise and some linkage to other County operations, the Director of the Planning Department and the Director of the Department of Public Works and Waste Management would be voting members of the nine-member Board, and at least two of the seven appointed members would have at least five years of experience in the area of water resource management. The Director would be evaluated annually by the Board, and the accounts, financial status, and management operation of the Department would be audited annually by an outside certified public accountant. The Board would be empowered to hire outside legal counsel when necessary.

Proposal 17-B Make the Department of Water Supply a Part of the Executive Branch, Like Other Departments.

· The option for a one-term extension would provide the opportunity to continue service for a total time equal to only one year longer than the present five-year single term.

· **NCA RECOMMENDATION C - PARKS/ENVIRONMENT/OPEN SPACE BOARD OR COMMISSION**

Establish a Charter-level board or commission to advise and assist appropriate County agencies and officials on the management and protection of the parks, environment, and open space; to consult on the acquisition of open space and the use of the proposed Open Space Fund.

· The function of volunteer citizen participation in this area should be elevated to Charter-level as the responsibilities become more complex and more critical to the well-being of the county.

· Having a separate commission will allow for additional scientific expertise and representation of varied interests, including but not limited to fishermen, hunters, hikers, cyclists, campers, and birders.

Under this approach, the Mayor would appoint the Director of Water Supply (with the approval of the Council), the Board of Water Supply would become advisory in nature (recommending rules and regulations, but having no power of its own), and the Department would be a part of the Executive Branch, under control of the Mayor, just like other departments. Rules, regulations, and rate-changes would all ultimately be the responsibility of the Mayor and the Council.

KCA Board Position

With regard to the question, "Should the Board be authorized to coordinate private water systems to promote the public trust interests in water, while respecting private property rights? ", **KCA supports addressing the public trust interest in water as a separate Charter proposal. The issue of oversight and coordination of private water systems should be separated from the autonomy and departmental questions.**

- Coordination of all water systems is essential to proper management of water as a public trust interest. This responsibility should be a core function for the Board and Department of Water Supply, whatever governance structure is selected.

If proposal 17-A is to be placed on the ballot, consider revising the proposal to specify that the autonomous Board of Water Supply shall be elected.

- An autonomous Board of Water Supply would be too independent and potentially powerful to not be directly accountable to the electorate.

KCA Board Recommendations for Additional Charter Amendments to Consider

KCA RECOMMENDATION A – ESTABLISH A NOMINATION COMMITTEE

Create a "blue ribbon" Nomination Committee that will meet annually to nominate candidates for the major boards and commissions (Planning, Water, Ethics, Adjustments and Appeals, Cultural Resources, etc.). The selection for the three year, non-renewable membership on the Nomination Committee will be made by a recommendation of one member by each Council member and two members by the Mayor. The Committee will select its own chair. The nomination committee will be staffed by the office of Council Services. The Committee will make the effort to recruit the best people for each board and commission, review applications, and send its recommendations to the Council for ratification.

- Our county government will work best if we have the best people involved. At present the Mayor has the responsibility for making all the nominations.

- A nomination committee comprised of individuals with varied backgrounds, representing diverse interests and each area of the county, will be able to access a broad and deep pool of potential volunteers for county service.

KCA RECOMMENDATION B – TERMS FOR VOLUNTEER BOARDS AND COMMISSIONS

Set the terms on boards and commissions for three years with the possibility of a single one-term extension. Limit a board or commission member service on the same board or commission to a maximum of six years.

- The present five-year terms require a time commitment that precludes many people from serving.

- A three-year term would be sufficient time for an individual to learn the responsibilities required, make informed decisions, and contribute fully to the work of the board or commission for the majority of the term.

rec'd from Dick Maye

KCA RECOMMENDATION - ESTABLISH A NOMINATION COMMITTEE

Create a "blue ribbon" Nomination Committee that will meet annually to nominate candidates for the major boards and commissions (Planning, Water, Ethics, Adjustments and Appeals, Cultural Resources, etc.). The selection for the three year non-renewable membership on the Nomination Committee will be made by a recommendation of two members by the Mayor and one member by each Council member. The Committee will select its own chair. The Office of Council Services will staff the Nomination Committee. The Committee will make the effort to recruit the best people for each board and commission, review applications, and send its recommendations by December 15 each year to the Council for review and ratification.

-
- Our county government will work best if we have the best people involved
 - A Nomination Committee comprised of individuals with varied backgrounds representing diverse interests and each area of the county, will be able to access a broad and deep pool of potential volunteers for county service.

May 8, 2002

MEMO TO: Dain P. Kane, Chair
and Members of the Committee of the Whole

F R O M: Councilmember Wayne K. Nishiki

SUBJECT: **CHARTER COMMISSION RECOMMENDATIONS (COW-41)**

As an alternative to the Charter Commission's Proposal 13, relating to the Code of Ethics (Article 10, Charter of the County of Maui), I propose adding the following new provisions to the Code of Ethics:

Subsection 10-2(6).¹ The Board of Ethics may appoint such staff and engage consultants as is necessary to assist it in the performance of its duties. Such staff and consultants may include attorneys who may advise the commission independently of the department of the corporation counsel. The position of executive director and other staff positions, if any, shall be exempt from civil service. The executive director shall be an attorney qualified to practice law in the State of Hawaii. The salary of the executive director shall be fixed by ordinance.

Section 10-6.² Fair and equal treatment. Elected or appointed officers or employees shall not use their official positions to secure or grant special consideration, treatment, advantage, privilege or exemption to themselves or any person beyond that which is available to every other person.

Section 10-7.³ Registration of lobbyists. The council shall by ordinance provide for the registration of lobbyists, including the classification, issuance, revocation, suspension and renewal of certificates of registration, the disclosure of information necessary in the public interest, and the investigative procedures and sanctions necessary to effectuate the purposes of the ordinance. As used herein, "lobbyist" means any person who is engaged for pay or other consideration for the purpose of attempting to influence legislative or administrative action of the county.

¹ This would supersede the existing subsection, which reads in its entirety: "The council and mayor shall cooperate and provide financing and personnel reasonably required by the board in the performance of its duties."

² This is modeled after Section 11-104, Revised Charter of Honolulu.

³ This is modeled after Section 11-108, Revised Charter of Honolulu.

Received at COW 5/8/02 mtg.

Memo To COW-41

May 8, 2002

Page 2

Section 10-8. Publication of opinions. The board shall publish its opinions with such deletions as may be necessary to prevent disclosure of the identity of the persons involved, to the extent required by law. The board shall make reasonable efforts to efficiently disseminate its opinions to the public, officers, and employees, including through the Internet.

Thank you for your consideration.

*Just this
89*

CHAPTER 5
DEPARTMENT OF PUBLIC WORKS AND WASTE MANAGEMENT

Section 8-5.1. Organization. There shall be a department of public works and waste management consisting of a director, a deputy director, and the necessary staff. (Amended 1996, 1992)

Section 8-5.2. Director of Public Works and Waste Management. The director and deputy director of public works and waste management shall be appointed and may be removed by the mayor. The director of public works and waste management shall have had a minimum of five years of experience in an administrative capacity, either in public service or private business, or both. (Amended 1992)

Section 8-5.3. Powers, Duties and Functions. The director of public works and waste management shall: (Amended 1992)

1. Administer the building, housing, and subdivision ordinances and rules adopted thereunder. (Amended 1996)
2. Approve proposed subdivision plans which are in conformity with the subdivision ordinance.
3. Plan, design, build [Supervise] and maintain the county's highways, drainage, and flood control systems [and sewer systems and maintain the county's buildings].
4. Plan, design, build, operate and maintain solid waste collection, processing and disposal systems, including recycling programs.
5. Plan, design, build, operate and maintain the county's sewer treatment plants, pump stations, sewer lines, reclaimed water distribution systems and related programs.
6. Perform such other duties and functions as shall be assigned by the mayor.

Report Title:

Amendments to Civil Service Modernization Act

Description:

Extends the sunset date for the Separation Incentive Program to June 30, 2008; clarifies that compensation of excluded employees whose pay is prescribed by a salary commission shall not be adjusted under chapter 89C but will remain limited or fixed by the salary commission. (CD1)

THE SENATE

TWENTY-FIRST LEGISLATURE, 2002

STATE OF HAWAII

S.B. NO. 2757
S.D. 2
H.D. 2
C.D. 1

A BILL FOR AN ACT

RELATING TO AMENDMENTS TO ACT 253, SESSION LAWS OF HAWAII 2000.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. Act 253, Session Laws of Hawaii 2000, is amended by amending section 107 to read as follows:

"SECTION 107. Section 89C-2, Hawaii Revised Statutes, is amended to read as follows:

"§89C-2 Adjustments authorized; limitations, restrictions. Each appropriate authority may make adjustments for their respective excluded employees subject to the following guidelines and limitations:

(1) The compensation of excluded employees, whose pay is presently limited or fixed by legislative action, or prescribed by a salary commission, shall not be adjusted under this chapter and shall continue to be limited or fixed by the respective legislative body[~~7~~] or salary commission;

(2) The compensation of excluded employees exempt from civil service coverage, whose pay is set at the discretion of the appointing authority, shall continue to be adjusted at the discretion of the appointing authority from funds allowed for this purpose;

(3) Any adjustment made for excluded civil service employees shall be consistent with the merit principle and shall not diminish any rights provided under chapter 76;

(4) For excluded employees under the same classification systems as employees within collective bargaining units, adjustments shall be not less than those provided under collective bargaining agreements for employees hired on a comparable basis;

(5) For excluded employees other than those under paragraph (4), adjustments shall, to the extent practicable, uniformly apply to every excluded employee within a homogeneous grouping, such as, cabinet members or managerial employees, to ensure fairness. This does not preclude variable adjustments based on performance or other job criteria and specific adjustments warranted based on the nature of work performed or working conditions; and

(6) No adjustment shall be made in benefits provided under chapter 88 unless specifically authorized by that chapter, or with respect to any other matter that the legislature may specifically prohibit or limit by law."

SECTION 2. Act 253, Session Laws of Hawaii 2000, is amended by amending section 124 to read as follows:

"SECTION 124. This part shall be repealed on June 30, [~~2003~~] 2008."

SECTION 3. Statutory material to be repealed is bracketed

and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect on June 30, 2002.

Article 3A. Office of the Prosecuting Attorney.

Section 2-10A. Appointment of personnel.

There shall be an office of the prosecuting attorney as provided by Charter. The prosecuting attorney may appoint deputy prosecuting attorneys and necessary staff, including investigators. The investigators shall have all of the powers and privileges of a police officer for the County of Hawaii. The office of the prosecuting attorney shall adopt policies and standards for training and use of these powers consistent and in conformance with those adopted by the Hawaii County police department. All investigations relating to the discharge of a firearm by an investigator shall be conducted by the Hawaii County police department. All investigators must have the minimum qualifications for the class as established by the department of civil service.

(1992, Ord. No. 92-105, sec. 1.)

Civic Foundations Need Tending for Maui County

By Sean McLaughlin

Vice Chair, Maui County Charter Commission

May 8, 2002

This past year's review of the entire Maui County Charter created an opportunity for the community to consider the overall design and structure of local government for all of Maui, Moloka'i, Lana'i, and Kaho'olawe. In the true spirit of democracy, voters will have the opportunity to review and decide upon proposed changes on the general ballot in November 2002.

The charter commission has completed its original work and, pursuant to State law governing the process, proposals are now in the hands of the Maui County Council. Many issues were discussed and deliberated and some identified concerns were addressed with a number of specific proposals recommended for the ballot.

A community-based process helped to inform and focus the Commission's deliberations. Structural issues of local governance, including the balance of elected and appointed power, equal representation for all citizens, and the effective workings of local democracy were discussed at great length.

Specific problems or gaps in our present Charter were identified but not addressed: lack of meaningful initiative and recall provisions to empower citizens; inadequate 'home rule' provisions to provide equal representation for citizens residing in different areas of the County; and, a need for greater balance of elected and appointed authority.

Fortunately, this present effort need not be the last chance for another decade. The Maui County Council can advance alternative proposals.

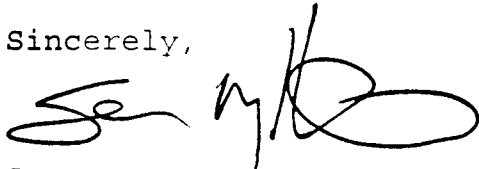
The Council could advance an alternative proposal to convene a Special Charter Commission assigned to address these larger questions raised over the past year and not answered by proposals of the present Charter Commission.

By convening a Special Charter Commission, more significant structural changes can be duly considered to provide meaningful initiative and recall for voters, extend a greater measure of home rule to all parts of Maui County; and provide a better balance of elected authority and appointed power in the current structure.

The method of appointing a Special Charter Commission could be similar to the current method of appointing Citizen Advisory Committees for community planning, where each of the County's ten elected officials appoints members.

Thank you for considering this personal testimony regarding the Maui County Charter.

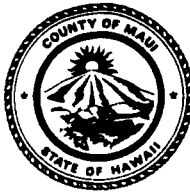
Sincerely,

A handwritten signature in black ink, appearing to read 'Sean McLaughlin', with a stylized flourish at the end.

Sean McLaughlin

Kula, Maui, Hawaii, USA

JAMES "KIMO" APANA
Mayor



RICHARD T. BISSEN, JR.
Prosecuting Attorney

BENJAMIN M. ACOB
First Deputy Prosecuting Attorney

DEPARTMENT OF THE PROSECUTING ATTORNEY
COUNTY OF MAUI
150 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
PHONE (808) 270-7777 • FAX (808) 270-7625

May 7, 2002

APPROVED FOR THE MAYOR

Grant J. Chun 5/7/02
Mayor Date

Honorable Dain Kane
Chair, Committee of the Whole
Maui County Council
Wailuku, Hawaii 96793

Re: Amendment to Chapter 3,
Section 8-3.3 of the Maui County Charter

Dear Chair Kane:

Transmitted herewith are copies of a request to the Maui County Charter Commission to amend Chapter 3, Section 8-3.3 of the Maui County Charter with respect to the duties and responsibilities of investigators in the Department of the Prosecuting Attorney for your Committee's review. This matter is being heard by the Committee of the Whole on May 8, 2002.

Should you have any questions, please do not hesitate to contact me.

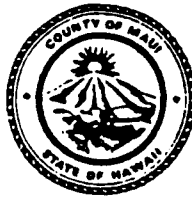
Very truly yours,

Richard T. Bissen, Jr.
RICHARD T. BISSEN, JR.
Prosecuting Attorney

RTB:gat

Attachments

RECEIVED
2002 MAY -7 PM 1:16
OFFICE OF THE MAYOR



DEPARTMENT OF THE PROSECUTING ATTORNEY
COUNTY OF MAUI
150 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
PHONE (808) 270-7777 • FAX (808) 270-7625

March 11, 2002

Ms. Terryl Venc1, Chair
Maui County Charter Commission
c/o Office of the Mayor
County of Maui
Wailuku, Hawaii 96793

Re: Amendment to Chapter 3, Section 8-3.3
of the Maui County Charter

Dear Ms. Venc1:

I respectfully request that an amendment be made to Chapter 3, Section 8-3.3 of the Maui County Charter. The amendment would revise that section to read: "Appoint such deputy prosecuting attorneys and necessary staff as shall be authorized by the council. Deputy prosecuting attorneys shall be exempt from civil service and shall serve at the pleasure of the prosecuting attorney. The prosecuting attorney may appoint investigators who shall have the powers and privileges of a police officer while acting within the scope of their duties as investigators. (New proposed material underlined).

Until 1988, Section 62-78 of the Hawaii Revised Statutes had provided the "county attorney", who was the public prosecutor for the County, to appoint an investigator and provided that "[a]ny investigator so appointed shall have all the powers and privileges of a police officer of the county." In 1987, the Attorney General issued an opinion wherein it stated that the special and local laws pertaining to the powers of the counties found in Chapters 61 through 70 of the HRS were violative of Article VIII, Section of the Hawaii Constitution.

Terryl Vencel, Chair
Maui County Charter Commission
Page Two
March 11, 2002

Thus in 1988, Chapters 61 through 70 were repealed and Chapter 46 was amended to include a new section entitled "General powers of the counties." Currently, Section 46-1.5(17) of the HRS provides that "[e]ach county shall have the power to provide by charter for the prosecution of all offenses and to prosecute for offenses against the laws of the State"

The repeal of Chapters 62-78 of the HRS did not mean that police powers for investigators should be abolished. Given the reason for the repeal of those chapters, it only meant that the county, through the county charter, is the proper body to empower investigators with police powers. Indeed, the City and County of Honolulu, County of Kauai, and Hawaii County have given their investigators police powers through their respective charters. Currently, the County of Maui is the only county whose investigators lack police powers.

Police powers and privileges include injury on duty benefits, execution of arrest warrants and material witness orders, the ability to conduct extraditions, and the ability to carry firearms. The only power or privilege which appears controversial is the ability to carry firearms. Nevertheless, the duties and responsibilities of an investigators, the nature of work of the office of the prosecuting attorney, and societal trends all support the extension of that particular power to our investigators.

Investigators perform many of the same functions as police detectives. Although not initiating cases or identifying and apprehending suspects, investigators are typically asked to handle evidence, examine crime scenes, interview witnesses and complainants, take photographs, and do many other tasks associated with follow-up investigations. Unlike detectives, investigators are often called upon to serve subpoenas, transport local witnesses, work closely with deputy prosecuting attorneys, and take an active role in preparing criminal cases for trial.

In the course of performing their duties and responsibilities, investigators frequently encounter hostile witnesses, recanting complainants, and disgruntled defendants or members of defendant's families. Investigators regularly interact with and are exposed to career criminals, drug users,

Terryl Vencel, Chair
Maui County Charter Commission
Page Three
March 11, 2002

people with mental health problems, gang members, and the areas that these people frequent. Investigators are called to remote locations, sometimes after hours, and are oftentimes in a position of providing security for non-streetwise attorneys. The volatility of the people and the uncertainty of the situations an investigator typically encounters supports their carriage of defensive arms.

The nature of the work in a prosecuting attorney's office also supports the wisdom of investigators with police powers. Many people, especially those with ties to crime or criminal defendants, harbor animosity towards the prosecution. Prosecutors and the investigators that assist them deprive defendants of their freedom, forfeit their property, force them to pay restitution to their victims, and hold them up to public scrutiny. These activities are easily construed as personal affronts by the criminal element. Additionally, valuable property, contraband, and other physical evidence that may serve a critical role in a successful prosecution may be present in the office at various times. Evidence transportation and security falls to the investigators as does the protection of witnesses who fear retaliation or reprisal for their cooperation with the State. Allowing investigators police powers should not only safeguard personnel, but also the dispensation of justice in that our office would have the ability to thwart opposition from even the most nefarious of criminal defendants.

Currently, police officers now have to accompany investigators on certain tasks where the investigators could accomplish such tasks without the assistance from the police department if the investigators were empowered with police authority. The investigators effectiveness is curtailed and their safety put at unnecessary risk because of their inability to make an arrest and carry firearms.

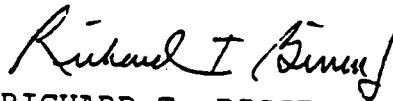
For all of the foregoing reasons, we respectfully request the amendment of Chapter 3 Section 8-3.3 of the Maui County Charter as suggested above.

Terryl Venc1, Chair
Maui County Charter Commission
Page Four
March 11, 2002

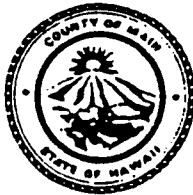
Should you have any questions concerning the above, please
do not hesitate to contact me at 270-7777.

Thank you for your attention to this matter.

Very truly yours,


RICHARD T. BISSEN, JR.
Prosecuting Attorney

RTB:gat



DEPARTMENT OF THE PROSECUTING ATTORNEY
COUNTY OF MAUI
150 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
PHONE (808) 270-7777 • FAX (808) 270-7625

April 9, 2002

Ms. Terryl Vencel, Chair
Maui County Charter Commission
c/o Office of the Mayor
County of Maui
Wailuku, Hawaii 96793

Re: Amendment to Chapter 3, Section 8-3.3
of the Maui County Charter

Dear Madam Chair:

In response to your Commission's request for additional information I am submitting the following documentation: 1) The Class Specification for an Investigator V position with a description of its scope of duties, 2) The Class Specification for a Police Detective I for comparison purposes, and 3) examples of situations that have arisen wherein the lack of police power and privileges has hindered our effectiveness.

I would like to stress that our amendment reads "The prosecuting attorney may appoint investigators who shall have the power and privileges of a police officer while acting within the scope of their duties as investigators." This means that the only time their power and privileges can be exercised is when they are acting within the scope of their duties as described in the Class Specification provided to you.

Ms. Terryl Vencel, Chair
Maui County Charter Commission
Page Two
April 9, 2002

Following is an example of possible restrictive language in the wording of the amendment:

The prosecuting attorney shall have the authority to appoint qualified investigators whose primary function shall be to conduct follow up investigations on criminal cases as directed by the prosecuting attorney or his deputy prosecuting attorneys. Any investigator appointed shall have the power and privileges of a police officer of the county while acting within the scope of their duties as investigators.

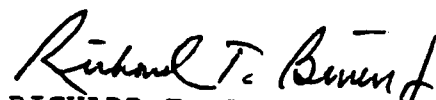
The prosecuting attorney shall adopt policies and standards for training and use of these powers consistent and in conformance with those adopted by the Maui County Police Department. All investigators must have the minimum qualifications for the class as established by the Department of Personnel Services, County of Maui.

Please feel free to disregard or edit any portion of the above example.

If I can provide you with any additional pertinent information or should you have further questions concerning the above, please do not hesitate to contact me.

Thank you for your kind consideration of this matter.

Very truly yours,


RICHARD T. BISSEN, JR.
Prosecuting Attorney

RTB:gat

Encs.

DEPARTMENT OF PERSONNEL SERVICES
COUNTY OF MAUIPART IClass Specification
for the Class:INVESTIGATOR VDuties Summary:

Conducts confidential investigations of civil/criminal case being considered and/or readied for court action and prosecution, obtains additional information, evidence and facts to clarify or substantiate findings of law enforcement agencies; and performs other related duties as required.

Distinguishing Characteristics:

This class differs from the Investigator IV in that the Investigator V conducts investigations of the most complex, confidential and diverse cases including those dealing with government officers and employees, organized crimes and career criminals; whereas the Investigator IV independently conducts complete investigations of felony and misdemeanor cases being considered and/or readied for prosecution.

Examples of Duties:

Investigates and re-investigates suspected or actual violations of civil and/or criminal laws or other legal requirements being considered and/or readied for prosecution by obtaining additional, clarifying or substantiating information evidence and facts; interviews and interrogates witnesses complainants and suspects; prepares reports on findings with Police Department, military and federal law enforcement agencies, and all levels of courts; assists in presentation of cases before the grand jury, jury and non-jury trials; testifies in court and produces and identifies physical evidence; gathers additional facts as may be required for any contested hearing in which the Prosecuting Attorney/Corporation Counsel may be involved; conducts highly confidential investigations involving suspected cases of fraud, malfeasance, employee misconduct, etc.; investigates cases referred to the Prosecuting Attorney or to Corporation Counsel by the Board of Ethics; investigates violations and complaints regarding local ordinances, codes and regulations; assists the Prosecuting Attorney/Corporation Counsel and his deputies in processing of various legal instruments and in presentation of cases before arbitrators and the courts; marshals reports, pleadings and records; keeps an accurate account of open-ended cases; prepares clear, concise, and logical reports to document findings and conclusions.

This is an amendment to the specification for the class, INVESTIGATOR, which was approved on August 24, 1977, amended on December 29, 1982 and March 5, 1992, retitled to INVESTIGATOR I on November 12, 1991, retitled to INVESTIGATOR V on May 20, 1993, and hereby amended effective June 1, 1996.

APPROVED: August 14, 1996
Director of Personnel Services

DEPARTMENT OF PERSONNEL SERVICES
COUNTY OF MAUI

PART II Minimum Qualification Specification
for the Class:

INVESTIGATOR V

Minimum Qualification Requirements:

Training and Experience: A combination of education and experience substantially equivalent to graduation from an accredited college or university with a bachelor's degree in police science, sociology, psychology, public administration or related field and three (3) years of investigational or law enforcement experience.

Specialized experience: As applicable for specific positions, the investigational or law enforcement experience shall have included or shall have been supplemented by at least six (6) months of full-time criminal investigative work.

License Requirement: Possession of a valid Hawaii State driver's license (Type 3).

Knowledge of: investigational methods and techniques; the rules of evidence and laws of arrest; court procedures and legal instruments; the jurisdiction and functions of the various law enforcement and other governmental agencies and departments; interviewing and interrogating techniques; report writing; the geographic, economic, social and racial composition of the community; (current Hawaii criminal laws, as applicable).

Ability to: interpret laws, rules and regulations; collect, assemble and develop facts and other pertinent data; think logically and objectively to analyze and evaluate facts, evidence and related information, and arrive at sound conclusions; make sound observations, remember facts, and give testimony based thereon; size up people and situations; understand the psychology of human behavior; deal effectively with the public and representatives of other government agencies; use the typewriter.

Selective Certification:

Specialized knowledges, skills and abilities relating to criminal investigative experience may be required to perform the duties of some of these positions. For such positions, certification may be restricted to eligibles who possess the pertinent experience and/or training required to perform the duties of these positions.

Requests for selective certification must show the connection between the kind of training and/or experience on which they wish to base selective certification and the duties of the position to be filled.

Health and Physical Condition:

Persons seeking appointment to positions in this class must meet the health and physical condition standards deemed necessary and proper for performance of the duties.

Physical Effort Grouping: Light

* * * * *

This is an amendment to the minimum qualification specification for the class, INVESTIGATOR, which was approved on August 24, 1977, amended on December 29, 1982 and March 5, 1992, retitled to INVESTIGATOR I on November 12, 1991, and is to be retitled to INVESTIGATOR V, effective May 20, 1993.

APPROVED: May 26, 1993


Director of Personnel Services

DEPARTMENT OF PERSONNEL SERVICES
COUNTY OF MAUI

PART I

Class Specification
for the Class:

POLICE DETECTIVE I

Duties Summary:

Independently performs and/or coordinates investigative police work; secures evidence for supporting arrests; interviews witnesses and informants; apprehends and interrogates suspects and performs other related duties as required.

Distinguishing Characteristics:

These classes represent the performance of complex criminal investigations for the purpose of clearing crime cases by the arrest and conviction of the perpetrator and the recovery of any stolen property.

Police Detectives usually operate in plain clothes and perform work involving the systematic search for and preservation of physical evidence, identification of offenders, recovery of stolen property, apprehension of offenders, and the provision of assistance in the prosecution of offenders by the orderly preparation of testimony and evidence. Work is performed within the general framework of established procedures and departmental rules and regulations with changes in routine and assistance on major problems received from a superior officer.

Examples of Duties:

Investigates offenses such as homicide, major fraud, robbery, crimes against person, and conspiracy cases; keeps records, investigates and carries out activities relating to organized crime, racketeers, subversive elements and others who operate on a national and international bases; interviews complainants or victims of offenses reported to obtain information regarding complaints; investigates scenes of crimes, drawing sketches and diagrams of location and surroundings, taking measurements, searching for and preserving evidence, determining method by which offense was committed, establishing facts regarding offense and motive for offense, and interviewing witnesses at scene having knowledge of offense, evaluates facts obtained in investigation of scenes of crimes; checks modus operandi files for suspects; prepares modus operandi reports; traces and recovers evidence, checking junk yards, pawn shops, swap meets and other establishments for stolen articles; locates and interviews witnesses to obtain information and statements and arranges for identification of suspects by witnesses; interrogates suspects to obtain statements and confessions; has witnesses identify suspects; searches for, prevents the escape of, and apprehends criminals; prepares supplementary reports and case summaries of investigations made; prepares cases for presentation to the Prosecuting Attorney; testifies before the Grand Jury, District Court and Circuit Court; makes field inspections of pool halls, amusement places, unusual gatherings of people, unattended homes and buildings, and

DEPARTMENT OF PERSONNEL SERVICES
COUNTY OF MAUI

152.050

PART II

Minimum Qualification Specification
for the Class:

POLICE DETECTIVE I

Minimum Qualification Requirements:

Training and Experience: A combination of education and experience substantially equivalent to two years of general college with some course work pertinent to the field of law enforcement.

Qualification for Firearms: Must be a qualified to carry and/or possess firearm or ammunition in accordance with state and federal laws, e.g., no misdemeanor or felony domestic violence conviction.

License Requirement: Possession of a valid Hawaii State driver's license (Type 3).

Knowledge of: the organizations, functions, policies and procedures of the Maui County police department; the laws and ordinances of the County, State and Federal governments subject to enforcement; crime prevention; criminal investigation; elements of various criminal offenses; scientific crime detection; the rules and the preservation of evidence; interviewing and interrogating techniques; the laws of arrest; court procedures, the geographic, economic, social and racial composition of the community; hangouts of known violators and other areas of high crime incidence.

Ability to: analyze and solve complex criminal and investigative problems; make effective diagrams depicting scene of crime and other related details; make sound observations, remember facts and give testimony on observations and facts; prepare case records; deal courteously but firmly with the general public; size up people and situations and adopt an effective course of action, prepare clear and concise reports and case summaries of investigations; understand the psychology of human behavior; use police weapons and scientific aids and equipment; keep matters confidential.

Health and Physical Condition:

Persons seeking appointment to positions in this class must meet the health and physical condition standards deemed necessary and proper for performance of the duties.

Physical Effort Grouping: Special

#####

This is an amendment to the minimum qualification specification for the class POLICE DETECTIVE I, approved December 13, 1970, retitled POLICE DETECTIVE I on January 4, 1988, amended November 20, 1997, effective March 17, 1998.

APPROVED: March 17, 1998


Director of Personnel Services

The following is a list of actual follow-up investigations where the Police powers and privileges would have been advantageous. The random listing was taken from my personal log entries from 1997 through August 2001.

1. August 2001 through December 2001 requested assistance in Summons to be served on individual. Through investigation obtained address in Kanaio area. Armed due to anticipated encounter(s) with families.
2. From 06 August 2001 through 20 September 2001 I worked a total of 52 hours on locating and serving a Material Witness Order on one individual. Prior to serving the Order, on 09/20/01 (with Police Assistance) the witness was observed on two occasions on the morning of 09/13/01. There was not enough time to coordinate with Police for her apprehension. Without the authority to execute the Order she was not apprehended until 09/20/01. During the Months of August - September 2001 a total of 85 investigative assignments were worked on, not including the assignment to locate this one Material Witness.
3. September 12, 2001 confronted homeless individual, Joseph McCamon who had been sleeping at the front entrance to the Prosecutors Office, and urinating on the wooden flooring during the night, and early morning hours. Having assisted in the clean up for several days I arrived at work on 09/12/01 at 0545 hours where I confronted McCamon while he was still in his sleeping bag. The Police were summoned to document a case (Personal Assistance) under Report No. 01-72553.
4. November 2001 Requested assistance from assault victim to accompany him to his remote Haiku residence following conviction of defendant (Appleby trial). Victim resided in area near Twin Falls. Unable to get Police assistance at the time and called Prosecutors Office for escort. I was armed while escorting the victim to his property.
5. February 8, 2001 assist Honolulu Prosecutors Office in service of subpoena to hostile witness in Lahaina area. If resistance met documentation for possible Material Witness Order would be required, along with further assistance. Case involved (Murder II) trial w/juvenile witness/parent.
6. February 5, 2001 attempt to locate witness family (Emily Connolly) in Honokohau Valley on District Court case. Firearm necessary precaution in valley.
7. November 2000 Assist Honolulu Prosecutors Office in locating witness Daniel Momosea. May possibly have to apply for Material Witness Order. Involved defendant Robin Vierra (Murder case) being handled by Peter Carlisle. Extensive follow-up from 11/06/00 through 11/22/00. Traced back to Honolulu on 11/22/00 where he was served by Honolulu Investigators.
8. October 17, 2000 Contacted by Riverside County D.A. Office Investigator Gene Gilbert requesting service of a Warrant on a Maui Establishment. Gilbert was referred to Maui

Police and the FBI for assistance. Unable to comply due to lack of Police authority.

9. April 19, 1999 through May 28, 1999 asked to carry my firearm and accompany Deputy Prosecutor Robert Rivera to and from Court during Daniel Kosi's murder trial.
10. March 1998 requested armed accompaniment of DPA Page from Court during Chad Vanstory trial. Case involved Robbery I. and Felon In Possession of Firearm.
11. September 09, 1998 Preparation for Material Witness Order assistance for Honolulu Prosecutors Office. Letter to MPD Chief Phillips, Capt. Matsunaga, and Communications Supervisor that assistance may be needed for transportation/backup when Material Witness Loluama Uta is located. Case was for First Circuit Court, defendant Tommy Elisara (Place To Keep/Terroristic Threatening I, Assault III), DPA R. Oyama, Honolulu Prosecutors Office. Assisting Honolulu Investigator Byron Ono. Individual not located on Maui with follow-up through October.
12. December 1997 assigned Special Investigator to Deputy Prosecutor Melinda Mendes in the Honolulu murder trial (conflict case) involving defendant Todd Raines. Assigned to transport and safeguard the key witness flown in from California. Assisted the witness for 1 week in the First Circuit jurisdiction.

Michael J. Caires
Michael J. Caires
04/10/02 1145 hrs.

The foremost reason we need powers and privileges of police is without the authority we are not able to do our jobs fully/properly and without the privileges we face vast liability.

With respect to the confines of our limited staff:

- we need to be able to execute material witness orders
- we need to be able to mirandise and take statements of co-defendants
- we need to be able perform extraditions
- we need to be able to confiscate evidence and contraband
- we need to be able to prevent escapes, apprehend criminals that commit crimes in our presence and to protect our staff and witnesses
- all of the above issues and more lead to more load on a short staffed MPD

CASE EXAMPLES:

Safety/Liability issues:

- Cases we work on are often high risk and high stress. They are the same cases as police work on with the same levels of risk. Often times we work alone. Should we have to effect an arrest with police powers and authorization we would be confident we would be acting within the scope of our duties and covered by such.

Material witness order inability:

- In the past I've assisted with work on the execution of material witness orders. Valuable time is usually lost because of needing to call police to make the arrest. On numerous occasions the witness fled prior to police arrival. This delays the cases and sometimes allows the defendant to go free.
- In working with other counties on material witness orders we prove ourselves helpful but again face the problems of not having the powers to arrest. I recently had the Oahu Prosecutorial Investigators execute a material witness order on a drug smuggler who is testifying as we speak against four high profile drug dealers. Without this help the cases would have been dropped and all the man hours spent by police and prosecutors would have been for nothing. The perpetrators would go back untouched and continue their actions which includes reports of drug sales in an island school.

Extradition inability:

- Recently I received a call from the Warrants Person at MPD needing help as there were not enough police to complete work on an extradition. It was to the point of asking for an investigator to accompany a police officer even though we have no police powers. This was rejected and the extradition did not happen.

Penalty issue on a defendant who assaulted an Investigator:

- while attempting to serve subpoena on victim I was kicked by raging defendant.
- follow up had to be done with a citizens assault III arrest because we don't have police powers -
- if this party had done this to an officer he would be facing a 30 day mandatory jail term
- it turned out that he got away with a petty misdemeanor disorderly conduct charge and no jail time.

We need to use our resources wisely. Police are overloaded as is and are burdened by parts of our job we can't do. If we had police powers we could lessen this as well as avoid the double assignment of a police officer and an investigator to accomplish one task.

JoAnn Allencastre
Investigator-Maui County Prosecutors
04-10-02



May 6, 2002

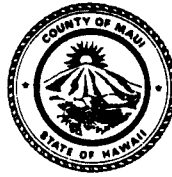
MEMO TO: Dain P. Kane, Chair
Committee of the Whole

F R O M: 
Councilmember Charmaine Tavares

SUBJECT: **DOCUMENT TRANSMITTAL**

Please consider the attached document as an alternative Charter proposal
in connection with Item No. 41 on your Committee agenda.

JAMES "KIMO" APANA
Mayor



JAMES B. TAKAYESU
Corporation Counsel

02 MAY -3 2002

DEPARTMENT OF THE CORPORATION COUNSEL

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

May 3, 2002

MEMO TO: Charmaine Tavares, Chair
Planning Committee

F R O M: Brian T. Moto, First Deputy Corporation Counsel **BTM**
SUBJECT: **PROPOSED AMENDMENTS TO THE REVISED CHARTER OF THE
COUNTY OF MAUI (1983), AS AMENDED, RELATING TO THE
DEPARTMENT OF WATER SUPPLY**

Transmitted herewith is the proposed draft resolution which has been approved as to form and legality, as requested.

If you have any questions, please do not hesitate to contact me.

BTM:ko

Enclosure

S:\CLERICAL\KAO\COUNCIL\MEM\Charter Amdt-DWS-res.wpd

Resolution

No. _____

PROPOSING AMENDMENTS TO THE REVISED CHARTER
OF THE COUNTY OF MAUI (1983), AS AMENDED,
RELATING TO THE DEPARTMENT OF WATER SUPPLY

BE IT RESOLVED by the Council of the County of Maui:

1. That it hereby proposes that the Revised Charter of the County of Maui (1983), as amended, be amended to provide for: the appointment of the Director of the Department of Water Supply by the Mayor with the approval of the Council; a Board of Water Supply that is advisory to the Director of the Department of Water Supply, the Mayor and the Council; and other revisions relating to the Board and Department of Water Supply; and

2. Section 8-11.2, Revised Charter of the County of Maui (1983), as amended, is amended to read as follows:

"Section 8-11.2. Functions of the Department.

1. [All water systems owned and operated by the county, including all county water rights and water sources, together with all materials, supplies and equipment and all real and personal property used in connection with such water systems shall be under the control of the department.] The department of water supply shall manage and operate all water systems owned by the county.

2. [The department shall have full and complete authority to manage, control and operate water systems and properties used in connection with such water systems.] In order to protect and manage the water resources in the county, the department of water supply shall make studies, surveys, and investigations relating to the locations and sources of water supply within the county, the amounts available for current and prospective uses, the water resources which may be available for such uses and the maximum sustainable yield of such sources.

Resolution No. _____

3. The department of water supply shall implement the county's general plan and community plans in the administration of its affairs. [There shall be a long-range plan of the department] The department of water supply shall prepare and annually update a long-range capital improvement plan and an updated water use and development plan, which shall be subject to the approval of the [county] council, as provided by law.

[4. The county council shall have the authority to issue general obligation bonds for the benefit of the department and may provide capital appropriations for the department.]"

and

3. Section 8-11.3, Revised Charter of the County of Maui (1983), as amended, is amended to read as follows:

"Section 8-11.3. Board of Water Supply. The board of water supply shall consist of nine members who shall be appointed by the mayor with the approval of the council. The [planning] director of the department of planning and the director of the department of public works and waste management shall be non-voting ex-officio members of the board of water supply. The board of water supply shall act as advisor to the director of water supply, the mayor and the council in all matters concerning the county's water system."

and

4. Section 8-11.4, Revised Charter of the County of Maui (1983), as amended, is amended to read as follows:

"Section 8-11.4. Powers, Duties and Functions. The board of water supply shall:

1. [Appoint, evaluate and remove the director of the department of water supply.] Review and submit to the mayor the department of water supply's request for an annual appropriation for operations and capital improvements.

[2. Have the authority to create and abolish positions.

Resolution No. _____

3. Adopt rules and regulations which shall have the force and effect of law relating to the management, control, operation, preservation and protection of the water works of the county, as well as the establishment and adjustment of rates and charges for furnishing water; such rules and regulations shall be adopted as provided under Section 8-11.8 below.]

2. Recommend the establishment and adjustment of rates and charges for furnishing water; such rates and charges shall be submitted to the mayor for review and approval. If approved by the mayor, proposed rates and charges shall be submitted to the council for review and adoption.

[4. Adopt an annual operating and capital budget.

5. Have the authority to issue revenue bonds under the name of the board of water supply.

6. Have the authority to acquire by eminent domain, purchase, lease or otherwise, and to sell, lease, or otherwise convey real property in the name of the board of water supply.

7.] 3. Perform such other duties and functions as shall be prescribed by law."

and

5. Section 8-11.5, Revised Charter of the County of Maui (1983), as amended, is amended to read as follows:

"Section 8-11.5. Director and Deputy Director of Water Supply. The director of the department of water supply shall be appointed [and evaluated] by the [board of water supply] mayor with the approval of the council, and may be removed by the [board of water supply] mayor with the approval of the council. The director of the department of water supply shall have a minimum of [three] five years of experience in [an administrative] a management capacity, either in public service or private business, or both. The deputy director of the department of water supply shall be appointed by the mayor and may be removed by the mayor. The director or [his] deputy of the department of water supply shall be a registered engineer."

and

Resolution No. _____

6. Section 8-11.6, Revised Charter of the County of Maui (1983), as amended, is amended to read as follows:

"Section 8-11.6. Powers, Duties and Functions. The director of the department of water supply shall:

[1. Recommend rules and regulations for adoption by the board.

2.] 1. Administer the affairs of the department[, including the rules and regulations adopted by the board] of water supply, and be responsible for the day-to-day management and control of all water systems of the county.

[3.] 2. Prepare and implement [long range] long-range capital improvement plans and up-to-date water use and development plans [which have been adopted by the board] for review by the board of water supply and adoption by the mayor and the council.

[4. Appoint a deputy director.

5.] 3. Prepare an annual operating and capital budget for the [board's] board of water supply's review and [adoption] submit the department of water supply's request for an annual appropriation to the mayor.

[6. Coordinate the affairs of the department with the mayor and the county council and submit an annual report concerning the department to the mayor and the council.

7.] 4. Perform such other duties and functions as shall be prescribed by law."

and

7. Section 8-11.7, Revised Charter of the County of Maui (1983), as amended, is amended to read as follows:

"Section 8-11.7. Revenues. The revenues of the department of water supply shall be kept in a separate fund and shall be such as to make the department of water supply self-supporting, provided that the council may issue general obligation bonds on behalf of the department of water supply and may provide capital improvement appropriations for the department of water supply."

and

Resolution No. _____

8. Section 8-11.8, Revised Charter of the County of Maui (1983), as amended, is repealed.

["Section 8-11.8. **Approval of Rules.** The adoption, amendment and repeal of all rules adopted pursuant to Subsection 8-11.4(3) shall require action by both the mayor and the council. The mayor shall either approve or disapprove and transmit the request to the council within fifteen (15) days of receipt. The request shall be deemed approved and transmitted to the council on the sixteenth day if the mayor takes no action.

Within forty-five (45) days of receipt from the mayor, the council may confirm the mayor's action by majority vote or may override any action by the mayor by a two-thirds (2/3) vote of its entire membership. If the council takes no action within forty-five (45) days, the proposal shall be deemed approved."]

and

9. That this Resolution shall be submitted to the voters of the County of Maui at the next general election; and

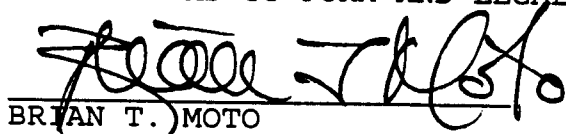
10. That the County Clerk is hereby requested to prepare the necessary ballot for the presentation to the voters at the 2002 general election; and

11. That, upon approval by the majority of the voters in favor of amending the Revised Charter of the County of Maui (1983), as amended, as indicated by the number of votes cast and upon official certification of such result, the amendments proposed herein shall take effect; and

Resolution No. _____

12. That certified copies of this Resolution be transmitted to the Mayor and the Corporation Counsel.

APPROVED AS TO FORM AND LEGALITY:

A handwritten signature in black ink, appearing to read "Brian T. Moto", written over a horizontal line.

BRIAN T. MOTO
First Deputy Corporation Counsel
County of Maui S:\CLERICAL\KAO\RES\Charter Amdt-DWS.wpd

DATE: May 6, 2002.

TO: Committee of the Whole and Mr. Dain Kane, Chairperson

FROM: Hawaii Firefighters Association, Maui County Division

RE: Proposed amendments to the Maui County Charter Commissions Final Report.

Proposal six of the final report with regards to Chapter 7 of the County Charter

Department of Fire Control.

Proposed specific language changes to the Charter Commissions, "Final Report" is as follows:

Item #1

A. Final Report: CHAPTER 7
DEPARTMENT OF FIRE [CONTROL] AND PUBLIC SAFETY

B. Proposed Language: CHAPTER 7
DEPARTMENT OF FIRE [CONTROL AND PUBLIC SAFETY]

Item #2

A. Final Report: Section 8-7(1). Organization. There shall be a department of fire [control] and public safety consisting of a fire and public safety commission, a fire chief, and the necessary staff.

B. Proposed Language: Section 8-7(1). Organization. There shall be a [department of] fire [control] department commonly referred to as the Maui Fire Department [and public safety] consisting of a fire and public safety commission, a fire chief, and the necessary staff.

Item #3

A. Final Report: Section 8-7([4]2).2. Review and submit to the mayor the department's request for an annual appropriation for the operation of the department.

B. Proposed Language: Section 8-7([4]2).2. Review [and submit] the annual budget prepared by the fire department and make recommendations thereon to the mayor and the council. [to the mayor the department's request for annual appropriation for the operation of the department.]

Item #4

- A. Final Report: Section 8-7([4]2).[1]3. Review the operations of the department of fire [control] and public safety and the civil defense agency and make recommendations for changes [which] that may be desirable to improve the performance of emergency functions and the provision of public safety services.
- B. Proposed Language: Section 8-7([4]2).[1]3. Review the operations of the [department of] fire department [control][and public safety] and the civil defense agency and make recommendations for changes [which] that may be desirable to improve the performance of emergency functions and the provision of public safety services.

Item #5

- A. Final Report: Section 8-7([4]2).[2]4. Receive, review, and investigate any charges brought forth by the public against the conduct of the department of fire [control] and public safety or any of its members and submit a written report of its findings and recommendations to the fire chief for disposition.
- B. Proposed Language: Section 8-7([4]2).[2]4. Receive, review, and investigate any charges brought forth by the public against the conduct of the [department of] fire department [control][and public safety] or any of its members and submit a written report of its findings and recommendations to the fire chief for disposition.

Item #6

- A. Final Report: Section 8-7([2]3). Fire Chief. The fire chief shall be appointed [by the mayor] and may be removed by the [mayor] fire and public safety commission only after being informed in writing of the charges that are resulting in his or her dismissal, and after being given a hearing before the commission. The fire chief shall have had a minimum of five years of experience in fire control, at least three years of which shall have been in an administrative capacity.
- B. Proposed Language: Section 8-7([2]3). Fire Chief. The fire chief shall be appointed [by the mayor] and may be removed by the [mayor] fire and public safety commission only after being informed in writing of the charges that are resulting in his or her 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 [control], at least three years of which shall have been in an administrative capacity.

Item #7

- A. Final Report: Section 8-7([3]4).[3]6. Adopt rules relating to the protection of persons and property against fires.
- B. Proposed Language: Section 8-7([3]4).[3]6. [Adopt rules relating to the protection of persons and property against fires.] Enforce the "Fire Code of the County of Maui".

☐ Justification for proposed language changes to the Charter Commissions Final Report are as follows:

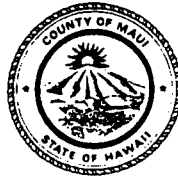
- (A) Items # 1, 2, 3, 4, 5 and 6 request that the title of the organization should be called the fire department versus department of fire control or department of fire and public safety. The title fire department was thought to have been deliberated and voted on with approval on April 1, 2002. The term fire department is a title that is based on pride in tradition with Maui County firefighters and the fire service as a whole. The term public safety defines multiple services including police, fire, emergency medical, ocean and water safety, and civil defense. The term department of fire and public safety shall or may infer that all public safety services provided by the county are managed by the fire department.
- (B) Item #3, in addition to requesting the term fire department, also addresses the difference between the fire and public safety commission submitting the budget versus reviewing the budget and making recommendations to the mayor and council. The request is for the fire and public safety commission to review the fire department budget and make recommendations to the mayor and council, not to submit. The language in the charter commissions final report with regards to the fire and public safety commission, originated from the commissions desire to use the current county charter language with regards to the police commission as a template for the fire and public safety commission. The current police commission through amendment to the county charter does not submit the budget to the mayor, but rather only reviews and makes recommendations to the mayor and council. This is due to police commissioners stating that they did not possess enough expertise to create a budget but rather could review and make recommendations. The current police commission felt that this was such an important issue that they chose to waive their right to submit.
- (C) Item #7. The County of Maui adopts with amendments the state fire code, which code adopts with modifications the, "Uniform Fire Code", and the, "National Fire Code". The end result is a fire code called the, "the Fire Code

of the County of Maui", and it is located under chapter 16.04A of the Maui County Code. The fire chief is responsible to enforce the fire code or ordinance that the county adopts. The fire chief does not personally adopt the fire code or rules. Under the current county charter the duty of the chief of police is to enforce laws of the state and ordinances of the county. There is no mention of the chief of police adopting laws.

- (D) The fire service is constantly being confronted with new challenges and it is our (Maui Fire Fighters) desire to meet these challenges. Our primary goals are to deliver the quality service expected by our community and ensure that our fire fighters return home safely after a day work. In our business of saving lives we don't always have the luxury of a second chance and that is why we are taking full advantage of this opportunity to develop language that is best for this commission. We believe the time and effort it takes to put together a well-developed fire commission is worth its price. And just as a friendly reminder we are asking that this proposed amendment is put on the ballot and let the people of Maui make the final decision.

We are confident that the community of Maui County will support us in our efforts to create a fire commission and hope that we will receive the same support from the Committee of the Whole as well as the Maui County Charter Commissioners. It has been a long and challenging process and we hope our endeavors will be rewarding. Your valuable time and consideration to these matters are greatly appreciated.

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

May 3, 2002

MEMO TO: Charmaine Tavares, Chair
Planning Committee

F R O M: Brian T. Moto, First Deputy Corporation Counsel

SUBJECT: **PROPOSED AMENDMENTS TO THE REVISED CHARTER OF THE
COUNTY OF MAUI (1983), AS AMENDED, RELATING TO THE
DEPARTMENT OF WATER SUPPLY**

Transmitted herewith is the proposed draft resolution which has been approved as to form and legality, as requested.

If you have any questions, please do not hesitate to contact me.

BTM:ko

Enclosure

S:\CLERICAL\KAO\COUNCIL\MEM\Charter Amdt-DWS-res.wpd

Resolution

No. _____

PROPOSING AMENDMENTS TO THE REVISED CHARTER
OF THE COUNTY OF MAUI (1983), AS AMENDED,
RELATING TO THE DEPARTMENT OF WATER SUPPLY

BE IT RESOLVED by the Council of the County of Maui:

1. That it hereby proposes that the Revised Charter of the County of Maui (1983), as amended, be amended to provide for: the appointment of the Director of the Department of Water Supply by the Mayor with the approval of the Council; a Board of Water Supply that is advisory to the Director of the Department of Water Supply, the Mayor and the Council; and other revisions relating to the Board and Department of Water Supply; and

2. Section 8-11.2, Revised Charter of the County of Maui (1983), as amended, is amended to read as follows:

"Section 8-11.2. Functions of the Department.

1. [All water systems owned and operated by the county, including all county water rights and water sources, together with all materials, supplies and equipment and all real and personal property used in connection with such water systems shall be under the control of the department.] The department of water supply shall manage and operate all water systems owned by the county.

2. [The department shall have full and complete authority to manage, control and operate water systems and properties used in connection with such water systems.] In order to protect and manage the water resources in the county, the department of water supply shall make studies, surveys, and investigations relating to the locations and sources of water supply within the county, the amounts available for current and prospective uses, the water resources which may be available for such uses and the maximum sustainable yield of such sources.

Resolution No. _____

3. The department of water supply shall implement the county's general plan and community plans in the administration of its affairs. [There shall be a long-range plan of the department] The department of water supply shall prepare and annually update a long-range capital improvement plan and an updated water use and development plan, which shall be subject to the approval of the [county] council, as provided by law.

[4. The county council shall have the authority to issue general obligation bonds for the benefit of the department and may provide capital appropriations for the department.]"

and

3. Section 8-11.3, Revised Charter of the County of Maui (1983), as amended, is amended to read as follows:

"Section 8-11.3. Board of Water Supply. The board of water supply shall consist of nine members who shall be appointed by the mayor with the approval of the council. The [planning] director of the department of planning and the director of the department of public works and waste management shall be non-voting ex-officio members of the board of water supply. The board of water supply shall act as advisor to the director of water supply, the mayor and the council in all matters concerning the county's water system."

and

4. Section 8-11.4, Revised Charter of the County of Maui (1983), as amended, is amended to read as follows:

"Section 8-11.4. Powers, Duties and Functions. The board of water supply shall:

1. [Appoint, evaluate and remove the director of the department of water supply.] Review and submit to the mayor the department of water supply's request for an annual appropriation for operations and capital improvements.

[2. Have the authority to create and abolish positions.

Resolution No. _____

3. Adopt rules and regulations which shall have the force and effect of law relating to the management, control, operation, preservation and protection of the water works of the county, as well as the establishment and adjustment of rates and charges for furnishing water; such rules and regulations shall be adopted as provided under Section 8-11.8 below.]

2. Recommend the establishment and adjustment of rates and charges for furnishing water; such rates and charges shall be submitted to the mayor for review and approval. If approved by the mayor, proposed rates and charges shall be submitted to the council for review and adoption.

[4. Adopt an annual operating and capital budget.

5. Have the authority to issue revenue bonds under the name of the board of water supply.

6. Have the authority to acquire by eminent domain, purchase, lease or otherwise, and to sell, lease, or otherwise convey real property in the name of the board of water supply.

7.] 3. Perform such other duties and functions as shall be prescribed by law."

and

5. Section 8-11.5, Revised Charter of the County of Maui (1983), as amended, is amended to read as follows:

"Section 8-11.5. Director and Deputy Director of Water Supply. The director of the department of water supply shall be appointed [and evaluated] by the [board of water supply] mayor with the approval of the council, and may be removed by the [board of water supply] mayor with the approval of the council. The director of the department of water supply shall have a minimum of [three] five years of experience in [an administrative] a management capacity, either in public service or private business, or both. The deputy director of the department of water supply shall be appointed by the mayor and may be removed by the mayor. The director or [his] deputy of the department of water supply shall be a registered engineer."

and

Resolution No. _____

6. Section 8-11.6, Revised Charter of the County of Maui (1983), as amended, is amended to read as follows:

"Section 8-11.6. Powers, Duties and Functions. The director of the department of water supply shall:

[1. Recommend rules and regulations for adoption by the board.

2.] 1. Administer the affairs of the department[, including the rules and regulations adopted by the board] of water supply, and be responsible for the day-to-day management and control of all water systems of the county.

[3.] 2. Prepare and implement [long range] long-range capital improvement plans and up-to-date water use and development plans [which have been adopted by the board] for review by the board of water supply and adoption by the mayor and the council.

[4. Appoint a deputy director.

5.] 3. Prepare an annual operating and capital budget for the [board's] board of water supply's review and [adoption] submit the department of water supply's request for an annual appropriation to the mayor.

[6. Coordinate the affairs of the department with the mayor and the county council and submit an annual report concerning the department to the mayor and the council.

7.] 4. Perform such other duties and functions as shall be prescribed by law."

and

7. Section 8-11.7, Revised Charter of the County of Maui (1983), as amended, is amended to read as follows:

"Section 8-11.7. Revenues. The revenues of the department of water supply shall be kept in a separate fund and shall be such as to make the department of water supply self-supporting, provided that the council may issue general obligation bonds on behalf of the department of water supply and may provide capital improvement appropriations for the department of water supply."

and

Resolution No. _____

8. Section 8-11.8, Revised Charter of the County of Maui (1983), as amended, is repealed.

["Section 8-11.8. Approval of Rules. The adoption, amendment and repeal of all rules adopted pursuant to Subsection 8-11.4(3) shall require action by both the mayor and the council. The mayor shall either approve or disapprove and transmit the request to the council within fifteen (15) days of receipt. The request shall be deemed approved and transmitted to the council on the sixteenth day if the mayor takes no action.

Within forty-five (45) days of receipt from the mayor, the council may confirm the mayor's action by majority vote or may override any action by the mayor by a two-thirds (2/3) vote of its entire membership. If the council takes no action within forty-five (45) days, the proposal shall be deemed approved."]

and

9. That this Resolution shall be submitted to the voters of the County of Maui at the next general election; and

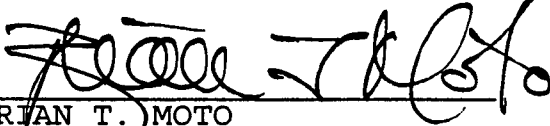
10. That the County Clerk is hereby requested to prepare the necessary ballot for the presentation to the voters at the 2002 general election; and

11. That, upon approval by the majority of the voters in favor of amending the Revised Charter of the County of Maui (1983), as amended, as indicated by the number of votes cast and upon official certification of such result, the amendments proposed herein shall take effect; and

Resolution No. _____

12. That certified copies of this Resolution be transmitted to the Mayor and the Corporation Counsel.

APPROVED AS TO FORM AND LEGALITY:

A handwritten signature in black ink, appearing to read "Brian T. Moto", is written over a horizontal line.

BRIAN T. MOTO

First Deputy Corporation Counsel

County of Maui S:\CLERICAL\KAO\RES\Charter Amdt-DWS.wpd

**Alternative Charter Proposal for the Department of Water Supply
5-8-02**

Section 8-11.2 (1) Makes it clear that the Department of Water Supply manages and operates all water systems owned by the county (rather than "controls").

Section 8-11.2(2) Makes it clear that the Department is responsible for knowing the "locations and sources of water supply within the county, the amounts available for current and prospective uses, the water resources which may be available for such uses and the maximum sustainable yield of such sources." [From similar wording in the Charter of the City and County of Honolulu]

Section 8-11.2(3) Requires the Department to prepare and annually update a long-range capital improvement plan and an updated Water Use and Development Plan.

Section 8-11.2(4) Moves the phrase outlining the authority of the council to issue G. O. bonds and CIP appropriations to DWS from Section 8-11.2 .4 to Section 8-11.7. Revenues.

Section 8-11.3 Makes the Board of Water Supply advisory to the Director, the Mayor and the Council.

Section 8-11.4 (1) Provides for the Board to review the Department's budget and submit it to the Mayor (similar to the Police Commission).

Section 8-11.4 (2) Removes the Board's authority to create and abolish positions. That authority would be the Mayor's, as it is with other departments.

Section 8-11.4 (3) Removes the Board's authority to adopt rules and regulations with the force and effect of law. The department would continue to have the authority all other departments under the Mayor have to propose and adopt administrative rules, except for those involving water rates and charges.

Section 8-11.4 (New #2) Provides for the Board to recommend water rates and charges to the Mayor. If the Mayor approves, such rates and charges would be submitted to the Council for review and adoption. (similar to the way other departments operate)

Section 8-11.4 (4-6) Removes the Board's authority to adopt an annual operating and capital budget, issue revenue bonds, and acquire or sell real property.

Section 8-11.5 Provides for the Mayor (rather than the Board of Water Supply) to appoint and remove the Director, with the approval of the Council.

Section 8-11.5 Requires the Director to have 5 years of management experience (rather than 3 years of administrative experience).

Section 8-11.5 Provides for the Deputy Director to be appointed by the Mayor (rather than the Board).

Section 8-11.6 (New #2) Provides for the Director to prepare and implement long-range capital improvement plans and up-to-date water use and developments for review by the board and adoption by the mayor and council.

Section 8-11.6 (4) Removes the Director's authority to appoint a Deputy.

Section 8-11.6 (6) Removes the Director's authority to "coordinate the affairs of the department with the mayor and county council and submit an annual report." Since the Director will be under the direction of the Mayor, the word "coordinate" is no longer appropriate. The Annual Report could still be submitted if that is what the Council prefers.

Section 8-11.7 Provides that the department's revenues shall continue to be separate and self-supporting, but also provides that the council may issue general obligation bonds and CIP appropriations on behalf of the department.

Section 8-11.8 Repeals Section 8-11.8 Approval of Rules. This section is no longer needed. If the Department is under the authority of the Mayor, the Department will have the same authority as other departments to adopt administrative rules, exclusive of those regulating rates and charges. Only those rules that regulate rates and charges would require approval by the Mayor and Council.

QMARK RESEARCH & POLLING
1001 Bishop St.
Pacific Tower – 19th Floor
Honolulu, HI 96813
(808) 524-5194 (Tel.)
(808) 524-5487 (Fax)

TO: Teresa McHugh
Scott Parker
The Trust for Public Land

FROM: Fairbank, Maslin, Maullin & Associates
QMark Research & Polling

RE: Highlights of Maui County Voter Survey

DATE: April 23, 2002

In the first two weeks of April 2002, Fairbank, Maslin, Maullin & Associates (FMM&A) and QMark Research & Polling (QRP) jointly conducted a survey of Maui County voters on behalf of the Trust for Public Land (TPL) to assess support for a potential charter amendment to protect open space, wildlife habitats, and land around rivers and streams.¹ The poll followed a similar study of Maui County voters conducted by the two firms in April of 2000.

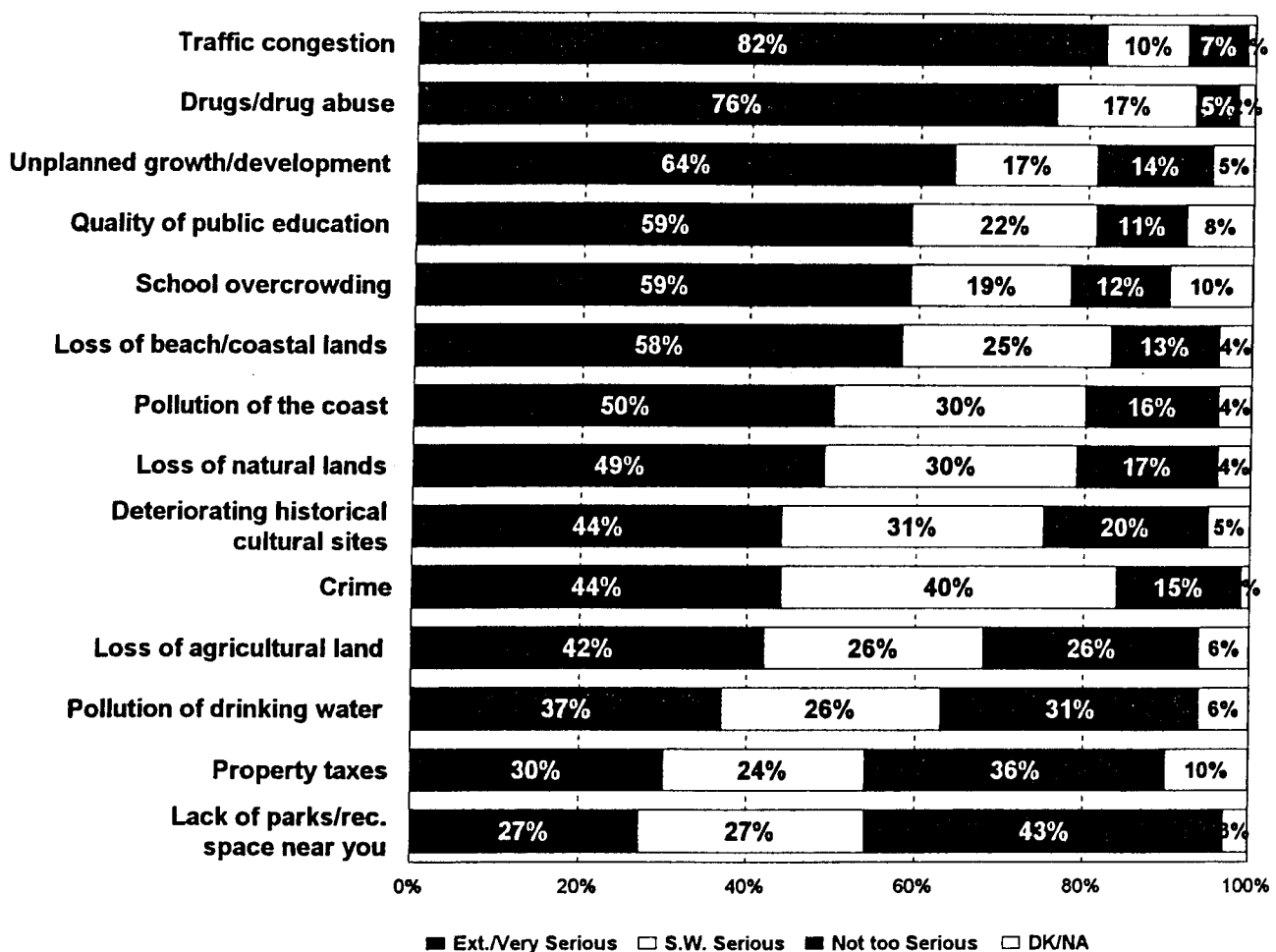
The results show that Maui County voters remain concerned, as they were two years ago, about the impact of growth and traffic on the condition of the County's environment. Concern about these issues leads 74 percent of Maui County voters to call for increased County spending on protections for land, air, and water, while just five percent of those polled call for such spending to be reduced. In particular, **more than four out of five Maui County voters back a charter amendment that would set aside three percent of property tax revenues to create a community lands and open space preservation fund.** That support cuts across demographic groups and political parties within the Maui County electorate, and remains strong even once voters understand that such an amendment would set aside \$2.8 million in property tax revenue each year.

The balance of this memo explores these and other findings in more detail.

VOTER EVALUATIONS OF ISSUES FACING MAUI COUNTY

Survey respondents were offered a list of issues facing Maui County, and were asked to rank each one as either “extremely serious,” “very serious,” “somewhat serious,” or “not too serious.” As shown below in **Figure 1**, Maui County voters are highly concerned about the impact of growth in the area. Nearly two-thirds of those polled rank “unplanned growth and development” as at least a “very serious” problem in Maui County, and fully 82 percent say the same for one of the main impacts of growth – traffic congestion.

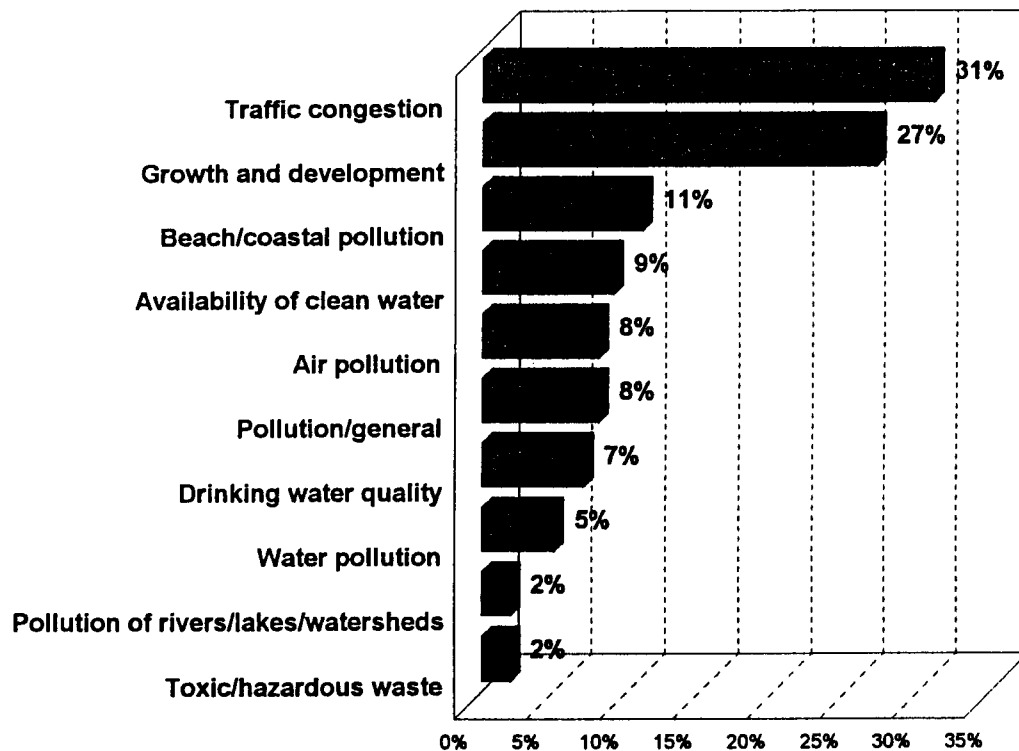
FIGURE 1:
Ranking the Seriousness of Problems Facing Maui County



Maui County voters also express high levels of concern with threats to the condition of land, air and water in the County. Nearly three out of five voters see “the loss of beach and coastal lands” as at least a “very serious” problem; half of those polled say the same about “pollution of the coast” and “the loss of natural lands in Maui County.” Over one-third of those polled also rated “deteriorating historical and cultural sites,” “loss of agricultural land,” and “pollution of drinking water” as serious problems.

The survey results show these two broad areas of concern (the rate of growth and the condition of land, air, and water) are linked in Maui County voters' minds. Survey respondents were asked, in an open-ended question, to name the most important environmental problem facing Maui County that they would like local government to do something about. As illustrated below in **Figure 2**, the most-frequently mentioned environmental concerns all dealt with growth. Nearly one-third of those polled called traffic congestion the County's most serious environmental problem, while more than one-quarter named concerns related to growth and development. Voters clearly see the rate of growth in the County as a significant threat to its environment.

FIGURE 2:
Most Important Environmental Problem Facing Maui County
(Open-End, Multiple Responses Accepted)*



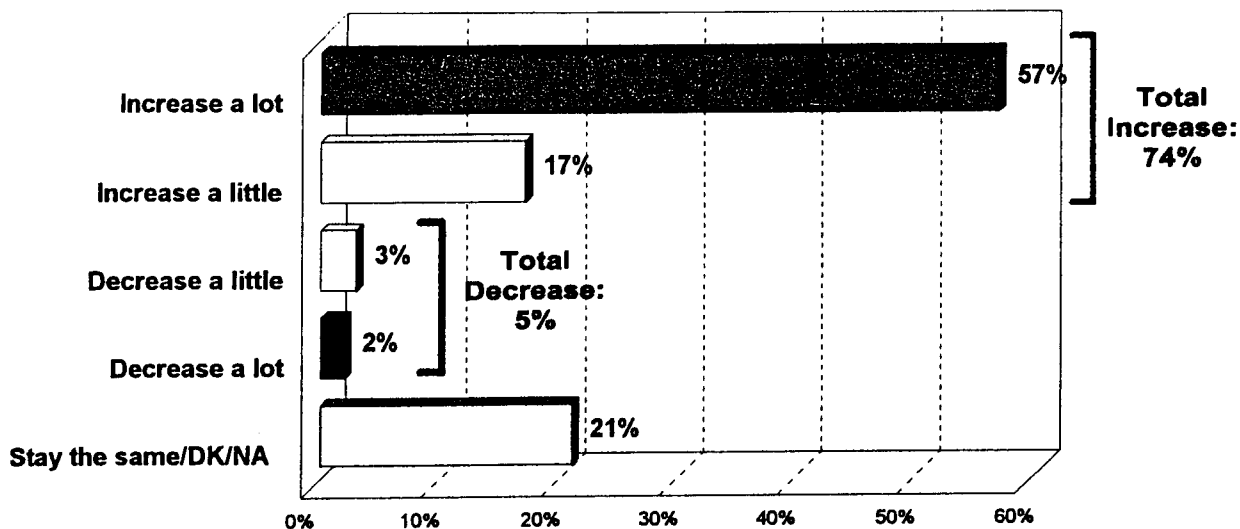
** Responses under 2% not included*

SUPPORT FOR INCREASED INVESTMENT IN PROTECTING LAND, AIR, AND WATER

The level of concern about growth and its impact on the environment has led to overwhelming public support for increasing County spending on protecting land, air, and water. As shown below in **Figure 3**, three-quarters of those polled call for increased investment by County government in protecting Maui County's natural environment; among that number, a sizable 57-percent majority say that such spending should be

increased “a lot.” Only one in twenty voters believes that spending on land, air, and water should be decreased, while the remaining 21 percent think it should be kept the same or decline to offer an opinion.

FIGURE 3:
Preferences for County Spending on Protecting Land, Air, and Water



As shown in **Figure 4** below, the proportion of Maui County voters who think that the County should increase its spending on protecting land, air, and water dropped from 79 percent in 2000 to 74 percent this year, a small decline that is within the survey’s margin of error. But while overall support for an increase has dropped slightly in the past two years, those who do want spending increased have come to feel much more strongly about the issue. In fact, the proportion of voters who think the County should increase such spending “a lot” has grown from 48 percent in 2000 to 57 percent this year. At the same time, there has been no significant change in the proportion of voters saying that such spending should be decreased, or that it should be kept the same.

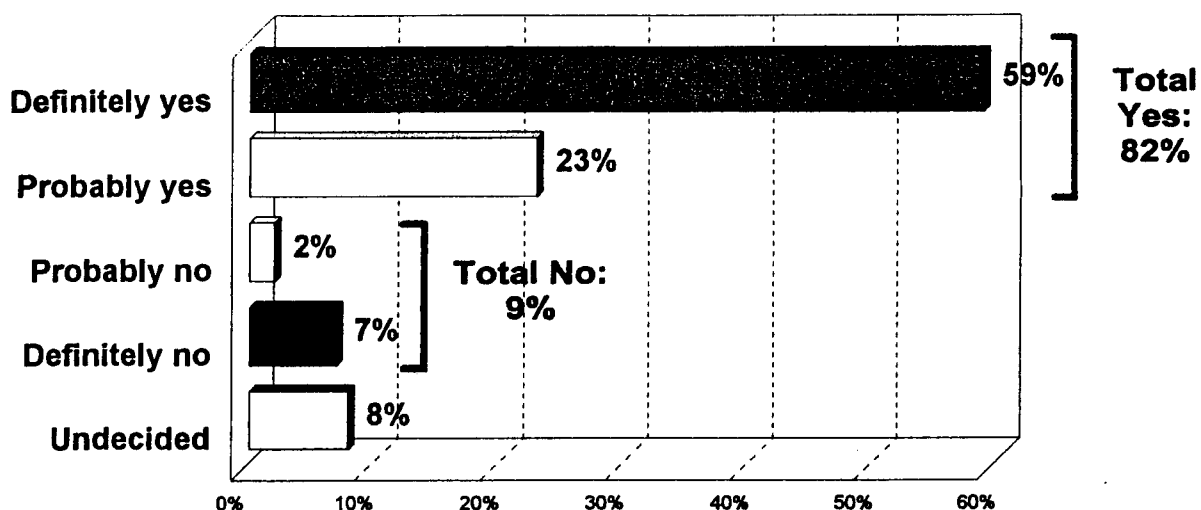
FIGURE 4:
Preferences for County Spending on Protecting Land, Air, and Water, 2000 and 2002

Preference for Maui County Spending on Land/Air/Water	2000	2002	Change
TOTAL INCREASE	79%	74%	-5%
Increase a lot	48%	57%	+9%
TOTAL DECREASE	4%	5%	+1%
STAY THE SAME/DK	17%	21%	+4%

Survey respondents were also presented with draft ballot language for a charter amendment setting aside three percent of the County’s property tax revenues to purchase land for conservation purposes. Voters overwhelmingly support the proposal; as

illustrated below in **Figure 5**, over 80 percent of Maui County voters would vote for a charter amendment creating a community lands and open space preservation fund. Voters' support for such a proposal is very strongly felt; in fact, a 59-percent majority of those polled say that they would "definitely" vote for such an amendment. On the other hand, just one voter in ten would vote against the measure, with eight percent undecided.

FIGURE 5:
Vote on a Charter Amendment to Set Aside 3% of Property Tax Revenue for a Community Lands and Open Space Preservation Fund

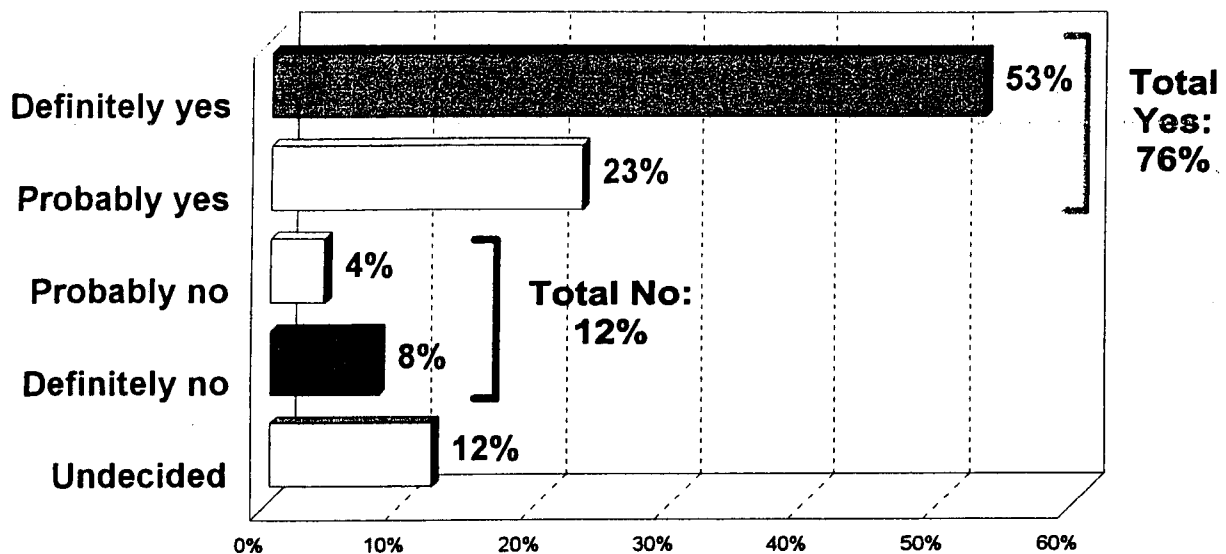


Support for this proposed charter amendment cuts across every major demographic subgroup of the Maui County electorate. The amendment is supported by:

- 82% of women and 82% of men;
- 85% of Democrats, 72% of Republicans, and 84% of independents;
- 81% of white voters, 86% of Hawaiian or part-Hawaiian voters, and 82% of Japanese voters;
- 87% of those under age 50 and 78% of those over age 50;
- 82% of those with less than a college education and 81% of those with a college education or more;
- 83% of voters with children and 81% of voters without children; and
- 82% of homeowners and 83% of renters.

Support for the charter amendment remains strong even after voters have heard how much money it would set aside in the County budget each year. As shown in **Figure 6**, even after voters are informed that the amendment would set aside \$2.8 million in property tax revenue annually, more than three-quarters of those polled say that they would vote for the amendment. A 53-percent majority say they would "definitely" vote "yes."

FIGURE 6:
Support for the Amendment Given That It Would Set Aside \$2.8 Million Annually



Voters were also asked about the possibility of setting aside smaller proportions of the County's property tax revenues for open space protection. When asked whether they would vote for a charter amendment setting aside two percent of the County's property tax revenues, 74 percent said they would vote "yes" and 14 percent said that they would vote "no." When asked whether they would vote for a charter amendment setting aside one percent of the County's property tax revenues, 70 percent said they would vote "yes" and 19 percent said that they would vote "no." These results suggest that reducing the amount of property tax set aside for conservation from three percent to one percent leads to a twelve percent drop in support for the ballot measure (from 82 percent in favor of a three-percent set-aside, to 70 percent in favor of a one-percent set-aside).

In order to test voters' reactions to some of the public debate they might hear about a charter amendment setting aside three percent of property tax revenues for conservation, survey respondents were offered a list of arguments in favor of the measure and a list of arguments against it, and were asked after each set how they would vote on the amendment. First, respondents were offered a list of reasons to vote for the measure, including the following: it would preserve the natural beauty of Maui for future generations, it would preserve clean air and water in Maui County, and it would not increase taxes. After hearing these arguments, support for the measure increased four percent, from 82 percent to 86 percent.

Respondents were then offered a list of reasons to vote against the measure: it would take money from pressing needs like education, job creation, and traffic relief; it would use taxpayer money for unnecessary land purchases; and it would inevitably lead to a tax increase. After all of these arguments were presented, support for the measure went down slightly but did not drop below its original level – 82 percent.

VOTER EVALUATIONS OF CONSERVATION PRIORITIES IN MAUI COUNTY

Voters were also asked to evaluate the importance of a variety of conservation projects that might be funded by the proposed charter amendment. Survey respondents were read the list of potential projects shown in Figure 7 below, and were asked to rate each as either “extremely important,” “very important,” “somewhat important,” or “not important.” The table makes clear that voters see all of the projects listed as fairly high priorities; majorities rate each project as at least “very important.” Overall, though, Maui County voters tend to place the highest priority on conservation projects that will protect water quality, native forests, beaches and coastal areas, and land that will help prevent erosion, floods, and landslides. Each of these projects was rated as “extremely” or “very important” by four out of five voters polled.

**FIGURE 7:
Ranking of the Importance of Potential Projects to be Funded by
a Conservation Charter Amendment**

Project	TOTAL EXT./ VERY	Ext. Imp.	Very Imp.	SW Imp.	Not Imp.	DK/ NA
Protecting watershed lands in order to preserve water quality	84%	38%	46%	11%	3%	2%
Protecting land around rivers and streams in order to preserve water quality	83%	34%	49%	13%	2%	1%
Protecting native forest areas	80%	33%	47%	12%	6%	1%
Protecting land that will help prevent erosion, floods, and landslides	80%	30%	50%	14%	5%	1%
Protecting beaches and coastal areas	79%	32%	47%	15%	4%	2%
Preserving public access to coastal views and beaches	78%	30%	48%	15%	4%	2%
Annual independent audits to ensure that money set aside by the amendment is spent as promised	77%	43%	44%	9%	3%	1%
Permanently protecting natural lands threatened by development	75%	29%	46%	17%	5%	2%
Cleaning up pollution and litter on beaches	75%	27%	48%	18%	6%	1%
Preserving native Hawaiian historical and cultural sites	73%	32%	41%	19%	6%	1%
Saving habitats for whales, seals, turtles, birds, and other fish and wildlife	72%	27%	45%	17%	8%	2%
Protecting agricultural land threatened by development	72%	26%	46%	19%	7%	1%

FIGURE 7 (CONTINUED):

Project	TOTAL EXT./ VERY	Ext. Imp.	Very Imp.	SW Imp.	Not Imp.	DK/ NA
Preserving Mu'olea Point, Keka'a and Waihe'e coastal areas	71%	27%	42%	19%	6%	6%
Repairing deteriorating park facilities	71%	23%	48%	23%	5%	2%
Improving access to parks and recreational facilities for the disabled	70%	25%	45%	22%	5%	2%
Protecting community lands	66%	22%	44%	23%	5%	6%
Protecting open space	64%	20%	44%	26%	7%	2%
Preserving land for recreational activities like hunting, fishing, and boating	63%	19%	44%	26%	10%	1%
Purchasing new park land	51%	17%	34%	32%	14%	2%

CONCLUSION

The survey results make clear that Maui County voters are highly concerned about growth and development and its impact on the County's land, air, and water. Accordingly, most voters believe the County should – as a general principle – increase spending on protecting land, air, and water; fully 74 percent of those polled call for such spending to be increased, while just five percent call for it to be reduced. More specifically, Maui County voters strongly support a charter amendment to set aside three percent of the County's property tax revenue to purchase land for conservation.

*Submitted by
Councilmember Nishiki*

NISHIKI PROPOSAL FOR A COUNCIL
ALTERNATIVE TO CHARTER COMMISSION
PROPOSAL 13 RELATING TO CODE OF ETHICS:

1. Whereas the Charter Commission wants to loosen ethical standards, this alternative would strengthen ethical standards. This alternative would add to existing provisions of the Code of Ethics and would be a substitute for the proposal submitted by the Charter Commission.
2. The proposal's primary elements are: (a) provide the Board of Ethics with independent staff; (b) require that County officials provide "fair and equal treatment"; and (c) require that advisory opinions be made available on the Internet.
3. In this alternative proposal, there is also a requirement for lobbyist registration. But this would simply prohibit the Council from repealing or weakening Section 2.56.040 of the County Code.
4. Arguments for Independent Staff: The Board of Ethics is currently staffed and advised by the Corporation Counsel, which also is the chief legal adviser to all individuals within the Board's jurisdiction. This creates inherent conflicts of interest. A truly objective Board of

Received at COW 5/9/02 mtg.

Ethics needs independent staff—which has been recognized by many municipalities throughout the nation.

5. Arguments for “Fair and Equal Treatment”: This provision is in the Honolulu Code of Ethics and has been used to ban Tupperware parties at City Hall and the promotional use of a free car by Council members. This has been one of the most important ethics provisions in Honolulu, and we need it in order to prevent abuses here. Plus, there is simply no provision that currently exists in the Charter that requires the County government to treat everyone fairly. This is a glaring omission.
6. Arguments for Publication of Opinions: The Board of Ethics currently publishes advisory opinions that are designed to guide the conduct of County officers and employees. Yet these opinions are not accessible to anyone. They are hidden in files in the Corporation Counsel’s office. To have any meaning, they need to be made accessible. They should be put on the Internet, just like advisory opinions issued by the State Ethics Commission and the Honolulu Ethics Commission.
7. Finally, one of the strongest arguments for this alternative proposal is that it does not include the Charter Commission’s proposal to allow

employees to vote on their company's projects. This proposal obviously creates the likelihood of undue influence and bias, on the Lanai Planning Commission and other commissions. For good reason, the Council has consistently voted down similar proposals pushed by Lanai Co. Many employees serving on boards and commission would obviously feel pressured to vote in a manner desired by their employers.

Proposal 13
~~NOT TAKEN~~
OUT TO
PUBLIC

To members of the COW
From LeGray Vanderbilt
May 9, 2002.

Proposal 13

For The Charter Commission, which is
dominated by 7 members associated with development interests or industry
lobbyists, to advance such a County-wide amendment
under the guise of helping Lanai + Molokai IS IRRESPONSIBLE -
and calculated.

^{comment} Council member Molena today noted that the purpose of the
was to give residents of Lanai and Molokai greater
participation.

NOTE No one on Molokai, other than our
largest landowner/developer, would support
this.

If this should pass - a permanent
CAC or our Planning Commission could wind
up controlled by development interest
residents.

Just as Lanai would fall under greater
dominance of The Lanai Co.

On Maui, A+B with support of Mayor
and five Council member could control
Planning Commission, CAC's, Cultural Resources,
Ethics and other important Boards/Commission.
Thank you. LeGray Vanderbilt

To Committee of the Whole Members

From DeGray Vanderbilt

May 9, 2002 (hand delivered)

PROPOSAL 9 BOARD OF WATER SUPPLY

BWS currently has nine voting members who are appointed and the DIRECTORS of PLANNING and PUBLIC WORKS serve as non-voting members.

Note: The PLANNING DIRECTOR AND PUBLIC WORKS DIRECTOR rarely, if ever, attend BWS meeting to share their manao.

CHARTER COMMISSION now wants to reduce the number of appointed voting member on the BWS to seven and include the PLANNING DIRECTOR and PUBLIC WORKS DIRECTOR as voting members.

You've heard about how overworked the Department of Public Works and Planning Departments are. The two Departments are having a tough time administering and enforcing their current responsibilities.

John Min testified before you TODAY and when trying to convince you not to have a permanent CAC told you that his "workload is overwhelming".

Consider recommending that Charter language be left the same. There is no reason the two Directors can't show-up and share the Administration's view with the BWS members as non-voting members if they have the time.

If the TWO DIRECTORS don't have the time, but feel they have to show up because they would now have a vote and their no-show would jeopardize quorum, THEN THAT MEANS THEIR TIME SITTING ALL DAY AT THE BWS MEETING WILL CAUSE PENDING RESPONSIBILITIES IN THEIR RESPECTIVE DEPARTMENTS TO SUFFER.

Respectfully submitted,


De Gray Vanderbilt

Presented at com 5/1/02 mtg.

May 9, 2002

To COW

From DEGRAY VANDERBILT

RE: Proposal #13

The name of Richard Mirikitani
surfaced as the person who
introduced the language in Section 10-4(1)(f).

Who is Mr. Mirikitani?

Richard Mirikitani
Vice President and Senior Legal Counsel
Castle and Cooke, Inc (owns Lanai Co.)

100 Kahahele St.

Mililani, HI 96789

Personal line (808) 548-4890

— 'Nuff said —

JAMES "KIMO" APANA
MAYOR



Post-it® Fax Note 7671

Date	5/21/02	# of pages	8
To	Teryl Vencel, Chair		
From	Kay		
Co./Dept.	Charter Commission		
Co.	Corp. Counsel		
Phone #	244-8625	Phone #	270-7740
Fax #	244-3094	Fax #	270-7152

OFFICE OF THE MAYOR

Ke'ena O Ka Meia

COUNTY OF MAUI

Kalana O Maui

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

RECEIVED -
Charter Commission
MAY 21 2002

May 13, 2002

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

APPROVED FOR TRANSMITTAL

Brantyn I... 5/17/02
Mayor Date

For transmittal to:

Ms. Teryl Vencel, Chair
and Members of the Maui Charter Commission
1727 Wili Pa Loop
Wailuku, HI 96793

Dear Ms. Vencel and Members of the Commission:

Please be informed that the Legislature has passed Senate Bill 2757, S.D.2, C.D.1, entitled "A BILL FOR AN ACT RELATING TO AMENDMENTS TO ACT 253, SESSION LAWS OF HAWAII 2000." This law corrects an inadvertent omission in Act 253 which deleted the Salary Commission from determining the salaries of appointed officials, department directors and deputies, of the County. We expect that the Governor will sign this bill into law.

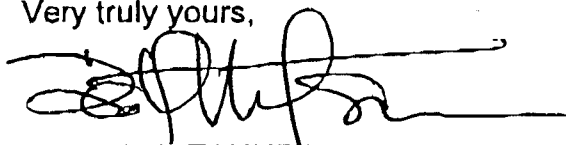
With the enactment of Senate Bill 2757, S.D.2, C.D.1, the Salary Commission will again be responsible for determining compensation for the Mayor, the Council and the appointed department directors and deputies. Attached for your perusal is a copy of the final version of Senate Bill 2757, along with a status of the bill.

We have reviewed the Charter Commission's proposal to increase the terms of the Council members and have noticed that the Commission has included amendments to change the powers of the Salary Commission as well. This provision provides that the Salary Commission only be responsible for recommending salary levels for department directors and deputies, keeping in line the change in responsibility based on the passage of Act 253. However, due to the recent passage of S.B. 2757, C.D.1, we would like to request that the Charter Commission delete the change to the charter provision regarding the responsibilities of the Salary Commission.

Honorable James "Kimo" Apana
For transmittal to:
Ms. Terryl Vencel, Chair
May 15, 2002
Page 2

Your attention regarding this request is greatly appreciated. Should you require additional information, please let me know.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Scott Matsuura', written over a horizontal line.

SCOTT MATSUURA
Chair
Maui County Salary Commission

attachment

Hawaii State Legislature

Bill Status

SB2757 SD2 HD2 CD1

Generated on 5/13/02 10:43:42 AM

Measure Title: RELATING TO AMENDMENTS TO ACT 253, SESSION LAWS OF HAWAII 2000.

Report Title: Amendments to Civil Service Modernization Act

Description: Extends the sunset date for the Separation Incentive Program to June 30, 2008; clarifies that compensation of excluded employees whose pay is prescribed by a salary commission shall not be adjusted under chapter 89C but will remain limited or fixed by the salary commission. (CD1)

Package: Gov

Companion: HB2499

Introducer(s): Bunda (BR)

Current Referral: LAB, FIN

Date		Status Text
1/23/02	S	Introduced and passed First Reading.
1/30/02	S	Referred to LBR, WAM.
2/1/02	S	Bill scheduled to be heard by LBR on 02-06-02 at 1:30 pm in conference room 229.
2/6/02	S	The committee(s) on LBR recommend(s) that the measure be PASSED, WITH AMENDMENTS.
2/6/02	S	The votes in LBR were as follows: 5 Aye(s): Senator(s) Nakata, Ihara, Hanabusa, Kawamoto, Slom; Aye(s) with reservations: none ; 0 No(es): none; and 4 Excused: Senator(s) Chumbley, Kanno, Matsuura, Sakamoto.
2/8/02	S	Reported from LBR (Stand. Com. Rep. No. 2062) with recommendation of passage on Second Reading, as amended (SD 1) and referral to WAM. Report adopted; Passed Second Reading, as amended (SD 1) and referred to WAM.
2/19/02	S	Notice of public decision making by WAM on 02-21-02 at 1:00 pm in conference room 211.
2/21/02	S	The committee(s) on WAM recommend(s) that the measure be PASSED, WITH AMENDMENTS.
2/21/02	S	The votes in WAM were as follows: 11 Aye(s): Senator(s) Taniguchi, Hanabusa, Buen, Chun, Chun Oakland, English, Ige, Kawamoto, Kokubun, Sakamoto, Hemmings; Aye(s) with reservations: none ; 0 No(es): none; and 4 Excused: Senator (s) Inouye, Kim, Tam, Slom.
		Reported from WAM (Stand. Com. Rep. No. 2631) with recommendation of passage

3/1/02	S	on Third Reading, as amended (SD 2).
3/1/02	S	48 Hrs. Notice 03-05-02.
3/5/02	S	Report adopted; Passed Third Reading, as amended (SD 2). Ayes, 24; Aye(s) with reservations: none. Noes, 0 (none). Excused, 1 (Senator(s) Menor). Transmitted to House.
3/6/02	H	Received from Senate (Sen. Com. No. 273) in amended form (SD 2).
3/7/02	H	Pass First Reading
3/12/02	H	Referred to LAB, FIN, referral sheet 23.
3/15/02	H	Bill scheduled to be heard by LAB on Tuesday, 03-19-02 at 8:45 am in House conference room 309.
3/19/02	H	The committees on LAB recommend that the measure be PASSED, WITH AMENDMENTS. The votes were as follows: 8 Ayes: Representative(s) Saiki, Garcia, Espero, Nakasone, Yoshinaga, Moses, Pendleton, Rath; Ayes with reservations: none; 0 Noes: none; and 1 Excused: Representative(s) Souki.
3/21/02	H	Reported from the committee on LAB (Stand. Com. Rep. No. 808-02) as amended in (HD 1), recommending passage on Second Reading and referral to the committee on FIN.
3/21/02	H	Passed Second Reading as amended in (HD 1) and referred to the committee(s) on FIN with none voting no and Representative(s) Gomes, Hiraki, Kahikina excused.
3/27/02	H	Bill scheduled to be heard by FIN on Thursday, 03-28-02 at 3:30 pm in House conference room 308.
3/28/02	H	The committees on FIN recommend that the measure be PASSED, WITH AMENDMENTS. The votes were as follows: 12 Ayes: Takamine, Kawakami, Cabrerros, Magaoay, Nakasone, Saiki, Suzuki, Yonamine, Djou, Leong, Moses, Rath; Ayes with reservations: none; 0 Noes: none; and 2 Excused: Espero, Davis.
4/5/02	H	Reported from the committee on FIN (Stand. Com. Rep. No. 1206-02) as amended in (HD 2), recommending passage on Third Reading.
4/5/02	H	Forty-eight (48) hours notice Tuesday, 04-09-02.
4/9/02	H	Passed Third Reading as amended in (HD 2) with none voting no and Representative(s) Souki, Yoshinaga excused.
4/9/02	H	Transmitted to Senate.
4/11/02	S	Received from House (Hse. Com. No. 451).
4/11/02	S	Senate disagrees with House amendments.
4/11/02	H	Received notice of disagreement (Sen. Com. No. 621).
4/15/02	S	Senate Conferees appointed: Nakata, Chair; Taniguchi, Co-Chair(s); Fukunaga, Ihara, Hemmings.
4/15/02	H	House conferees appointed: Saiki, Nakasone Co-Chairs; Moses.
4/15/02	H	Received notice of Senate conferees (Sen. Com. No. 663).

4/17/02	S	Received notice on 04-15-02 of appointment of House conferees (Hse. Com. No. 567).
4/22/02	S	Senator(s) Fukunaga discharged as conferee(s).
4/22/02	H	Received notice of change in Senate conferees (Sen. Com. No. 674).
4/25/02	S	Bill scheduled for conference committee meeting on 04-26-02 at 1:30 pm in conference room 225.
4/26/02	S	The Conference committee recommends that the measure be PASSED, WITH AMENDMENTS.
4/26/02	S	The votes of the Senate Conference Managers were as follows: 4 Aye(s): Senator(s) Nakata, Taniguchi, Ihara, Hemmings; Aye(s) with reservations: none ; 0 No(es): none; and 0 Excused: none.
4/26/02	H	The Conference Committee recommends that the measure be Passed, with Amendments. The votes were as follows: 3 Ayes: Representative(s) Saiki, Nakasone, Moses; Ayes with reservations: none; 0 Noes: none; and 0 Excused: none.
4/26/02	S	Reported from Conf. Com. as amended CD 1 (Conf. Com. Rep. No. 84-02).
4/26/02	S	48 Hrs. Notice 04-30-02.
4/26/02	H	Reported from Conference Committee (Conf Com. Rep. No. 84-02) as amended in (CD 1).
4/26/02	H	Forty-eight (48) hours notice Tuesday, 04-30-02.
4/30/02	S	Passed Final Reading, as amended (CD 1). 25 Aye(s); Aye(s) with reservations: none . 0 No(es): none. 0 Excused: none.
4/30/02	H	Passed Final Reading as amended in (CD 1) with none voting no and none excused.
5/1/02	H	Received notice of Final Reading (Sen. Com. No. 738).
5/2/02	S	Received notice of passage on Final Reading in House (Hse. Com. No. 649).
5/7/02	S	Enrolled to Governor.

\$ = Appropriation measure

ConAm = Constitutional Amendment

Report Title:

Amendments to Civil Service Modernization Act

Description:

Extends the sunset date for the Separation Incentive Program to June 30, 2008; clarifies that compensation of excluded employees whose pay is prescribed by a salary commission shall not be adjusted under chapter 89C but will remain limited or fixed by the salary commission. (CD1)

THE SENATE

TWENTY-FIRST LEGISLATURE,
2002

STATE OF HAWAII

S.B. NO. 2757
S.D. 2

H.D. 2

C.D. 1

A BILL FOR AN ACT

RELATING TO AMENDMENTS TO ACT 253, SESSION LAWS OF HAWAII
2000.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. Act 253, Session Laws of Hawaii 2000, is amended by amending section 107 to read as follows:

"SECTION 107. Section 89C-2, Hawaii Revised Statutes, is amended to read as follows:

"§89C-2 **Adjustments authorized; limitations, restrictions.** Each appropriate authority may make adjustments for their respective excluded employees subject to the following guidelines and limitations:

- (1) The compensation of excluded employees, whose pay is presently limited or fixed by legislative action,

SB2757 CD1

or prescribed by a salary commission, shall not be adjusted under this chapter and shall continue to be limited or fixed by the respective legislative body ~~[+]~~ or salary commission;

(2) The compensation of excluded employees exempt from civil service coverage, whose pay is set at the discretion of the appointing authority, shall continue to be adjusted at the discretion of the appointing authority from funds allowed for this purpose;

(3) Any adjustment made for excluded civil service employees shall be consistent with the merit principle and shall not diminish any rights provided under chapter 76;

(4) For excluded employees under the same classification systems as employees within collective bargaining units, adjustments shall be not less than those provided under collective bargaining agreements for employees hired on a comparable basis;

(5) For excluded employees other than those under paragraph (4), adjustments shall, to the extent practicable, uniformly apply to every excluded employee within a homogeneous grouping, such as, cabinet members or managerial employees, to ensure fairness. This does not preclude variable adjustments based on performance or other job criteria and specific adjustments warranted based on the nature of work performed or working conditions; and

(6) No adjustment shall be made in benefits provided under chapter 88 unless specifically authorized by that chapter, or with respect to any other matter that the legislature may specifically prohibit or limit by law."

SECTION 2. Act 253, Session Laws of Hawaii 2000, is amended by amending section 124 to read as follows:

"SECTION 124. This part shall be repealed on June 30, ~~[2002]~~ 2008."

SECTION 3. Statutory material to be repealed is bracketed

and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect on June 30, 2002.

COUNCIL OF THE COUNTY OF MAUI
COMMITTEE OF THE WHOLE

May 21, 2002

Committee
Report No. 02-58

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 14, 2002, May 8, 2002, and May 9, 2002, makes reference to the following:

1. County Communication No. 02-25, from the Council Chair, regarding Charter Commission recommendations.
2. Committee Report No. 02-43, from the Planning Committee, recommending that a proposed resolution entitled, "PROPOSING AMENDMENTS TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983), AS AMENDED, RELATING TO THE DEPARTMENT OF PLANNING" be adopted. The purpose of the proposed resolution is to propose a Charter amendment incorporating various revisions to the community planning process.
3. County Communication No. 02-75, from Councilmember Jo Anne Johnson, transmitting a draft resolution entitled "PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983), AS AMENDED, RELATING TO REPRESENTATION OF THE COUNCIL IN LEGAL DISPUTES WITH THE EXECUTIVE BRANCH". The purpose of the draft resolution is to propose a Charter amendment empowering the Council to authorize attorneys within the legislative branch to represent the Council in litigation against executive-branch officials.

By correspondence dated February 5, 2002, the Council Chair transmitted correspondence from Councilmember Charmaine Tavares dated January 30, 2002, requesting that Teresa McHugh from The Trust for Public Land provide a presentation regarding open space and land acquisition programs.

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By correspondence dated February 12, 2002, the Council Chair transmitted correspondence from the County Clerk, dated February 8, 2002, transmitting a legal opinion from the Department of the Corporation Counsel, dated February 5, 2002, relating to Chapter 50, Hawai'i Revised Statutes.

At its meeting of March 14, 2002, your Committee met with a Deputy Corporation Counsel.

Your Committee received a PowerPoint presentation from Teresa McHugh, Project Manager for The Trust for Public Land, regarding the community benefits of open space and land-acquisition programs. Ms. McHugh also provided your Committee with the following documents:

1. Correspondence entitled "Public Funding Information", compiled by The Trust for Public Land, March 2002.
2. A booklet entitled "Land Vote 2001, Americans Invest in Parks & Open Space", published by The Trust for Public Land and the Land Trust Alliance, 2002.
3. A booklet entitled "The Economic Benefits of Parks and Open Space, How Land Conservation Helps Communities Grow Smart and Protect the Bottom Line", by Steve Lerner and William Poole, published by The Trust for Public Land, 1999.

Your Committee deferred consideration of this matter pending further discussion.

By correspondence dated March 19, 2002, the Chair of your Committee requested a legal opinion from the Department of the Corporation Counsel regarding the Council's express authority to unilaterally place proposed Charter amendments on the 2002 general election ballot.

By correspondence dated April 1, 2002, the Committee Chair transmitted paper copies of Ms. McHugh's PowerPoint presentation.

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By correspondence dated April 18, 2002, Councilmember Charmaine Tavares transmitted a proposed resolution entitled "PROPOSING AMENDMENTS TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983), AS AMENDED, RELATING TO BOARDS AND COMMISSIONS". The purpose of the proposed resolution is to authorize the Council to nominate and appoint individuals to fill vacancies on boards and commissions when the Mayor fails to submit nominees within the times provided for by the Charter.

By correspondence dated April 19, 2002, the Chair of your Committee transmitted a *Maui News* article entitled "Charter panel finalizes its changes".

By correspondence dated April 22, 2002, the Council Chair transmitted the Charter Commission's Final Report, dated April 22, 2002.

By correspondence dated April 25, 2002, the Chair of your Committee explained the procedures for consideration of the 17 proposals submitted in the Charter Commission's Final Report.

By correspondence dated May 6, 2002, the Council Chair transmitted an e-mail message from Lee Altenberg, Ph.D., attaching a report entitled "Democracy denied: the barriers to citizen use of the ballot initiative on Maui".

By memorandum dated May 6, 2002, the Hawaii Fire Fighters Association, Maui County Division, transmitted proposed changes to Proposal Six.

By correspondence dated May 6, 2002, Councilmember Charmaine Tavares transmitted a correspondence from the First Deputy Corporation Counsel, dated May 3, 2002, transmitting a proposed resolution entitled "PROPOSING AMENDMENTS TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983), AS AMENDED, RELATING TO THE DEPARTMENT OF WATER SUPPLY". The purpose of the proposed resolution is to propose a Charter amendment to make the Department of Water Supply a regular County agency (subject to the Mayor's executive management and the Council's legislative oversight).

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By correspondence dated May 7, 2002, the Prosecuting Attorney transmitted copies of documents submitted to the Charter Commission regarding the authority of investigators within the Department of the Prosecuting Attorney.

Your Committee notes that its meetings of May 8, 2002 and May 9, 2002 were conducted pursuant to Chapter 50, Hawai'i Revised Statutes. On April 22, 2002, the Charter Commission submitted its "Final Report" containing 17 proposals for revisions to the Charter of the County of Maui (1983), as amended. Chapter 50 provides that the Council has 30 days from its receipt of the report to propose alternatives to the Charter Commission's proposals. The Charter Commission then has 30 days after receiving any Council's alternatives to either: (1) accept the Council's alternatives and incorporate them into the Charter Commission's proposals that will be placed on the general-election ballot in November; or (2) reject the Council's alternatives. Any rejected Council alternative will be placed on the general-election ballot in November in competition with the corresponding Charter Commission proposal (unless the Council recalls or retracts the alternative within 10 days of being notified of the Charter Commission's rejection).

Your Committee commends the members and staff of the Charter Commission for their many months of hard work on behalf of the residents of Maui County. Your Committee offers this report with respect and admiration for the Charter Commission's diligent efforts.

The following are summaries of the Charter Commission's submitted proposals, followed in turn by your Committee's corresponding recommendations to the Council (as further discussed later in this report):

- **PROPOSAL ONE:** AMEND THE PREAMBLE TO RECOGNIZE THE EQUAL WORTH AND DIGNITY OF EVERY INDIVIDUAL (Section 1-1)

Your Committee recommends that the Council encourage the Charter Commission to reassess the importance of and need for this proposal.

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- PROPOSAL TWO: LENGTHEN TERMS OF COUNCIL MEMBERS FROM TWO (2) TO FOUR (4) YEARS (Subsection 3-2(5))

Your Committee recommends that the Council encourage the Charter Commission to delete the final sentence of proposed Section 15-1.

- PROPOSAL THREE: CLARIFY THE RESPONSIBILITIES OF THE CORPORATION COUNSEL (Section 8-2.3)

Your Committee does not have any recommendations in response to this proposal.

- PROPOSAL FOUR: GRANT INVESTIGATORS WORKING FOR THE PROSECUTING ATTORNEY THE POWERS AND PRIVILEGES OF POLICE OFFICERS WHILE ACTING WITHIN THE SCOPE OF THEIR OFFICIAL DUTIES (Subsection 8-3(3))

Your Committee recommends that the Council encourage the Charter Commission to delete this proposal.

- PROPOSAL FIVE: BROADEN THE RESPONSIBILITIES OF THE DEPARTMENT OF PUBLIC WORKS AND WASTE MANAGEMENT TO INCLUDE ENVIRONMENTAL MANAGEMENT AND CHANGE ITS TITLE TO THE "DEPARTMENT OF PUBLIC WORKS AND ENVIRONMENTAL MANAGEMENT" (Subsection 8-5(3))

Your Committee does not have any recommendations in response to this proposal.

- PROPOSAL SIX: RENAME THE DEPARTMENT OF FIRE CONTROL TO BE THE "DEPARTMENT OF FIRE AND PUBLIC SAFETY," RENAME THE PUBLIC SAFETY COMMISSION TO BE THE "FIRE AND PUBLIC SAFETY COMMISSION," GIVE THIS COMMISSION THE RESPONSIBILITY TO HIRE AND FIRE THE FIRE CHIEF (WITH DUE PROCESS PROTECTIONS GIVEN TO THE CHIEF) AND TO REVIEW THE BUDGET OF THE DEPARTMENT OF FIRE AND PUBLIC SAFETY, AND CLARIFY THE DUTIES OF THE FIRE CHIEF (Article 8, Chapter 7)

Your Committee recommends that the Council encourage the Charter Commission to delete the existing Charter language requiring the Fire Chief to perform duties "assigned by the mayor" and to delete the

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proposed Subsection B of the section relating to the Fire Chief's powers, duties, and functions.

- **PROPOSAL SEVEN:** CLARIFY THE RESPONSIBILITIES OF THE DEPARTMENT OF PLANNING WITH REGARD TO LONG-RANGE PLANNING, CULTURAL RESOURCES, ENFORCEMENT, TIMELY DECISION-MAKING, AND THE COMMUNITY PLANS (Section 8-8)

Your Committee recommends that the Council adopt a proposed resolution to propose an alternative to this proposal by making citizen advisory committees permanent within each community plan district. Your Committee also recommends that the Council encourage the Charter Commission to delete proposed deadlines for the planning commissions' and Council's review of community plan updates and other land use ordinances. In addition, your Committee recommends that the Council encourage the Charter Commission to replace the text of proposed Subsection 8-8.5(7) with the following text: "The planning director shall prepare an annual report on the status of implementing actions in each community plan to the mayor and the council."

- **PROPOSAL EIGHT:** PROVIDE DUE PROCESS PROTECTION IN THE EVENT OF THE TERMINATION OF THE DIRECTOR OF PERSONNEL SERVICES (Subsection 8-9(2))

Your Committee recommends that the Council encourage the Charter Commission to delete this proposal.

- **PROPOSAL NINE:** RESTRUCTURE THE DEPARTMENT AND BOARD OF WATER SUPPLY TO GIVE IT MORE AUTONOMY (Subsection 8-11(1))

Your Committee recommends that the Council adopt a proposed resolution to propose an alternative to this proposal by making the Department of Water Supply a regular County agency (subject to the Mayor's management and the Council's legislative oversight).

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- PROPOSAL TEN: CREATE A NEW DEPARTMENT OF TRANSPORTATION (Section 8-14)
Your Committee recommends that the Council encourage the Charter Commission to delete this proposal.
- PROPOSAL ELEVEN: STAGGER THE TERMS OF MEMBERS OF THE SALARY COMMISSION (Subsection 8-16(1))
Your Committee recommends that the Council encourage the Charter Commission to delete the portion of this proposal that would strip the Salary Commission of the authority to establish the salaries of department directors and deputy directors.
- PROPOSAL TWELVE: COMMIT THE COUNTY TO A PLAN OF OPEN-SPACE ACQUISITION (Article 9 & Section 8-6)
Your Committee does not have any recommendations in response to this proposal.
- PROPOSAL THIRTEEN: AMEND THE ETHICAL STANDARDS GOVERNING DECISIONMAKING ON BOARDS AND COMMISSIONS (Subsection 10-4(1)(f))
Your Committee recommends that the Council encourage the Charter Commission to delete this proposal. If the proposal is retained, your Committee recommends that the Council encourage the Charter Commission to revise the proposal by adding provisions to: (a) provide the Board of Ethics with independent staff (modeled after the second paragraph of Section 11-107 of the Revised Charter of Honolulu); (b) require a lobbyist-registration ordinance (modeled after Section 11-108 of the Revised Charter of Honolulu); and (c) make reasonable efforts to efficiently disseminate its opinions to the public, officers, and employees, including through the Internet.
- PROPOSAL FOURTEEN: PROVIDE GREATER NOTICE OF MEETINGS (Subsection 13-2(11))
Your Committee does not have any recommendations in response to this proposal.

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- PROPOSAL FIFTEEN: ALLOW BOARDS AND COMMISSIONS TO MEET IN ACCESSIBLE, PRIVATELY OWNED LOCATIONS (Subsection 13-9(2))
Your Committee does not have any recommendations in response to this proposal.
- PROPOSAL SIXTEEN: TRANSITIONAL CHANGES
Your Committee recommends that the Council encourage the Charter Commission to delete the final sentence of proposed Section 15-1.
- PROPOSAL SEVENTEEN: HOUSEKEEPING CHANGES
Your Committee does not have any recommendations in response to this proposal.

At its meeting of May 8, 2002, your Committee met with Professor Jon M. Van Dyke, the Charter Commission's Analyst; the First Deputy Corporation Counsel; the Fire Chief; the Prosecuting Attorney; and the Deputy Director of Public Works and Waste Management.

Your Committee received the following documents:

1. Written testimony from the Maui Chamber of Commerce Board of Directors, commenting on various proposals.
2. Written testimony from the Maui Coastal Land Trust, supporting the intent of, but requesting revisions to, Proposal Twelve.
3. Survey results relating to open-space acquisition in Maui County, submitted by The Trust for Public Land.
4. Written testimony from Sean McLaughlin, Vice-Chair, Charter Commission, relating to the enforcement of Charter provisions.
5. Written testimony from the Kula Community Association (KCA), commenting on various proposals.

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6. Written testimony from Dick Mayer, regarding KCA's proposal for a nominating committee to submit candidates for boards and commissions.
7. A matrix providing a side-by-side comparison of Proposal Seven and the proposed Charter amendment, addressing similar topics, recommended by your Planning Committee (Committee Report No. 02-43).
8. A proposed alternative to Proposal Thirteen, relating to the Code of Ethics, submitted by Councilmember Wayne K. Nishiki.

Your Committee received public testimony from Lynne Woods, Maui Chamber of Commerce (commenting on various proposals); Diane Zachary, Tom Pierce, and Dave Mackwell, Maui Coastal Land Trust (supporting Proposal Twelve); Teresa McHugh, The Trust for Public Land (supporting Proposal Twelve); Alvin Kamoku, Hawai'i Fire Fighters Association (suggesting revisions to Proposal Six); Ron Sturtz (opposing Proposal Thirteen); Don Couch, former Chair of Board of Ethics (in his individual capacity, suggesting revisions to Proposal Thirteen); Elliot Krash and Dick Mayer, Kula Community Association (commenting on various proposals); Sean McLaughlin, Vice-Chair, Charter Commission (in his individual capacity, urging the Council to enact an ordinance imposing penalties for Charter violations); Jonathan Starr, Member, Board of Water Supply (in his individual capacity, opposing Proposal Nine); DeGray Vanderbilt (opposing Proposals Two and Thirteen); Michael Quinn and David Craddick, Department of Water Supply (supporting Proposal Nine); and Ron McOmber (opposing Proposal Thirteen).

Your Committee discussed Proposal One, which would amend the Charter's preamble to expressly recognize the equal worth and dignity of every individual. Your Committee questioned the relative need for the proposal, especially considering the large number of other proposals, many of which appear to address matters of greater legal significance. Therefore, your Committee voted to recommend that the Council encourage the Charter Commission to reassess the importance of and need for this proposal.

2000 OFFICIAL GENERAL ELECTION BALLOT CARD

D	E	F
PROPOSED AMENDMENTS TO THE CHARTER OF THE COUNTY OF HAWAII The full text of the charter amendments covered by this ballot is available for inspection at your polling place. Ask an Election Official for it, if you wish to see it.	6 Should the duties and positions of the safety coordinator's office be transferred to the department of civil service, and the safety coordinator's office then be abolished?	11 Should there be a cost of government commission to promote improvements to the economy and efficiency of government? <input type="radio"/> YES <input type="radio"/> NO
1 Should all county officers -- mayor, county council, and prosecuting attorney -- be elected in nonpartisan elections, with no party identification appearing on the ballot? <input type="radio"/> YES <input type="radio"/> NO	<input type="radio"/> YES <input type="radio"/> NO	12 Should the Hawaii Redevelopment Agency be abolished, and its functions transferred to the planning department? <input type="radio"/> YES <input type="radio"/> NO
2 Should the managing director be given additional responsibilities over all county departments and agencies, and be confirmed by the county council?	7 Should the title of the chief engineer be changed to "director of public works," and should there be stronger qualifications for the following officers: - director of research and development - director of parks and recreation - planning director - director of public works - managing director - manager of department of water supply? <input type="radio"/> YES <input type="radio"/> NO	13 Should the county council be required to meet at least once every three months in North or South Kona? <input type="radio"/> YES <input type="radio"/> NO
3 Should there be a fire commission to appoint the fire chief and advise the fire department?	8 Should the police department have a statement of policy, and the police commission be required to review the operations of the department and to perform an annual evaluation of the chief of police?	14 Should the liquor commission be increased from seven to nine members, and should one member be a resident of each county council district? <input type="radio"/> YES <input type="radio"/> NO
4 Should the solid waste, wastewater, and recycling programs of the county be transferred from the department of public works to a new department of environmental management, with a new environmental management commission?	<input type="radio"/> YES <input type="radio"/> NO	15 Should a statement of purpose be added to the code of ethics? <input type="radio"/> YES <input type="radio"/> NO
<input type="radio"/> YES <input type="radio"/> NO	9 Should the water commission be renamed the water board, and one board member be a resident of each county council district? <input type="radio"/> YES <input type="radio"/> NO	16 Should a member of a board or commission with a district residency requirement be eligible to serve out the full term, and represent the district in which the member was appointed, if redistricting changes the boundaries so that the member no longer resides within the district? <input type="radio"/> YES <input type="radio"/> NO
5 Should members of boards and commissions whose terms expire continue in office for ninety days if successors have not been appointed and confirmed?	10 Should the salary commission set the compensation for all appointed directors and deputy directors of departments and executive agencies? <input type="radio"/> YES <input type="radio"/> NO	
<input type="radio"/> YES <input type="radio"/> NO		

LOOK AT BOTH SIDES OF THE BALLOT CARD AND ALL CONTESTS BEFORE VOTING

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Your Committee discussed Proposal Two, which would lengthen the term for Council members from two to four years. The proposal would allow Council members to serve for a maximum of three consecutive four-year terms and provide for the staggering of Council elections so that in each election year either four or five of the nine seats would be contested. Your Committee requested that due consideration be given to the relationship of this proposal to Proposal Sixteen relating to transitional changes (i.e., to avoid confusion or inconsistency if only one of the proposals is approved).

Your Committee discussed Proposal Three, which would clarify the responsibilities of the Department of the Corporation Counsel by expressly stating that County attorneys represent the County of Maui and revising Subsection 8-2(3)(d) by providing that the attorneys shall perform duties "as may be incident" to the Department of the Corporation Counsel (instead of "as shall be assigned by the mayor"). Your Committee noted that it shared the proposal's apparent objective (i.e., to ensure that the Corporation Counsel is not overly responsive to the Mayor to the detriment of the County as an entity or other County entities), but expressed uncertainty that the proposal's text provided the best means of achieving that goal.

Your Committee discussed Proposal Four, which would grant investigators employed by the Department of the Prosecuting Attorney the powers and privileges of police officers while acting within the scope of their official duties. The Prosecuting Attorney noted that the electorate rejected a similar proposal in 1992. He said that the authority to be provided by the proposal was of vital importance to his department for the security and efficiency of investigators. The Prosecuting Attorney indicated that he would be pleased to have the authority granted either by Charter or, if legally possible, by ordinance.

Your Committee discussed Proposal Five, which would rename the Department of Public Works and Waste Management as the Department of Public Works and Environmental Management. Your Committee noted that the proposal's text did not include any reference to the department's powers, duties, and functions relating to environmental management. Your Committee was advised that this was an inadvertent omission.

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Your Committee discussed Proposal Six, which would rename the Department of Fire Control to the Department of Fire and Public Safety; modify the department's powers, duties, and functions; rename the Public Safety Commission to the Fire and Public Safety Commission; and modify the commission's powers, duties, and functions (including by granting the commission the power to hire and fire the Fire Chief). The Fire Chief noted that Department of Fire Control is commonly known as the "Maui Fire Department", and that the MFD abbreviation is commonly displayed on official and unofficial attire and equipment. He also noted that the revised title, including "Public Safety", could be misleading and overly board. The Fire Chief noted that the proposal arose from suggestions submitted by the Hawai'i Fire Fighters Association, the union representing Maui County's firefighters. He said he met with union leaders and informed them that he supported their primary goal of creating a commission to provide executive management of the department. Members of your Committee noted that the proposed revised Subsection A (regarding the Fire Chief's powers, duties, and functions) could be revised to specify that the department is responsible for the indicated services, as opposed to the Fire Chief individually. The First Deputy Corporation Counsel informed your Committee that the proposal included inadvertent technical errors (specifically, proposed new text was not underscored), which would be corrected by the Charter Commission at its June meeting.

Your Committee recessed until May 9, 2002.

At its reconvened meeting of May 9, 2002, your Committee met with Professor Jon M. Van Dyke, the Charter Commission's Analyst; the First Deputy Corporation Counsel; the Fire Chief; the Planning Director; and the Director of Public Works and Waste Management.

Your Committee received the following documents:

1. Written testimony in opposition to Proposal Nine, relating to the Department of Water Supply, submitted by DeGray Vanderbilt.
2. Arguments in support of proposed alternative to Proposal Thirteen, relating to the Code of Ethics, submitted by Councilmember Wayne K. Nishiki.

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3. Written testimony in opposition to Proposal Thirteen, relating to the Code of Ethics, submitted by DeGray Vanderbilt.
4. A proposed alternative to Proposal Nine, submitted by Councilmember Charmaine Tavares.
5. Written testimony regarding the identity of an individual who testified before the Charter Commission in support of Proposal Thirteen, relating to the Code of Ethics, submitted by DeGray Vanderbilt.

Your Committee further discussed Proposal Four, which would grant investigators within the Department of the Prosecuting Attorney the powers and privileges of police officers while acting within the scope of their official duties. Your Committee noted that the subject powers and privileges can apparently be granted by ordinance, as evidenced by Section 2-10A, Hawai'i County Code. Therefore, your Committee voted to recommend that the Council encourage the Charter Commission to delete this proposal.

Your Committee further discussed Proposal Five, which would rename the Department of Public Works and Waste Management to the Department of Public Works and Environmental Management. Your Committee again noted that the proposal's text inadvertently omitted reference to the department's authority relating to environmental management. Professor Van Dyke exhibited draft language that would expressly establish the department's responsibility to "supervise the control of environmental management and pollution, including recycling, litter control, and protection of the unique beauty of Maui County." He noted that he would recommend the draft language to the Charter Commission at its June meeting for possible inclusion within Proposal Five.

Your Committee again discussed Proposal Six, relating to the proposed Department of Fire and Public Safety and the proposed Fire and Public Safety Commission. Because the proposal would provide the Fire and Public Safety Commission with the authority to hire and fire the Fire Chief, your Committee opined that it would be advisable to delete the Charter language indicating that the Fire Chief shall exercise duties "assigned by the mayor". Your Committee

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voted to recommend that the Council encourage the Council to delete such language.

In further discussion on Proposal Six, the Fire Chief informed your Committee that the Department of Fire Control currently performs the functions listed in Subsection B of the proposal's section relating to the Fire Chief's powers, duties, and functions. Your Committee noted that Subsection B appeared superfluous and contained the type of specific management mandates that are inappropriate for a constitutional document such as the Charter. Your Committee voted to recommend that the Council encourage the Charter Commission to delete the proposed Subsection B of the proposal's section relating to the Fire Chief's powers, duties, and functions.

Your Committee discussed Proposal Seven, which would revise the community plan update process, establish the roles of the citizen advisory committees, and clarify the Department of Planning's powers, duties, and functions. Your Committee reviewed a matrix providing a side-by-side comparison of Proposal Seven and the proposed Charter amendment, addressing similar topics, recommended by your Planning Committee (Committee Report No. 02-43). Professor Van Dyke informed your Committee that ensuring better "implementation" of community plan policies was one of the Charter Commission's primary goals, partially in response to substantial public testimony. The Planning Director informed your Committee that the Department of Planning had consulted with the Charter Commission on Proposal Seven and shared the goal of improving community plan implementation. He also said that Proposal Seven's express authority for "long-range planning" by the Department of Planning was important.

In further discussion on Proposal Seven, Professor Van Dyke informed your Committee that the Charter Commission wanted to recognize the role of citizen advisory committees (CACs) for community plan updates. The Planning Director noted that, under Proposal Seven, CACs in each community plan district would continue to exist until the relevant community plan update was enacted.

In continuing its discussion on Proposal Seven, your Committee noted the importance of improving community plan implementation. To provide more direct language on this subject, your Committee voted to recommend that the Council

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urge the Charter Commission to replace the text of Subsection 8-8.5(7), contained in Proposal Seven, with the following text: "The Planning Director shall prepare an annual report on the status of implementing actions in each community plan to the mayor and the council." (modeled after Subsection 8-8.3(5) of the proposed Charter amendment recommended in Committee Report No. 02-43).

Your Committee discussed Proposal Seven's requirement that the respective planning commissions transmit their recommendations on proposed community plan updates and other land use ordinances within specified time periods, which were recommended by the Department of Planning, according to the Planning Director. Your Committee noted that delay by the planning commissions has not been a noticeable problem and that necessary amendments to the timelines for community plan updates could be achieved by an ordinance amending Chapter 2.80A of the Maui County Code. Therefore, your Committee voted to recommend that the Council encourage the Charter Commission to delete the proposed deadlines for the planning commissions' review of community plan updates and other land use ordinances.

Your Committee further discussed Proposal Seven, specifically relating to CACs. The Charter Commission proposed that each CAC would expire 60 days after enactment of the relevant community plan updates.

Your Committee noted that a permanent CAC could review implementation reports for its own community plan and, because of its specialized area of interest, could provide particularly useful comments to the Council and the Administration. Your Committee further noted that, under the current Charter's system of at-large Council election, there is no one in County government that specifically represents the interests of any particular district. Permanent CACs for each community plan district would help alleviate this problem.

Your Committee noted that the proposed Charter amendment recommended by Committee Report No. 02-43 contains a section that would institute permanent CACs. The Planning Director noted that the Department of Planning had not supported permanent CACs before the Charter Commission, in part because of the substantial administrative burdens that would be placed on

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the department if it were required to staff nine new deliberative bodies on a permanent basis. He further noted that existing processes provide for sufficient community input regarding community plans. Your Committee conceded that the creation of permanent CACs would likely create additional costs. Your Committee nonetheless expressed the view that such costs would be justified by the invaluable role in community planning that could be performed by permanent CACs. At a minimum, residents of Maui County deserve the opportunity to vote on the following question: "Shall there be a permanent citizen advisory committee for each community plan district?"

Your Committee indicated its support for the Charter Commission's proposed approach for selecting CAC members; for each CAC, nine would be selected by the Council and four by the Mayor. Terms, qualifications, and other details regarding CAC membership could be established by ordinance.

Your Committee voted to recommend that a proposed alternative Charter amendment to create permanent CACs be transmitted to the Charter Commission, pursuant to Chapter 50, Hawai'i Revised Statutes. The text of the proposed alternative Charter amendment was modeled after corresponding text in the proposed Charter amendment recommended by Committee Report No. 02-43, although your Committee recommended deletion of the CACs' responsibility to recommend annual revisions to community plans and to review and make recommendations on proposed developments and included the Charter Commission's suggestion for 13-member CACs.

Your Committee is in receipt of a proposed resolution entitled "PROPOSING AN ALTERNATIVE AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983), AS AMENDED, RELATING TO CITIZEN ADVISORY COMMITTEES". The purpose of the proposed resolution is to propose an alternative Charter amendment to create permanent CACs, as recommended by your Committee. Your Committee notes that this proposed resolution is intended only to propose an alternative to the provisions of Proposal Seven that relate to CACs.

In further discussion on Proposal Seven, regarding proposed Subsection 8-8.5(2), your Committee noted that it may be advisable for the Charter Commission to use "projected population" instead of "desired

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population". Projected population is a more relevant basis for making planning decisions than desired population.

Additionally, your Committee voted to recommend that the Council encourage the Charter Commission to delete the proposed deadlines for the Council's review of community plan updates and other land use ordinances in proposed Subsections 8-8.6(3) and (4) of Proposal Seven. The timelines may be unduly restrictive, raise legal and constitutional questions (e.g., relating to separation of powers and legislative discretion). If such deadlines are deemed warranted, however, they could be enacted by an ordinance amending Chapter 2.80A of the Maui County Code.

Your Committee discussed Proposal Eight, which could clarify that the Director of Personnel Services is entitled to due process of law prior to termination and that the Civil Service Commission has the authority to terminate the director. The First Deputy Corporation Counsel informed your Committee that the Charter is currently silent on these matters. Notwithstanding the Charter's silence, however, he opined that the Director of Personnel Services would likely be provided due process prior to termination and that the Civil Service Commission likely has the authority to terminate the director. Therefore, your Committee voted to recommend that the Council encourage the Charter Commission to delete this proposal.

Your Committee discussed Proposal Nine, which would provide the Board of Water Supply with more autonomy over the Department of Water Supply, including the authority to unilaterally set water rates, to "coordinate" private water systems, and to retain special counsel. Professor Van Dyke informed your Committee that the Charter Commission believes that greater autonomy would provide "less politicization" and "more businesslike" management in the management of the County's water supply.

Your Committee expressed the view that eliminating the Board of Water Supply's autonomy as a final decision-making authority (by making it an advisory body) and making the Department of Water Supply a regular County agency (subject to the Mayor's executive management and the Council's legislative oversight) would provide a higher level of accountability, which is necessary to ensure that water-related decisions are made in the public's interest. Major

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water decisions are of such grave importance that they need to be made by elected officials, not appointed executives and volunteer board members.

Your Committee, therefore, voted to propose an alternative Charter amendment to eliminate the Board of Water Supply's autonomy and make the Department of Water Supply a regular County agency, pursuant to Chapter 50, Hawai'i Revised Statutes.

Your Committee is in receipt of a proposed resolution entitled "PROPOSING AN ALTERNATIVE AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983), AS AMENDED, RELATING TO THE DEPARTMENT OF WATER SUPPLY". The purpose of the proposed resolution to propose an alternative Charter amendment to make the Department of Water Supply a regular County agency, as recommended by your Committee.

Your Committee discussed Proposal Thirteen, which would expressly allow employees who serve on boards and commissions to vote on matters relating to their employers. For example, employees of Castle & Cooke (the dominant landowner and employer on Lana'i) who sit on the Lana'i Planning Commission would be able to vote on Castle & Cooke's applications for special management area permits. Your Committee voted to recommend that the Council encourage the Charter Commission to delete this proposal. Your Committee notes that a review of the Charter Commission's meeting minutes reveals that:

- The only verbal testimony to the Charter Commission supporting the proposal at its meetings on Lana'i was provided by Castle & Cooke officers or employees and construction-union representatives from Maui.
- The main proponent of the proposal appears to be a Castle & Cooke attorney and vice president.

Your Committee further notes that representatives of Castle & Cooke (and related entities) have been seeking a proposed Charter amendment to allow their employees to vote on Castle & Cooke projects since 1995 (see County Communication No. 95-246). Your Committee further notes that both the Board

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of Ethics and the Council have opposed the proposed Charter amendment (see Committee of the Whole Committee Report No. 99-65) because the Charter's existing provisions relating to voting by board and commission members are satisfactory.

Your Committee discussed Proposal Ten, which would create a new Department of Transportation to address traffic and other transportation-related problems throughout Maui County. Your Committee acknowledged the need to address transportation issues, but questioned whether sufficient study had been conducted on the ramifications of a new department, including necessary costs. The Director of Public Works and Waste Management informed your Committee that the Administration is concerned about the proposal, specifically including language that would authorize the proposed new department to regulate transportation in the air and sea, partly because of jurisdictional questions. Your Committee notes that the State and Federal departments of transportation (and other State and Federal agencies) have substantial authority in various modes of transportation, particularly including air and sea travel, which preempt the County's authority. In addition, the Director of Public Works and Waste Management informed your Committee that the County currently has a newly created Transportation Coordinator position housed in the Department of Management. The Director of Public Works and Waste Management suggested that the proposal may be premature because the Transportation Coordinator has not yet had the opportunity to facilitate new initiatives. Your Committee voted to recommend that the Council encourage the Charter Commission to delete Proposal Ten.

Your Committee discussed Proposal Eleven, which would stagger the terms of Salary Commission members and, consistent with a State Attorney General opinion, strip the Salary Commission of its authority to set salaries for directors and deputy directors. Your Committee questioned the validity of the Attorney General opinion and voted to recommend that the Council encourage the Charter Commission to delete the provision that would strip the Salary Commission of its authority to set salaries for directors and deputy directors. Your Committee notes that a bill passed by the Legislature and awaiting the Governor's signature would clarify the Salary Commission's authority to set salaries for directors and deputy directors. Because the bill was part of the Governor's legislative package, it is expected that the bill will be signed into law.

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Your Committee discussed Proposal Twelve, which would commit the County to an open-space-acquisition program by providing that 1 percent of annual real-property-tax revenues shall be set aside for an acquisition fund. Professor Van Dyke informed your Committee that the Charter Commission regarded the proposal as establishing a minimum level of open-space funding. The Chair of your Budget and Finance Committee informed your Committee that 1 percent of tax revenues for Fiscal Year 2003 would be projected at slightly more than \$1 million. Your Committee noted that surveys have indicated that most Maui County residents support increased funding for open-space purchases.

Your Committee considered a proposed alternative to Proposal Thirteen that would have required all County officers and employees to provide "fair and equal treatment" (modeled after Section 11-104, Revised Charter of Honolulu).

Your Committee voted to recommend that, if Proposal Thirteen is retained, that it provide the Board of Ethics with independent staff (modeled after the second paragraph of Section 11-107 of the Revised Charter of Honolulu); require a lobbyist-registration ordinance (modeled after Section 11-108 of the Revised Charter of Honolulu); and require that the Board of Ethics make reasonable efforts to efficiently disseminate its opinions to the public, officers, and employees, including through the Internet. Your Committee noted that the Board of Ethics' ability to ensure government integrity under the Charter's Code of Ethics is currently hampered by the lack of an executive director and legal counsel. The Board is staffed by the Department of the Corporation Counsel, which maintains an attorney-client relationship with all officers and employees under the Board's jurisdiction, creating potential conflicts of interest. In addition, there is no means by which the public or County officers and employees can readily access the Board's opinions, which greatly limits the opinions' value. Although a lobbyist-registration ordinance currently exists, a Charter provision could require that such an ordinance be retained and strengthened.

Your Committee discussed Proposal Fourteen, which is intended to encourage greater notice of public hearings conducted by boards and commissions, including the use of "the most accessible technology". Your Committee noted that the proposal's requirement that notices of public hearings

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be conveyed through "the most accessible technology" might create an unnecessarily stringent legal standard. Also, this standard may not always facilitate greater notice (e.g., in some parts of Maui County, there may be other ways of enhancing awareness of meetings besides technological means). In addition, your Committee noted that the proposal's title in the Final Report might not accurately reflect the content. Finally, your Committee noted that the proposal's scope could perhaps be enlarged to apply to all County bodies (i.e., not just boards and commissions created by the Charter). The First Deputy Corporation Counsel opined that, although the proposed text would only expressly apply to boards and commissions created by the Charter, the proposed text would likely be interpreted as applying to all boards and commissions (including those created by State statute or County ordinance).

Your Committee discussed Proposal Fifteen, which would allow boards and commissions to meet in places other than publicly owned buildings, when appropriate. Your Committee noted, however, the proposal perhaps could be more clearly understood if the proposed new text were incorporated into the first sentence of Subsection 13-9(2). The existing sentence in Subsection 13-9(2) provides an absolute prohibition, with no apparent exceptions. Therefore, to avoid confusion, it may be advisable to add the proposed new language to the existing sentence by adding a comma or semi-colon and an appropriate connecting phrase (such as "provided that"). Your Committee notes that, to be consistent with existing style in the Charter, the phrase "publicly owned" should not be hyphenated.

Your Committee discussed Proposal Sixteen, which would incorporate transitional changes, and again discussed Proposal Two, relating to Council terms. Your Committee expressed concern about the Charter Commission's proposed transitional provisions for Council terms and suggested that it might be advisable for the Charter Commission to consider following the example of Section 16-122 of the Revised Charter of Honolulu. The creation of staggered, four-year Council terms would create the need for some two-year Council seats and other four-year Council seats starting after the 2004 elections. Your Committee noted that, under the Charter Commission's proposal, neither candidates nor voters would know the term of specific Council seats at the time of the 2004 elections. This is undesirable from the perspective of both candidates and voters. The Honolulu transitional framework has the benefit of

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determining the term of all Council seats prior to the elections for those seats. In addition, your Committee expressed concern about the potential arbitrariness and unfairness of automatically limiting a particular Council member to a two-year term if he were elected in 2002 and 2004. Therefore, your Committee voted to recommend that the Council encourage the Charter Commission to delete proposed Section 15-1 in Proposals Two and Sixteen.

Your Committee discussed Proposal Seventeen, which would incorporate "housekeeping" measures. Your Committee expressed concern about the Charter Commission's proposed re-description of Council residency areas in geographical terms. Members of your Committee noted that the proposed re-description includes vague terms (e.g., "unnamed street") and is much longer than the existing descriptions. The members further noted that it might be more efficient to continue basing descriptions on the boundaries of State House districts, notwithstanding the decennial redistricting of those boundaries.

Your Committee deferred consideration of this matter pending further discussion.

Your Committee of the Whole RECOMMENDS the following:

1. That Resolution No. 02-63, attached hereto, entitled "PROPOSING AN ALTERNATIVE AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983), AS AMENDED, RELATING TO CITIZEN ADVISORY COMMITTEES" be ADOPTED;
2. That Resolution No. 02-64, attached hereto, entitled "PROPOSING AN ALTERNATIVE AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983), AS AMENDED, RELATING TO THE DEPARTMENT OF WATER SUPPLY" be ADOPTED; and

COUNCIL OF THE COUNTY OF MAUI
COMMITTEE OF THE WHOLE

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3. That, with reference to the 17 proposals contained in the Charter Commission's Final Report dated April 22, 2002, the Charter Commission is encouraged to CONSIDER the following:
 - A. Reassess the importance of and need for Proposal One;
 - B. Delete Proposals Four, Eight, Ten, and Thirteen;
 - C. Within Proposals Two and Sixteen, delete the final sentence in proposed Section 15-1 relating to Council terms;
 - D. Within Proposal Six, delete the existing Charter language requiring the Fire Chief to perform duties "assigned by the mayor" and delete proposed Subsection B of the section relating to the Fire Chief's powers, duties, and functions;
 - E. Within Proposal Seven, delete proposed deadlines for the planning commissions' and Council's review of community plan updates and other land use ordinances;
 - F. Within Proposal Seven, replace the text of proposed Subsection 8-8.5(7) with the following text: "The planning director shall prepare an annual report on the status of implementing actions in each community plan to the mayor and the council.";
 - G. Within Proposal Eleven; delete the portion that would strip the Salary Commission of the authority to establish the salaries of department directors and deputy directors; and
 - H. Within Proposal Thirteen, if retained, add provisions to:
 - i. Provide the Board of Ethics with independent staff (modeled after the second paragraph of Section 11-107 of the Revised Charter of Honolulu);

COUNCIL OF THE COUNTY OF MAUI
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- ii. Require a lobbyist-registration ordinance (modeled after Section 11-108 of the Revised Charter of Honolulu); and
- iii. Require that the Board of Ethics make reasonable efforts to efficiently disseminate its opinions to the public, officers, and employees, including through the Internet.


Adoption of this report is respectfully requested.

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COUNCIL OF THE COUNTY OF MAUI
COMMITTEE OF THE WHOLE

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Committee
Report No. 02-58


DAIN P. KANE

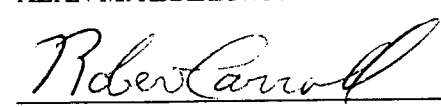
Chair


G. RIKI HOKAMA

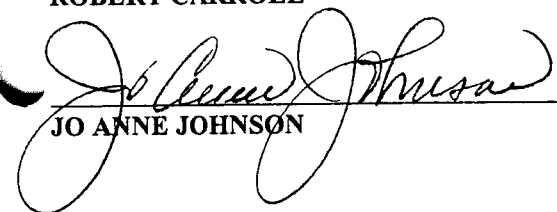
Vice-Chair


ALAN M. ARAKAWA

Member


ROBERT CARROLL

Member


JO ANNE JOHNSON

Member

PATRICK S. KAWANO

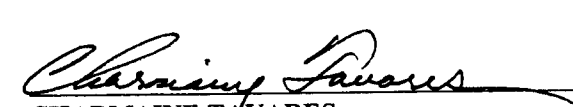
Member


MICHAEL J. MOLINA

Member

WAYNE K. NISHIKI

Member


CHARMAINE TAVARES

Member

COUNCIL OF THE COUNTY OF MAUI

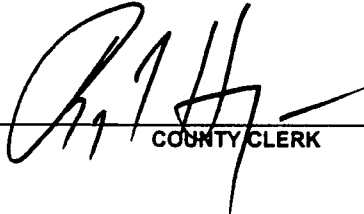
WAILUKU, HAWAII 96793

CERTIFICATION OF ADOPTION

It is HEREBY CERTIFIED that COMMITTEE REPORT NO. 02-58 was adopted by the Council of the County of Maui, State of Hawaii, on the 21st day of May, 2002, by the following vote:

MEMBERS	Patrick S. KAWANO Chair	Dain P. KANE Acting Chair	Alan M. ARAKAWA	Robert CARROLL	G. Riki HOKAMA	Jo Anne JOHNSON	Michael J. MOLINA	Wayne K. NISHIKI	Charmaine TAVARES
ROLL CALL	Excused	Aye	Aye	Aye	Aye	Aye	Aye	Aye	Aye

Resolution Nos. 02-63 and 02-64 were amended prior to adoption.



COUNTY CLERK

ROY T. HIRAGA
County Clerk



DIANE A. WAKAMATSU
Deputy County Clerk

RECEIVED

2002 MAY 23 AM 9:27

OFFICE OF THE COUNTY CLERK OFFICE OF THE MAYOR

COUNTY OF MAUI
200 SOUTH HIGH STREET
WAILUKU, HAWAII 96793

RECEIVED
Charter Commission
MAY 28 2002

May 22, 2002

Honorable James H. Apana, Jr.
Mayor, County of Maui
Wailuku, Hawaii 96793

APPROVED FOR TRANSMITTAL

For transmittal to:

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

Brantym Chum 5/23/02
Mayor Date

Dear Chair and Members:

Transmitted herewith are certified copies of Resolution Nos. 02-63 and 02-64, which were adopted by the Council of the County of Maui, State of Hawaii, on May 21, 2002.

Also attached is a copy of Committee Report No. 02-58. Your attention is respectfully called to recommendation no. 3 contained in the committee report.

Respectfully,

RTH
ROY T. HIRAGA
County Clerk

/jym

Attachment

Resolution

No. 02-63

PROPOSING AN ALTERNATIVE AMENDMENT TO
THE REVISED CHARTER OF THE COUNTY OF
MAUI (1983), AS AMENDED, RELATING TO
CITIZEN ADVISORY COMMITTEES

BE IT RESOLVED by the Council of the County of Maui:

1. That, pursuant to Chapter 50, Hawai'i Revised Statutes, and in response to the Charter Commission's Final Report dated April 22, 2002, it hereby does propose, as an alternative amendment, that Chapter 8 of Article 8 of the Revised Charter of the County of Maui (1983), as amended, be amended by adding a new section to read as follows:

"Section 8-8.8. Citizen Advisory Committees. There shall be a citizen advisory committee for each community plan region of the county. Each citizen advisory committee shall consist of 13 members, with nine appointed by the council and four appointed by the mayor. Terms and qualifications for service on citizen advisory committees shall be established by ordinance. The citizen advisory committees shall be administratively attached to the department of planning, which shall provide adequate personnel and other resources reasonably required by the citizen advisory committees in the performance of their duties. The planning director shall facilitate official communication between the citizen advisory committees and other entities, including the council. Each citizen advisory committee shall:

1. Develop a community vision to guide the improvement and development of its community plan region.
2. Promote public participation by serving as a coordinating body between individual citizens, community associations, and other interested groups.
3. Formulate proposed implementing actions that support the improvement and development of the community plan, including priorities, timelines, estimated costs, and the county

department accountable for completion of the implementing actions.

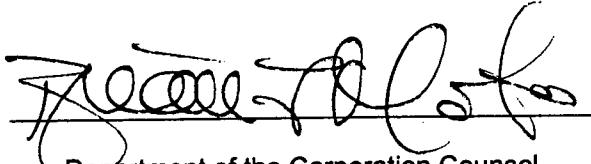
4. Monitor the implementation and enforcement of the general plan and community plans.

5. Review comprehensive revisions to the general plan and community plans at least every ten years as proposed by the planning director.

6. Have such other powers and duties as may be provided by law.”; and

2. That certified copies of this resolution be transmitted to the Charter Commission and the Corporation Counsel of the County of Maui.

APPROVED AS TO FORM AND LEGALITY



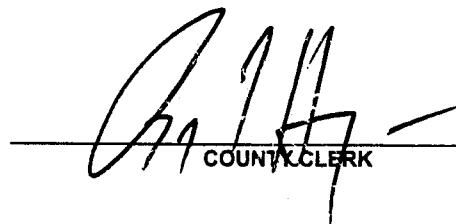
Department of the Corporation Counsel
County of Maui

COUNCIL OF THE COUNTY OF MAUI
WAILUKU, HAWAII 96793

CERTIFICATION OF ADOPTION

It is HEREBY CERTIFIED that RESOLUTION NO. 02-63 was adopted by the Council of the County of Maui, State of Hawaii, on the 21st day of May, 2002, by the following vote:

MEMBERS	Patrick S. KAWANO Chair	Dain P. KANE Acting Chair	Alan M. ARAKAWA	Robert CARROLL	G. Riki HOKAMA	Jo Anne JOHNSON	Michael J. MOLINA	Wayne K. NISHIKI	Charmaine TAVARES
ROLL CALL	Excused	Aye	Aye	Aye	Aye	Aye	Aye	Aye	Aye


COUNTY CLERK

Resolution

No. 02-64

PROPOSING AN ALTERNATIVE AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983), AS AMENDED, RELATING TO THE DEPARTMENT OF WATER SUPPLY

BE IT RESOLVED by the Council of the County of Maui:

1. That, pursuant to Chapter 50, Hawai'i Revised Statutes, and in response to the Charter Commission's Final Report dated April 22, 2002, it hereby does propose, as an alternative amendment, that Chapter 11 of Article 8 of the Revised Charter of the County of Maui (1983), as amended, be amended to provide for: the appointment of the Director of the Department of Water Supply by the Mayor with the approval of the Council; a Board of Water Supply that is advisory to the Director of the Department of Water Supply, the Mayor and the Council; and other revisions relating to the Board and Department of Water Supply; and

2. That it does hereby propose that Section 8-11.2, Revised Charter of the County of Maui (1983), as amended, be amended to read as follows:

"Section 8-11.2. Functions of the Department.

1. [All water systems owned and operated by the county, including all county water rights and water sources, together with all materials, supplies and equipment and all real and personal property used in connection with such water systems shall be under the control of the department.] The department of water supply shall manage and operate all water systems owned by the county.

2. [The department shall have full and complete authority to manage, control and operate water systems and properties used in connection with such water systems.] In order

to protect and manage the water resources in the county, the department of water supply shall make studies, surveys, and investigations relating to the locations and sources of water supply within the county, the amounts available for current and prospective uses, the water resources which may be available for such uses and the maximum sustainable yield of such sources.

3. The department of water supply shall implement the county's general plan and community plans in the administration of its affairs. [There shall be a long-range plan of the department] The department of water supply shall prepare and annually update a long-range capital improvement plan and an updated water use and development plan, which shall be subject to the approval of the [county] council, as provided by law.

[4. The county council shall have the authority to issue general obligation bonds for the benefit of the department and may provide capital appropriations for the department.]; and

3. That it does hereby propose that Section 8-11.3, Revised Charter of the County of Maui (1983), as amended, be amended to read as follows:

"Section 8-11.3. Board of Water Supply. The board of water supply shall consist of nine members who shall be appointed by the mayor with the approval of the council. The [planning] director of the department of planning and the director of the department of public works and waste management shall be non-voting ex-officio members of the board of water supply. The board of water supply shall act as advisor to the director of the department of water supply, the mayor and the council in all matters concerning the county's water system."; and

4. That it does hereby propose that Section 8-11.4, Revised Charter of the County of Maui (1983), as amended, be amended to read as follows:

"Section 8-11.4. Powers, Duties and Functions. The board of water supply shall:

1. [Appoint, evaluate and remove the director of the department of water supply.] Review and submit to the mayor the department of water supply's request for an annual appropriation for operations and capital improvements.

[2. Have the authority to create and abolish positions.

3. Adopt rules and regulations which shall have the force and effect of law relating to the management, control, operation, preservation and protection of the water works of the county, as well as the establishment and adjustment of rates and charges for

furnishing water; such rules and regulations shall be adopted as provided under Section 8-11.8 below.]

2. Recommend the establishment and adjustment of rates and charges for furnishing water; such rates and charges shall be submitted to the mayor for review and approval. If approved by the mayor, proposed rates and charges shall be submitted to the council for enactment by ordinance.

[4. Adopt an annual operating and capital budget.

5. Have the authority to issue revenue bonds under the name of the board of water supply.

6. Have the authority to acquire by eminent domain, purchase, lease or otherwise, and to sell, lease, or otherwise convey real property in the name of the board of water supply.

7.] 3. Perform such other duties and functions as shall be prescribed by law."; and

5. That it does hereby propose that Section 8-11.5, Revised Charter of the County of Maui (1983), as amended, be amended to read as follows:

"Section 8-11.5. Director and Deputy Director of Water Supply. The director of the department of water supply shall be appointed [and evaluated] by the [board of water supply] mayor with the approval of the council, and may be removed by the [board of water supply] mayor with the approval of the council. The director of the department of water supply shall have a minimum of [three] five years of experience in [an administrative] a management capacity, either in public service or private business, or both. The deputy director of the department of water supply shall be appointed by the mayor and may be removed by the mayor. The director or [his] deputy of the department of water supply shall be a registered engineer."; and

6. That it does hereby propose that Section 8-11.6, Revised Charter of the County of Maui (1983), as amended, be amended to read as follows:

"Section 8-11.6. Powers, Duties and Functions. The director of the department of water supply shall:

[1. Recommend rules and regulations for adoption by the board.

2.] 1. Administer the affairs of the department[, including the rules and regulations adopted by the board] of water supply, and be responsible for the day-to-day management and control of all water systems of the county.

[3.] 2. Prepare [and implement long range] long-range capital improvement plans and up-to-date water use and development plans [which have been adopted by the board] for review by the board of water supply and enactment by the council by ordinance.

[4. Appoint a deputy director.

5.] 3. Implement enacted long-range capital improvement plans and water use and development plans.

4. Prepare an annual operating and capital budget for the [board's] board of water supply's review and [adoption] submit the department of water supply's request for an annual appropriation to the mayor.

[6. Coordinate the affairs of the department with the mayor and the county council and submit an annual report concerning the department to the mayor and the council.

7.] 5. Perform such other duties and functions as shall be prescribed by law."; and

7. That it does hereby propose that Section 8-11.7, Revised Charter of the County of Maui (1983), as amended, be amended to read as follows:

"Section 8-11.7. Revenues. The revenues of the department of water supply shall be kept in a separate fund and shall be such as to make the department of water supply self-supporting, provided that the council may issue general obligation bonds on behalf of the department of water supply and may provide capital improvement appropriations for the department of water supply."; and

8. That it does hereby propose that Section 8-11.8, Revised Charter of the County of Maui (1983), as amended, be repealed.

["Section 8-11.8. Approval of Rules. The adoption, amendment and repeal of all rules adopted pursuant to Subsection 8-11.4(3) shall require action by both the mayor and the council. The mayor shall either approve or disapprove and transmit the request to the council within fifteen (15) days of receipt. The request shall be deemed approved and transmitted to the council on the sixteenth day if the mayor takes no action.


Within forty-five (45) days of receipt from the mayor, the council may confirm the mayor's action by majority vote or may override any action by the mayor by a two-thirds (2/3) vote of its entire membership. If the council takes no action within forty-five (45) days, the proposal shall be deemed approved."]; and

Resolution No. 02-64

9. That material proposed for deletion is bracketed, and that proposed new material is underscored; and

10. That certified copies of this resolution be transmitted to the Charter Commission and the Corporation Counsel of the County of Maui.

APPROVED AS TO FORM AND LEGALITY



Department of the Corporation Counsel
County of Maui

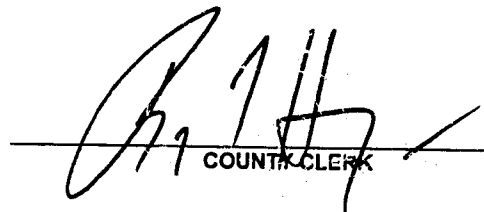
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COUNCIL OF THE COUNTY OF MAUI
WAILUKU, HAWAII 96793

CERTIFICATION OF ADOPTION

It is **HEREBY CERTIFIED** that **RESOLUTION NO. 02-64** was adopted by the Council of the County of Maui, State of Hawaii, on the 21st day of May, 2002, by the following vote:

MEMBERS	Patrick S. KAWANO Chair	Dain P. KANE Acting Chair	Alan M. ARAKAWA	Robert CARROLL	G. Riki HOKAMA	Jo Anne JOHNSON	Michael J. MOLINA	Wayne K. NISHIKI	Charmaine TAVARES
ROLL CALL	Excused	Aye	Aye	Aye	Aye	Aye	Aye	Aye	Aye



COUNTY CLERK

BTM

James "Kimo" Apana
Mayor

Grant Y. M. Chun
Managing Director



CHARTER COMMISSION
County of Maui
1727 Wili Pa Loop, Suite B
Wailuku, Maui, Hawai'i 96793

Terryl Vencel, Chair
R. Sean McLaughlin, Vice Chair
Carole Ameral
Vince Bagoyo, Jr.
William Fuhrmann
Gwen Hiraga
Stephen Holaday
Karolyn Mossman
Stephen Petro
Erlinda Rosario
Donn Takahashi

April 22, 2002

The Honorable James "Kimo" Apana
Mayor, County of Maui
200 South High Street
Wailuku, Maui, Hawai'i 96793

The Honorable Patrick S. Kawano
Chair, Maui County Council
200 South High Street
Wailuku, Maui, Hawai'i 96793

RE: FINAL REPORT OF THE MAUI COUNTY CHARTER COMMISSION

Dear Mayor Apana and Chair Kawano:

I am pleased to transmit herewith on behalf of the Maui County Charter Commission a copy of the proposed revisions to the Revised Charter of the County of Maui together with a copy of the final Report of the Charter Commission.

These proposed amendments represent the results of a substantial amount of work contributed by the dedicated members of the Charter Commission during the course of the past year.

On behalf of all the members of the Commission, I would like to express our gratitude for the opportunity to serve the people of Maui County in this meaningful responsibility.

Sincerely yours,

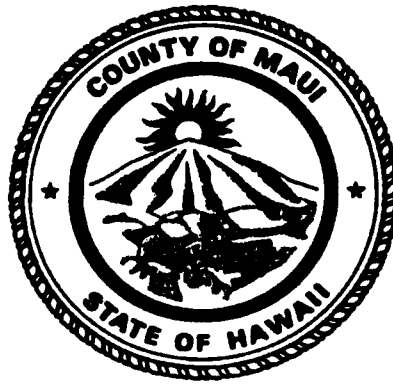
A handwritten signature in cursive script, reading "Terryl Vencel".

Terryl Vencel
Chair, Maui County Charter Commission

Attachment: Final Report

703 MAY 02 01 00 PM
COUNTY OF MAUI

2001 - 2002
MAUI COUNTY CHARTER COMMISSION



FINAL REPORT

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2001 - 2002 MAUI COUNTY CHARTER COMMISSION FINAL REPORT

BACKGROUND

The eleven members of the 2001-2002 Maui County Charter Commission were nominated by Mayor James "Kimo" Apana on January 30, 2001, and were subsequently confirmed by the County Council on April 20, 2001. The members originally appointed and confirmed were:

Terryl VencI, Chair
Carole Ameral
Vince Bagoyo, Jr.
William Fuhrmann
Gwen Hiraga
Stephen Holaday
R. Sean McLaughlin
Karolyn Mossman
Stephen Petro
Erlinda Rosario
Donn Takahashi

Commission member Carole Ameral resigned on September 23, 2001, and was replaced by Ray DeMello on January 22, 2002.

ORGANIZATION

The Commission's first meeting was held on April 30, 2001. The Commission elected R. Sean McLaughlin to serve as Vice-Chair of the Commission at its second meeting on May 21, 2001. The Commission adopted organizational and procedural rules for the conduct of its business. The Commission hired Ke'ala Pasco to serve as its Assistant. The Commission has also been aided throughout by representatives of the Department of the Corporation Counsel, particularly James Takayesu, Corporation Counsel, and Brian Moto, First Deputy Corporation Counsel.

The procedures governing Charter Commissions listed in the Charter itself, Section 14-3, differ in some respects from those laid out in Chapter 50 of the Hawai'i Revised Statutes, so the Commission had to decide which procedures to follow. The Commission determined that the Charter Commissions in the other counties have generally followed their own rules rather than those listed in Chapter 50. The Commission requested an opinion on this matter from the State Attorney General, but no answer was received from that office. Based on the advice received from Maui's Corporation Counsel, James Takayesu, and in order to avoid any possibility of challenge to the Commission's work, the Commission decided to follow the timetable and procedures established in H.R.S. Chapter 50.

The Commission established a website and put all its documents, agendas, and schedules on that website in a timely fashion. The Commission followed all the rules established by the State's Sunshine Law in posting agendas in a timely fashion and in allowing public testimony at all its meetings. Commission documents and the minutes of its meetings have also been made available to the public at the County building, at public libraries, and at councilmembers' offices in Hana, Lāna'i, and Moloka'i.

The Commission met for discussion and deliberations at Kalana O Maui on June 4, 2001, and June 18, 2001. The Commission held eight public meetings after its initial organizational meetings in order to develop a record of public concerns regarding the Maui County Charter. These public meetings were held at the following dates and locations (all starting at 6:30 p.m.):

June 20, 2001	Hannibal Tavares Center, Pukalani
June 26, 2001	Lahaina Civic Center
July 25, 2001	Kihei Community Center
August 1, 2001	Pā'ia Community Center
August 8, 2001	Old Hāna High School
August 15, 2001	Mitchell Pau'ole Center, Moloka'i
August 22, 2001	Lāna'i Community Center
August 29, 2001	County Council Chambers, Wailuku

The Commission then held a series of meetings to discuss the issues that had been raised and to make its initial recommendations to take back to the community for further public input. The Commission's deliberative meetings were held in the County building in Wailuku on September 10, 2001, September 24, 2001, October 8, 2001, October 22, 2001, November 5, 2001, November 19, 2001, December 10, 2001, January 7, 2002, and January 15, 2002 (in October 2001, the Commission selected Jon M. Van Dyke to serve as its Analyst). The subsequent eight public meetings were held at the following dates and locations, all beginning at 6 p.m.:

February 6, 2002	Kihei Community Center
February 13, 2002	Kaunakakai School Cafetorium, Moloka'i
February 20, 2002	Hale Kūpuna, Lāna'i
February 27, 2002	Pā'ia Community Center
March 6, 2002	Old Hāna School Cafeteria
March 13, 2002	Wailuku Community Center
March 20, 2002	Hannibal Tavares Center, Pukalani
March 27, 2002	Lahainaluna Chorus Room, Lahaina

After this second round of public hearings, the Commission met again in Wailuku for a series of meetings to make its final recommendations. These meetings were held on April 1, April 3, April 10, and April 17, 2002. The Commission took its final votes on April 17, 2002, and approved this report for transmission to the Mayor and County Council.

CHARTER COMMISSION REPORT

The report that follows presents the proposed amendments of the Revised Charter of the County of Maui (1983), as amended, resulting from the deliberations of the 2001 - 2002 Charter Commission.

RECOMMENDATIONS FOR SUBSTANTIVE CHANGES TO THE MAUI COUNTY CHARTER

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

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

The specific language change proposed is as follows:

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

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

PROS:

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

CONS:

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

PROPOSAL TWO - LENGTHEN TERMS OF COUNCILMEMBERS FROM TWO (2) TO FOUR (4) YEARS

(Section 3-2(5))

The Commission proposes that the term of each councilmember be extended from two years to four years, with staggered terms for councilmembers (*i.e.*, five will be elected in one election, and the four others will be elected two years later).

The Commission, after much deliberation based on extensive public testimony that expressed concern about the accumulation and potential abuse of power, decided to maintain term limits for councilmembers, but to adjust them slightly to accommodate the increased length of the terms for councilmembers. The Commission thus decided to allow councilmembers to have three consecutive four-year terms (for a total of twelve consecutive years) rather than the five consecutive two-year terms (for a total of ten consecutive years) allowed in the present charter. Because some present councilmembers may have some two-year and some four-year terms, the proposed Charter revision would permit a total of twelve consecutive years on the Council for those councilmembers serving at the time of transition.

If this proposal is adopted, in the 2004 election, the five elected councilmembers receiving the largest number of votes will be given four-year terms, and the next four elected councilmembers will be given two-year terms. Thereafter, all elected councilmembers will have four-year terms, with five elected in those elections divisible by four and four elected two years thereafter. The proposed transitional language also says that if one of the five top Council vote-getters in the 2004 election will exceed twelve consecutive years with a four-year term, that person will be awarded a two-year term, and the next highest vote-getter will be awarded the four-year term.

The specific language to be changed would be as follows:

Section 3-2(5). The term of office of councilmembers shall be for [two] four years, beginning at twelve o'clock meridian on the second day of January following their election. No member of the County Council shall serve more than [five] three consecutive full terms of office

or more than twelve consecutive years in office, whichever shall be longer.

Section 15-1. Council Elections. In the 2004 election for members of the county council, the five elected councilmembers who will have received the largest number of votes shall have four-year terms of office, and the remaining four elected councilmembers shall have two-year terms of office. Thereafter, all councilmembers shall serve for four-year terms. If any of the five elected councilmembers receiving the largest numbers of votes in the 2004 election would exceed the twelve consecutive years in office limitation by serving for four years, those members shall be given a two year term, and the elected councilmembers with the next largest number of votes shall be given a four year term.

The Commission considered the issues raised by the lengthening of Council terms to be as follows:

PROS:

- * Councilmembers would have the time to develop and pursue a more comprehensive legislative agenda during their term and would take a longer view of County activities.

- * The Council would have greater continuity, and a complete changeover of councilmembers would never occur. Currently all nine council seats could change hands, bringing in a completely new, and inexperienced, group of councilmembers.

- * Councilmembers would not have to campaign as frequently, thus reducing the need to raise campaign contributions and to engage in countywide campaigns.

CONS:

- * Councilmembers would be somewhat less accountable to the electorate, because they would not have to face reelection as frequently.

- * The two-year term reduces the need to utilize the recall procedure to remove ineffective Councilmembers.

PROPOSAL THREE - CLARIFY THE RESPONSIBILITIES OF THE CORPORATION COUNSEL (Section 8-2(3))

The Commission proposes to clarify the role of the Corporation Counsel to recognize the broad responsibility of this office to represent the County in a variety of situations (1) by changing the present language of 8-2(3)(b) ("Be the chief legal advisor and legal representative of the council, the mayor, all departments, all boards and commissions, and of all officers and employees in matters relating to their official duties.") to a broader formulation ("Be the chief legal advisor and legal representative of the County of Maui; of the council, the mayor, all departments, all boards and commissions[,]; and of all officers and employees in matters relating to their official duties.") and (2) by changing the present language of 8-2(3)(d) ("Perform such other duties and functions as shall be assigned by the mayor.") to a broader formulation ("Perform such other duties and functions as may be incident to the department or required by law.").

The specific language to be changed would be as follows:

Section 8-2(3). Powers, Duties, and Functions. The corporation counsel shall:

- a. Appoint such deputy corporation counsel and necessary staff as shall be authorized by the council. Deputy corporation counsel shall be exempt from civil service and shall serve at the pleasure of the corporation counsel.
- b. Be the chief legal advisor and legal representative of the County of Maui; of the council, the mayor, all departments, and all boards and commissions[,]; and of all officers and employees in matters relating to their official duties.
- c. Represent the county in all legal proceedings.
- d. Perform such other duties and functions [as shall be assigned by the mayor] as may be incident to the department or required by law.

The Commission recognized the issues raised by this proposal as follows:

PROS:

* This change would make it clear that the Corporation Counsel is responsible for representing the County of Maui in all respects, and does not solely represent the Mayor. With this change, it would

be clear that the Corporation Counsel represents the Council and the boards and commissions as well as the executive branch of the County.

CONS:

* The Corporation Counsel may face conflicts when the interests of the Mayor conflict with those of the Council or the boards and commissions.

PROPOSAL FOUR - GRANT INVESTIGATORS WORKING FOR THE PROSECUTING ATTORNEY
THE POWERS AND PRIVILEGES OF POLICE OFFICERS WHILE ACTING WITHIN THE SCOPE OF
THEIR OFFICIAL DUTIES (Section 8-3(3))

The Commission proposes amending Section 8-3(3) to give the investigators who work for the Department of the Prosecuting Attorney the same powers as police officers while they are working within the scope of their official duties. These investigators have the frequently dangerous obligation to find and apprehend individuals, and at present, they must coordinate their duties with the police, raising costs and causing delays. Every other county gives their prosecutorial investigators the power to carry firearms and make arrests, like police officers, and Maui is alone in denying these powers. A similar proposal was presented to the voters by the 1991 - 1992 Charter Commission, and was rejected at that time, apparently because of fears that it might cause abuses and inconsistencies with police responsibilities. The Commission feels that the investigators should have police powers to undertake their duties properly, and that the language proposed should limit abuses, by specifying that investigators have police powers only when they are "acting within the scope of their duties as investigators." It should also be noted that the four investigators who work for the Department of the Prosecuting Attorney are all well trained, experienced former police officers.

The specific language proposed is as follows:

Section 8-3(3). Powers, Duties, and Functions. The prosecuting attorney shall:

- a. Appoint such deputy prosecuting attorneys and necessary staff as shall be authorized by the council. Deputy prosecuting attorneys shall be exempt from civil service and shall serve at the pleasure of the prosecuting attorney. The prosecuting attorney may appoint investigators who shall have the power and privileges of police officers while the investigators are acting within the scope of their duties as investigators.

The Commission adopted this proposal after considering the following arguments:

PROS:

* This language will give Maui's investigators the same powers that investigators have in the other three counties, and will reduce costs and delays required by coordinating arrests with police officers.

CONS:

* This language gives investigators police powers that could potentially be abused.

PROPOSAL FIVE - BROADEN THE RESPONSIBILITIES OF THE DEPARTMENT OF PUBLIC WORKS AND WASTE MANAGEMENT TO INCLUDE ENVIRONMENTAL MANAGEMENT AND CHANGE ITS TITLE TO THE "DEPARTMENT OF PUBLIC WORKS AND ENVIRONMENTAL MANAGEMENT"

(Section 8-5(3))

The Commission proposes to change the title of the Department of Public Works and Waste Management to become the "Department of Public Works and Environmental Management" and to change the "Powers, Duties, and Functions" of this Department to broaden its responsibilities regarding environmental management and eliminate the explicit reference to maintaining County buildings. The County's buildings are, for the most part, maintained by the departments that use them, with the current Department of Public Works and Waste Management maintaining those not connected with any

particular department. Environmental issues are diverse and complicated, but at least those concerned with managing pollution and degradations should be centralized in one department, and this Department appears to be the most logical home for these responsibilities, because it already deals with solid waste, sewers, and waste waters.

The specific language change under this proposal would be as follows:

CHAPTER 5
DEPARTMENT OF PUBLIC WORKS AND [WASTE] ENVIRONMENTAL MANAGEMENT

Section 8-5(1). Organization. There shall be a department of public works and [waste] environmental management consisting of a director and the necessary staff.

Section 8-5(2). Director of Public Works and [Waste] Environmental Management. The director of public works and [waste] environmental management shall be appointed and may be removed by the mayor. The director of public works and [waste] environmental management shall have had a minimum of five years of experience in an administrative capacity, either in public service or private business, or both.

Section 8-5(3). Powers, Duties, and Functions. The director of public works and [waste] environmental management shall:

1. Administer the building, housing, and subdivision ordinances and rules adopted thereunder.
2. Approve proposed subdivision plans which are in conformity with the subdivision ordinance.
3. Supervise and maintain the county's highways, drainage and flood control systems and sewer systems and maintain the county's buildings.
4. Perform such other duties and functions as shall be assigned by the mayor.

The Commission understands the issues raised by this proposal as follows:

PROS:

* This Department currently has responsibility over waste management, but the Charter makes no mention of other aspects of environmental management, such as recycling, litter control, and protecting the universally-recognized unique beauty of Maui County; this proposed amendment will give this Department expanded power to take responsibility over these areas and expanding this Department seems preferable to creating a new department at this time.

* The Charter currently gives this Department responsibility over the maintenance of County buildings, but in practice the different departments maintain their own buildings - *i.e.*, the Fire Department and Parks Department each maintain their own structures; the proposal to eliminate a specific reference to maintaining county buildings will recognize the current situation, but this Department will still maintain those buildings that are not the specific responsibility of other departments.

CONS:

* These proposals will lead to an expansion of governmental responsibilities and will require additional personnel and resources.

* Creating a separate Department of Environmental Management would give this area even greater focus and emphasis.

* The Department of Public Works and Waste Management is already the largest county department, by far, and these additional responsibilities may become lost among all the other responsibilities of the Department.

* The Planning Department also has some responsibilities for environmental matters.

PROPOSAL SIX - RENAME THE DEPARTMENT OF FIRE CONTROL TO BE THE "DEPARTMENT OF FIRE AND PUBLIC SAFETY." RENAME THE PUBLIC SAFETY COMMISSION TO BE THE "FIRE AND PUBLIC SAFETY COMMISSION." GIVE THIS COMMISSION THE RESPONSIBILITY TO HIRE AND FIRE THE FIRE CHIEF (WITH DUE PROCESS PROTECTIONS GIVEN TO THE CHIEF) AND TO REVIEW THE BUDGET OF THE DEPARTMENT OF FIRE AND PUBLIC SAFETY. AND CLARIFY THE DUTIES OF THE FIRE CHIEF (Article 8, Chapter 7)

The Commission proposes restructuring the Department of Fire Control and the Public Safety

Commission. The Department would be renamed the "Department of Fire and Public Safety," the Commission would be renamed the "Fire and Public Safety Commission," the Commission would be given power to hire and fire the Fire Chief (giving the Fire Chief the same due process protections now provided to the Police Chief in Section 8-12(3)), and the same power to review the budget of the Department that the Police Commission has regarding the Department of Police (in Section 8-12.2(2)). In addition, the duties of the Fire Chief would be clarified, and expanded in certain respects. The Civil Defense Agency would continue to be reviewed by the renamed Fire and Public Safety Commission.

The specific language changes are as follows:

CHAPTER 7
DEPARTMENT OF FIRE [CONTROL] AND PUBLIC SAFETY

Section 8-7(1). Organization. There shall be a department of fire [control] and public safety consisting of a fire and public safety commission, a fire chief, and the necessary staff.

Section 8-7([4]2). Fire and Public Safety Commission. The fire and public safety commission shall consist of nine members appointed by the mayor with the approval of the council.

The fire and public safety commission shall:

[3]1. Adopt such rules as it may consider necessary for the conduct of its business and regulation of the matters committed to its charge by law.

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

[1]3. Review the operations of the department of fire [control] and public safety and the civil defense agency and make recommendations for changes [which] that may be desirable to improve the performance of emergency functions and the provision of public safety services.

[2]4. Receive, review, and investigate any charges brought forth by the public against the conduct of the department of fire [control] and public safety or any of its members and submit a written report of its findings and recommendations to the fire chief for disposition.

5. Evaluate at least annually the performance of the fire chief and submit a report to the mayor and the council.

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

[4]7. Have such other powers and duties as may be provided by law.

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

Section 8-7([2]3). Fire Chief. The fire chief shall be appointed [by the mayor] and may be removed by the [mayor] fire and public safety commission. The fire chief may be removed by the fire and public safety commission only after being informed in writing of the charges that are resulting in his or her dismissal, and after being given a hearing before the commission. The fire chief shall have had a minimum of five years of experience in fire control, at least three years of which shall have been in an administrative capacity.

Section 8-7([3]4). Powers, Duties, and Functions of the Fire Chief.

A. The fire chief shall:

1. Be the administrative head of the department.
- [1]2. Provide [fire protection to the people and property of the county] and perform fire fighting, rescue, and emergency services in order to save lives and property from fires and other emergencies arising on land, sea, and hazardous terrain, including the mitigation and stabilization of hazardous materials and incidents relating to the same.
3. Provide public education programs related to fire prevention and public safety.
4. Train, equip, maintain, and supervise the force of fire fighting and emergency rescue personnel.
- [2]5. Investigate the cause, origin and circumstances of fires.
- [3]6. Adopt rules relating to the protection of persons and property against fires.
- [4]7. 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. Coordinate and provide rescue protection to persons in the county.]
- [6. Provide for the mitigation and stabilization of hazardous materials and incidents relating to the same.]
- [7]8. Exercise such other powers and duties as may be assigned by the mayor or as may be provided by law.

B. In order to establish in the county a system of fire protection consisting of fire suppression, fire prevention, rescue, and emergency services that shall be based on qualified and professional leadership and personnel, the department shall be conducted in accordance with the following:

1. Standards for recruitment shall be designed to attract into the fire department persons with appropriate education, physical performance, and personal stability.
2. Promotions and other personnel actions shall be based upon fair and appropriate standards of merit, comprehension, and work performance.
3. Appropriate updated training shall be provided that meets or exceeds

national standards.

CHAPTER [15]16
CIVIL DEFENSE AGENCY

Section 8-[15]16(1). Organization and Functions. There shall be a civil defense agency whose powers, duties, functions and organization shall be as provided by law. The fire and public safety commission, as established in Section 8-7([4]2) herein, shall review the operations of the agency and make recommendations for changes which may be desirable to improve the performance of emergency functions and the provision of public safety services. The commission shall receive and investigate any complaints brought forth by the public against the conduct of the agency or any of its members and submit a written report of its findings and recommendations to the civil defense administrator for his disposition.

In deciding to propose these changes, the Commission considered the following competing arguments:

PROS:

* These changes will give the Public Safety Commission responsibilities similar to those now held by the Police Commission, namely the power to hire and fire the Fire Chief and the power to review the budget of the Department of Fire Control.

* The proposed changes would give the Fire Chief the same due process protections now given to the Police Chief in the event of an effort to terminate the employment of the Chief.

CONS:

* These proposed changes would reduce the power of the Mayor over the Department of Fire Control, and would thereby, to some extent, reduce the direct accountability regarding activities of the Department.

PROPOSAL SEVEN - CLARIFY THE RESPONSIBILITIES OF THE DEPARTMENT OF PLANNING WITH REGARD TO LONG-RANGE PLANNING, CULTURAL RESOURCES, ENFORCEMENT,

TIMELY DECISION MAKING, AND THE COMMUNITY PLANS (Section 8-8)

The Commission proposes revising the responsibilities of the Department of Planning and the Planning Commissions by:

** Requiring the Department to prepare and administer (a) long range planning programs to implement the General Plan and (b) a cultural resources management program (Section 8-8(3)). The Planning Department is currently in the process of establishing a Long Range Planning Division and currently provides administrative support for the County's Cultural Resources Commission. The proposed amendments would identify these functions as an integral part of the Department's responsibilities.

** Requiring the Department to enforce zoning ordinances (Section 8-8(3)).

** Requiring the Planning Commissions to review and take action on revisions to the General Plan and other land use ordinances and amendments within defined time limits (180 days and 120 days respectively) after the final public hearing (Section 8-8(4)). These deadlines will provide for timely review by the Planning Commissions of General Plan revisions and proposed land use ordinances and amendments.

** Clarifying the purpose and nature of the General Plan by incorporating language from Hawai'i Revised Statutes Section 226-58 regarding county General Plans (Section 8-8(5)). These changes will provide a more specific description of the General Plan, consistent with State law, and will provide a framework for further legislative initiatives in defining the process and other requirements for the development of the General Plan. Details regarding the boundaries for community plan districts will be addressed by County ordinances rather than in the Charter.

** Clarifying the role of the Citizen Advisory Committees in the planning process, by adding language saying that the community plans, once approved, will become part of the General Plan.

(Section 8-8(5)).

**** Requiring the Council to review and take action on revisions to the General Plan and other land use ordinances and amendments within defined time limits (one year and 180 days, respectively) after transmittal (Section 8-8(6)).**

The specific language changes proposed by the Commission are as follows:

Section 8-8(3). Powers, Duties, and Functions. The planning director shall:

1. Be the administrative head of the department of planning.
2. Serve as the chief planning officer of the county and as the technical advisor to the mayor, council and planning commissions on all planning and related matters.
3. Recommend revisions of the general plan at least every ten years to guide the development of the county.
4. Prepare, administer, and enforce long-range planning programs.
5. Prepare, administer, and enforce a cultural resource management program.
- [4]6. Prepare, [and] administer, and enforce zoning ordinances, zoning maps and regulations and any amendments or modifications thereto.
- [5]7. Review the lists of proposed capital improvements projects contemplated by the county and recommend the order of their priority to the mayor.
- [6]8. Perform such other duties and functions as shall be required by law or as shall be assigned by the mayor.

Section 8-8(4). Planning Commissions. Each planning commission shall consist of nine members appointed by the mayor with the approval of the council. The members of each planning commission shall be residents of the island of the planning commission on which the member serves. The director of the department of public works and waste management and the director of the department of water supply shall be non-voting ex-officio members of each commission.

Each planning commission shall exercise its powers, duties, and functions as follows:

1. The Maui planning commission shall be concerned with the area encompassing the islands of Maui and Kaho'olawe and all other islands lying within three nautical miles of the shores thereof, and the waters adjacent thereto.
2. The Moloka'i planning commission shall be concerned with the area encompassing the island of Moloka'i and all other islands lying within three nautical miles of the shores thereof, and the waters adjacent thereto, except that portion of the island known as Kalaupapa, Kalawao, and Waikolu and commonly known and designated as the Kalaupapa Settlement.

3. The Lana'i planning commission shall be concerned with the area encompassing the island of Lana'i and all other islands lying within three nautical miles of the shores thereof, and the waters adjacent thereto.

The appropriate planning commission shall:

1. Advise the mayor, council, and the planning director in matters concerning planning programs.
2. Review the general plan and revisions thereof prepared by the planning director or at the request of the council. The commission shall hold public hearings on such plans and revisions thereof and shall transmit them, with its findings and recommendations to the council for consideration and action no later than one hundred and eighty (180) days after the final public hearing.
3. Review other proposed land use ordinances and amendments thereto prepared by the director or the council and, after public hearings, transmit such ordinances with its findings and recommendations thereon to the council for consideration and action no later than one hundred and twenty (120) days after the final public hearing.
4. Act as the authority in all matters relating to the Coastal Zone Management law.
5. Adopt rules pursuant to land use ordinances or law.
6. Have such other powers and duties as may be provided by law.

Section 8-8(5). General Plan and Community Plans. [The General Plan shall recognize and state the major problems and opportunities concerning the needs and the development of the county and the social, economic and environmental effects of such development and shall set forth the desired sequence, patterns and characteristics of future development.]

1. The General Plan shall be developed after input from state and county agencies and the general public, and shall be based on sound policy and information.
2. The General Plan shall indicate desired population and physical development patterns for each island and region within the county; shall address the unique problems and needs of each island and region; shall explain the opportunities and the social, economic, and environmental consequences related to potential developments; and shall set forth the desired sequence, patterns, and characteristics of future developments. The General Plan shall identify objectives to be achieved, and priorities, policies, and implementing actions to be pursued with respect to population density, land use maps, land use regulations, transportation systems, public and community facility locations, water and sewage systems, visitor destinations, urban design, and other matters related to development.
3. There shall be a Citizen Advisory Committee for each community plan area. Each Citizen Advisory Committee shall consist of 13 members, with nine

appointed by the council and four appointed by the mayor. Each Citizen Advisory Committee is charged with reviewing and recommending revisions to the community plan for its community plan area. Each Citizen Advisory Committee shall remain in existence until its revisions are adopted, modified, or rejected by the council and until such action is approved, modified, or rejected by the mayor.

4. The community plans created and revised by the Citizen Advisory Committees shall set forth, in detail, land uses within the community plan regions of the county. The objectives of each community plan shall be to implement the policies of the General Plan. Each community plan shall include implementing actions that clearly identify priorities, timelines, estimated costs, and the county department accountable for the completion of the implementing actions.
5. The community plans generated through the Citizen Advisory Committees and accepted by the planning commission, council, and mayor shall be part of the General Plan.
6. The planning director shall issue a report annually providing a detailed explanation of the implementation and enforcement of the General Plan and the community plans.

Section 8-8(6). Adoption of General Plan and Other Land Use Ordinances.

1. The County shall adopt revisions to the General Plan by ordinances.
2. Any revisions of the General Plan, zoning ordinance or other land use ordinance may be proposed by the council and shall be reviewed by the appropriate planning commission as if prepared by the planning director. Any such revision shall be referred to the appropriate planning commission by resolution. If the planning commission disapproves the proposed revision or recommends a modification thereof, not accepted by the council, or fails to make its report within a period of the hundred twenty (120) days after receipt of the referral, the council may nevertheless pass such revision, but only by the affirmative vote of at least two thirds of the council's entire membership.
3. Revisions to the General Plan proposed by the planning director shall be reviewed and acted upon by the council no later than one (1) year after receipt of the transmittal from the planning director.
4. Revisions to zoning and land-use ordinances proposed by the planning director shall be reviewed and acted upon by the council no later than one hundred and eighty (180) after receipt of the transmittal from the planning director.

The Commission adopted these recommendations after considering the following arguments regarding them:

PROS:

- * These proposed changes will clarify the Department of Planning's responsibilities, particularly with regard to the central role of the General Plan in guiding the County's growth.
- * The importance of long-range planning and protection of cultural resources will be emphasized.
- * These changes will emphasize the necessity to enforce zoning ordinances.
- * These changes will strengthen the importance of the community plans generated by the Citizen Advisory Committees (CACs).
- * These changes will promote timely action regarding changes to the General Plan and other land use ordinances and amendments.

CONS:

- * These changes will impose greater workload responsibilities on the Department of Planning.
- * By requiring timely action on proposed amendments to the General Plan and on other land use ordinances and amendments, these changes may require that action be taken before full consideration of the changes has been completed.
- * By strengthening the importance of the community plans generated by the Citizen Advisory Committees, these changes may reduce the role of trained planners in the Department of Planning.

PROPOSAL EIGHT - PROVIDE DUE PROCESS PROTECTION IN THE EVENT OF THE TERMINATION OF THE DIRECTOR OF PERSONNEL SERVICES (Section 8-9(2))

The Commission recommends providing the Director of Personnel Services with the same due process protections, in the event of a termination, that are now provided to the Chief of Police in Section 8-12(3).

The specific language changes proposed are as follows:

Section 8-9(2). Director of Personnel Services. The director of personnel services shall be appointed and may be removed by the civil service commission. The director may be removed by the civil service commission only after being informed in writing of the charges that are resulting in his or her dismissal, and after being given a hearing before the commission. The director of personnel services shall be thoroughly familiar with the principles and methods of personnel administration and shall believe in applying merit principles and scientific administrative methods to public personnel administration.

The Commission makes this recommendation after considering the following arguments regarding this proposal:

PROS:

* This change would give the Director of Personnel Services the same protections in the event of termination that are currently provided to the Chief of Police, *i.e.*, written notice of the charges and a hearing before the commission, which in this case would be the Civil Service Commission. These same protections are also being proposed for the Fire Chief in Proposal Six.

CONS:

* This change would limit the flexibility of the Civil Service Commission somewhat.

PROPOSAL NINE - RESTRUCTURE THE DEPARTMENT AND BOARD OF WATER SUPPLY TO GIVE IT MORE AUTONOMY (Section 8-11(1))

The Commission recommends that the Charter provisions governing the Department and Board of Water Supply be restructured to give these bodies greater autonomy than they now have. These bodies are now "semi-autonomous," because the rules of the Board of Water Supply (including rules setting rates and fees) take effect 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. The Commission recommends that the Board of Water Supply become more autonomous, with the power to set rates, adopt regulations, and make

decisions regarding the development of water supplies, unreviewable by any other county authority. To ensure proper expertise and coordination with other County operations, the Director of the Department of Planning and the Director of the Department of Public Works and Waste Management (or the Department of Public Works and Environmental Management if Proposal Five is adopted) would be voting members of the nine-member Board. The Director of the Department of Water Supply would be evaluated annually by the Board, and the accounts, financial status, and management operation of the Department would be audited annually by an outside certified public accountant. The Board would be empowered to hire outside legal counsel when necessary. The Commission also recommends that the Board be authorized to coordinate private water systems to promote the public trust interests in water, while respecting private property rights.

The specific language changes proposed by the Commission are as follows:

CHAPTER 11 DEPARTMENT OF WATER SUPPLY

Section 8-11(1). Organization. There shall be a department of water supply consisting of a board of water supply, a director, a deputy director, and the necessary staff.

Section 8-11(2). Functions of the Department.

1. All water systems owned and operated by the county, including all county water rights and water sources, together with all materials, supplies and equipment and all real and personal property used in connection with such water systems shall be under the control of the department.

2. The department shall have full and complete authority to manage, control and operate water systems and properties used in connection with such water systems. The department shall also have authority to coordinate private water systems in order to promote the policies stated in the Hawai'i State Constitution and other applicable state laws, while also respecting existing private property rights.

3. The department shall implement the county's General Plan and community plans in the administration of its affairs. The department shall prepare a water use and development plan for each community plan district, which shall be consistent with land-use and zoning classifications, the county's general plan and community plans, and which shall include an inventory of existing water uses and sustainable yields, projected water demand, proposed public and private water system improvements and water source developments (along with

alternative options), storage, and costs. [There shall be]The department shall also prepare a long-range capital improvement plan [of the department which] designed to ensure proper maintenance of existing public water systems and to increase the publicly-owned and publicly-maintained water systems and infrastructure. The water use and development plans for each community plan district and capital improvement plans shall be completed by January 2, 2004, shall be subject to the approval of the county council, as provided by law, and shall be updated, as required by the board, at least every five (5) years.

4. The county council shall have the authority to issue general obligation bonds for the benefit of the department and may provide capital appropriations for the department.

Section 8-11(3). Board of Water Supply. The board of water supply shall consist of nine voting members, seven of whom [who] shall be appointed by the mayor with the approval of the council, one of whom shall be the director of the department of planning, and one of whom shall be the director of the department of public works. The appointed members shall serve for three year terms, and can be reappointed (subject to reconfirmation by the council).

Section 8-11(4). Powers, Duties, and Functions. The board of water supply shall:

1. Appoint, evaluate annually, and remove the director of the department of water supply.
2. Have the authority to create and abolish positions.
3. Adopt rules and regulations which shall have the force and effect of law relating to the management, control, operation, preservation and protection of the water works of the county, as well as the establishment and adjustment of rates and charges for furnishing water, [; such rules and regulations shall be adopted as provided under Section 8-11(8) below.]
4. Adopt an annual operating and capital budget.
5. Have the authority to issue revenue bonds under the name of the board of water supply.
6. Have the authority to acquire by eminent domain, purchase, lease or otherwise, and to sell, lease, or otherwise convey real property in the name of the board of water supply.
7. Perform such other duties and functions as shall be prescribed by law.

Section 8-11(5). Director of Water Supply. The director of the department of water shall be appointed and evaluated by the board of water supply, and may be removed by the board of water supply. The director shall have a minimum of three years of experience in an administrative capacity, either in public service or private business, or both. The director or [his] the deputy director shall be a registered engineer.

Section 8-11(6). Powers, Duties, and Functions. The director shall:

1. Recommend rules and regulations for adoption by the board.
2. Administer the affairs of the department, including the rules and regulations adopted by the board and be responsible for the day-to-day management and control of all water systems of the county.
3. Prepare and implement long range capital improvement plans, which have been

adopted by the board.

4. Appoint a deputy director.
5. Prepare an annual operating and capital budget for the board's review and action.
6. Coordinate the affairs of the department with the mayor and the county council and submit an annual report concerning the department to the mayor and the council.
7. Perform such other duties and functions as shall be prescribed by law.

Section 8-11(7). Revenues. The revenues of the department shall be kept in a separate fund and shall be such as to make the department self-supporting.

[Section 8-11(8). Approval of Rules. The adoption, amendment, and repeal of all rules adopted pursuant to Subsection 8-11(4)(3) shall require action by both the mayor and the council. The mayor shall either approve or disapprove and transmit the request to the council within fifteen (15) days of receipt. The request shall be deemed approved and transmitted to the council on the sixteenth day if the mayor takes no action.

[Within forty-five (45) days of receipt from the mayor, the council may confirm the mayor's action by majority vote or may override any action by the mayor by a two-thirds (2/3) vote of its entire membership. If the council takes no action within forty-five (45) days, the proposal shall be deemed approved.]

Section 8-11(8). Independent Audit and Council Oversight. The accounts, financial status, and management operation of the department shall be examined and audited annually by a certified public accountant whose services shall be contracted for by the council and whose fees shall be paid by the council. After the audit is prepared, its results shall be made public, and the council shall review it, make recommendations for any changes that may be appropriate, and, if necessary, enact legislation that may be appropriate in light of the audit.

Section 8-11(9). Legal Counsel. The corporation counsel of the county shall be the primary legal adviser of the department, but the board of water supply shall be empowered, by a two-thirds vote of its entire membership, to hire special counsel for any special matter presenting a real necessity for such employment, without regard to the requirements of section 3-6(6) of this charter. All legal services required by the department and the board shall be paid from the revenues of the department.

The Commission adopted this proposal after considering the following arguments on this issue:

PROS:

* This proposal is based somewhat on the model provided by the Board of Water Supply in the County of Honolulu, where the Board has greater autonomy and greater rate-setting authority. Under this model, the Department and the Board would operate as an autonomous business, and would be

expected to operate in a self-sufficient and self-sustaining fashion.

- * Having a more autonomous water board would promote greater continuity and thus permit more long-term planning.

- * Even though the Board of Water Supply will have more autonomy, the Planning Department will still review CIP projects to determine if they conform to the Community and General Plans.

CONS:

- * This proposal would reduce direct political accountability, and would not allow voters to affect water decisions directly through their votes for Mayor and Councilmembers.

- * The annual audit would be somewhat expensive.

PROPOSAL TEN - CREATE A NEW DEPARTMENT OF TRANSPORTATION (Section 8-14)

The Commission proposes to create a new Department of Transportation to address the serious transportation issues that are facing the County of Maui. During the past 30 years, the population of Maui County has tripled in size, but no major new roads have been built during that period. Residents and visitors now spend substantial amounts of time stuck in traffic, causing widespread dissatisfaction and inefficiencies.

This new Department, if adopted, would have responsibility for the planning of new highways, but the Public Works Department would continue to have responsibility for the building and maintaining of these roads. In addition to roads, this new Department will have responsibility for planning, developing, and regulating public transportation and for planning, developing, and regulating transportation by sea and air. This Department will coordinate closely with state and federal agencies, but would take initiatives specifically addressing Maui's needs to solve its traffic problems.

The specific language proposed to adopt this new Department is as follows:

CHAPTER 14
DEPARTMENT OF TRANSPORTATION

Section 8-14(1) Organization. There shall be a department of transportation consisting of a director and necessary staff.

Section 8-14(2). Director of Transportation. The director of transportation shall be appointed and may be removed by the mayor. The director of transportation shall have a minimum of five years of experience in an administrative capacity, either in public service or private business, or both.

Section 8-14(3). Powers, Duties, and Functions. The director of transportation shall:

1. Be the administrative head of the department of transportation.
2. Be responsible for the planning and implementation of all modes of transportation in Maui County, including those in the air and those on water and land.
3. Be responsible for planning and developing an efficient program to facilitate the rapid, safe, and economical movement of people and goods in Maui County.
4. Coordinate Maui County's transportation programs with other county departments and with agencies of the state and federal government.
5. Perform such other duties and functions as shall be assigned by the mayor.

The Commission adopted this proposal after considering the following arguments regarding this issue:

PROS:

* The Public Works Department currently has responsibility over highways, but the Charter makes no mention of public transportation; with the increasing need for the development of systems of public transportation, it is necessary to determine where responsibility for this development should lie; creating a new department will recognize the importance of addressing Maui's transportation problems immediately.

CONS:

* Transportation issues are now being addressed by the County Transportation Coordinator, who is administratively assigned to the Department of Management, and located within the Department of

Planning for purposes of coordinating with long-term planning. Some testifiers said it was premature to establish a separate Department of Transportation at this time.

* Responsibility for transportation could be assigned to the Department of Human Concerns or to the Planning Department.

PROPOSAL ELEVEN - STAGGER THE TERMS OF MEMBERS OF THE SALARY COMMISSION

(Section 8-16(1))

The Commission recommends amending the appointment process of the Salary Commission so that the nine members of this Commission will have staggered five-year terms, with two being appointed (with approval of the Council) every year (one in the fifth year), to provide greater continuity. The Salary Commission has substantially less responsibility than it used to have, because of recent state legislation requiring the Mayor to decide the salaries of appointed officials, and is now empowered only to determine the salaries of elected officials. The Commission nonetheless proposes that the Salary Commission make recommendations to the Mayor regarding the salaries of appointed officials, in order to have a citizen-based body participating in that decision.

The specific language changes being proposed are as follows:

CHAPTER 16 SALARY COMMISSION

Section 8-16(1). Organization and Functions. There shall be a salary commission, which shall consist of nine members appointed by the mayor with the approval of the council. [The term of office of the salary commission members shall end with the term of office of the mayor.] The members of this commission shall have five-year terms, and can be reappointed once to a second five-year term. Two members shall be appointed or reappointed each year, except that only one member shall be appointed or reappointed every fifth year. The commission shall determine the compensation of elected officials and make recommendations to the mayor for the compensation of appointed directors and deputy directors of all departments of the county provided, however, in [establishing] evaluating the compensation of appointed department heads and their deputies, the salary commission shall consult with those boards and commissions which have appointing

authority for department heads.

The Commission adopted this recommendation after considering the following arguments regarding this proposal:

PROS:

- * This change is designed to provide greater continuity to the Salary Commission, which currently has an entirely new composition after each mayoral election.

- * The changes make the Charter consistent with state law.

CONS:

- * This change will reduce the authority of an incoming Mayor, who, at present, has the power to name all the members of the Salary Commission.

PROPOSAL TWELVE - COMMIT THE COUNTY TO A PLAN OF OPEN-SPACE ACQUISITION (Article 9 & Section 8-6)

The Commission recommends that Maui County commit to a program of acquiring more land for open space, by adding language to the Charter that would annually set aside a minimum of one percent (1%) of the certified real property tax revenues to establish a fund to purchase and conserve lands that are valuable to the public and visitors as parks, recreation areas, open space, view corridors, natural resources, and wildlife habitats, including beaches, coastal areas, forests, watersheds, and cultural and historic sites, with the requirement that the remaining balance in the fund at the end of each fiscal year will not lapse, but will remain in the fund, accumulating from year to year.

The specific language proposed by the Commission is as follows:

Section 9-19. Open Space, Natural Resources, Cultural Resources, and Scenic Views Preservation Fund.

1. In adopting each fiscal year's budget and capital program, the council shall appropriate a minimum of one percent (1%) of the certified real property tax revenues to a fund known as the open space, natural resources, cultural resources, and scenic views preservation fund. The revenues in this fund shall be utilized for purchasing or otherwise acquiring lands or property entitlements for land conservation purposes in the county of Maui for the following purposes: public outdoor recreation and education; preservation of historic or culturally important land areas; protection of significant habitat or ecosystems, including buffer zones; preserving forests, beaches, coastal areas and agricultural lands; protecting watershed lands to preserve water quality; conserving land for the purpose of reducing erosion, floods, landslides, and runoff; and improving disabled and public access to, and enjoyment of, public land, open space, and recreational facilities.

2. Any balance remaining in this fund at the end of the fiscal year shall not lapse, but shall remain in the fund, accumulating from year to year. The revenues in this fund shall not be used for any purpose except those listed in paragraph 1 of this section.

3. The council shall by ordinance establish procedures for the administration and expenditure of the revenues in this fund. The appropriations to this fund shall not substitute, but shall be in addition to, those appropriations historically made.

Section 9-11. Lapse of Appropriations. Every appropriation, except an appropriation for a capital improvement or for the open space fund established in Section 9-19, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered by as written contract. An appropriation for a capital improvement shall continue in force until the purpose for which it was made has been accomplished or abandoned. The purpose of any such appropriation for a capital improvement shall be deemed abandoned six months after the close of the fiscal year to the extent that it has not been expended or encumbered by a written contract.

The Commission adopted this recommendation after considering the following arguments regarding the creation of this Open Space Fund:

PROS:

* This proposal will commit the County to a program of open-space acquisition, but will give the Mayor and Council flexibility to determine the actual budgetary amounts that should be committed to this program.

* By establishing a fund that will retain and accumulate unspent moneys from year to year, the

County will maintain a growing resource to utilize in purchasing land for open space as such land becomes available. Because the County will not always have to purchase property through condemnation, it will be able to buy properties before prices are inflated.

- * Having an established fund would allow bonds to be floated to increase the amount of land that can be purchased.

CONS:

- * This proposal will require the County to acquire additional land for open space rather than utilizing other strategies, such as zoning of privately-owned land, to maintain open space.

- * This proposal will require the appropriation of one percent of certified real property tax revenues regardless of changing economic or fiscal conditions and, to that extent, may reduce the Council's ability to adjust budgets accordingly.

PROPOSAL THIRTEEN - AMEND THE ETHICAL STANDARDS GOVERNING DECISION MAKING ON BOARDS AND COMMISSIONS (Section 10-4(1)(f))

The Commission proposes amending Section 10-4(1)(f) to allow greater opportunities for residents of the smaller islands and communities in Maui County to participate in decision-making on boards and commissions. The amendment redefines and modifies those circumstances when a county officer or employee may be disqualified from voting. This proposed change will allow a member of a board or commission to vote on matters affecting the member's employer unless the member serves in a management position for the employer. This provision is designed in particular to allow greater participation on boards and commissions in Lana'i and other similar small communities. The Commission understands the word "management" to refer to a person who has the ability to hire, fire and impose disciplinary sanctions, and who would be vulnerable to pressure from the employer without

protection from such pressure from a union contract, and understands that this term would not cover, for instance, the lead worker on a ground crew.

The specific language change proposed is as follows:

Section 10-4. Prohibitions.

1. No officer or employee of the county shall:

.....

f. Fail to disclose a financial interest in any matter which may be affected by an action of a county agency or vote [on any matter affected by such interest] or take any official action on any matter affecting a business or undertaking in which such officer or employee is (i) employed or engaged in a management or representative capacity by the business or undertaking; or (ii) has a "controlling interest," an interest that is sufficient to control, whether the interest be greater or less than 50%, of the business or undertaking; or (iii) in which such vote or official action would, based on the belief of such officer or employee, tend to create a conflict with the public interest. For the purpose of this section, the terms "financial interest" and "official action" shall have the meaning assigned in the State of Hawai'i Standards of Conduct, H.R.S. 84-3, or its successor statute.

This proposal was adopted after considering the following arguments:

PROS:

* The current language restricts the majority of residents of Lāna'i from participating in decision-making on boards and commissions, thus reducing citizen participation.

CONS:

* This change may subject some employees to pressure from their employers.

PROPOSAL FOURTEEN - PROVIDE GREATER NOTICE OF MEETINGS (Section 13-2(11))

The Commission recommends amending Section 13-2(11) to require that notices of public hearings be conveyed through the best available means to reach the public, including the most accessible technology. This proposal is written in flexible language, to allow county officials to determine the most appropriate methods for reaching the public. In Lāna'i and Moloka'i, for instance, local island

newspapers can be used for public notices, along with county office bulletin boards and internet websites. Email messages could be sent to all those requesting such notification. Minimum notice requirements are set by State law (H.R.S. Chapter 92) and cannot be reduced by counties, but they can be expanded.

The specific language changes recommended are as follows:

Section 13-2. Boards and Commissions.

.....

11. All boards and commissions shall hold public hearings whenever required or deemed necessary and shall provide due notice to the public by publication in a newspaper of general circulation in the county and also through other means designed to reach the public including the most accessible technology.

This recommendation was adopted after considering the following competing arguments:

PROS:

* This proposed change is designed to make it easier for citizens to learn about forthcoming public hearings held by boards and commissions, but would be phrased in flexible language to allow methods of notice to evolve along with changing technology.

CONS:

* Providing notice a certain number of days in advance of a meeting limits the flexibility of the board and commission.

PROPOSAL FIFTEEN - ALLOW BOARDS AND COMMISSIONS TO MEET IN ACCESSIBLE PRIVATELY-OWNED LOCATIONS (Section 13-9(2))

The Commission proposes amending Section 13-9(2) requiring meetings of boards and commissions to be held "in the county building or other publicly owned place" to read "in the county building or in facilities that are accessible to the public." This provision is designed to give boards and commissions greater flexibility in scheduling meetings, in light of the limited number of publicly-owned

buildings and the increase in the number of public meetings. The Commission recommends that meetings be held in publicly owned buildings whenever possible because of the appearance of neutrality and inclusiveness that flows from such locations, but recognizes that some flexibility is needed on occasion and recommends this amendment to permit meetings to be held in other publicly-accessible venues when necessary in light of the nature of the meeting or the crowded schedule of public meetings. The proposed terminology will allow meetings to be held in privately-owned facilities, but is designed to limit meetings to locations that meet the requirements of the Americans with Disabilities Act.

The specific language proposed is as follows:

Section 13-9. Records and Meetings Open to Public

.....

2. All meetings of boards and commissions shall be held in the county building or other publicly owned place. In the event that a publicly-owned building is not available or appropriate for the meeting, the meeting can be held in another facility that is accessible to the public.

The Commission adopted this recommendation after considering the following competing perspectives:

PROS:

* The present language restricts the locations that boards and commissions can use, sometimes preventing them from meeting when they need to. The proposed change will allow such bodies to use the many privately-owned facilities that can accommodate public events.

CONS:

* This change will lead to meetings being held in more diverse locations.

* Public meetings held in private facilities may lead to perception of favoritism associated with the private facility.

PROPOSAL SIXTEEN - TRANSITIONAL CHANGES

The Commission proposes eliminating the outmoded transitional provisions in Article 15 drafted by previous Charter Commissions and including three new transitional provisions to address issues raised by the proposed amendments:

ARTICLE 15 TRANSITIONAL PROVISIONS

[Section 15-1. Schedule. After the approval of this charter by the voters, this charter shall take full effect on January 1, 1983, except that the election of the council in 1982 shall be in accordance with the then existing provisions of the charter of the County of Maui. Thereafter, the mayor and the members of the county council shall be elected in accordance with the provisions of this revised charter, and will assume their duties according to this revised charter both as to their terms of office and powers thereunder.]

[Section 15-2. Existing Laws and Conflicting Laws. All laws, ordinances, resolutions, and rules in force at the time this charter takes full effect, and not in conflict or inconsistent with this charter, are hereby continued in force until repealed, amended or superseded by proper authority. All laws which are inconsistent with this charter shall be superseded by the provisions of this charter at its effective date. All laws relating to or affecting this county or its departments, officials or employees, and all county ordinances, resolutions, orders and regulations which are in force when this charter takes full effect, are repealed to the extent that they are inconsistent with or interfere with the effective operation of this charter or of ordinances or resolutions adopted by the county council under the provisions of this charter.]

[Section 15-3. Status of Departments and Transfer of Functions. When this charter takes full effect all departments, the status of which are not specifically changed or abolished by this charter, are hereby recognized, continued and established and shall have such powers, duties and functions as provided by this charter.]

[Section 15-4. Transfer of Records and Property. All records, property and equipment whatsoever of any department which are assigned to another department by this charter, shall be transferred and delivered to the department to which said functions are so assigned.]

[Section 15-5. Lawful Obligations of the County. All lawful obligations of the county and its departments existing on the effective date of this charter, and all fines, taxes, penalties, forfeitures, obligations and rights due, owing or accruing to the county and its departments, and all writs, prosecutions, actions and proceedings by or against the county and its departments shall remain unaffected by the adoption of this charter.]

Section 15-1. Council Elections. In the 2004 election for members of the county council, the five elected council members who will have received the largest number of votes will have four year terms of office, and the remaining four elected council members will have two year terms of office. Thereafter, all councilmembers will serve for four year terms. If one of the five elected council members receiving the largest numbers of votes in the 2004 election would exceed the 12 consecutive years in office limitation by serving for four years, that member will be given a two year term, and the elected council member with the next largest number of votes will be given a four year term.

Section 15-2. Transition Provisions Concerning Fire and Public Safety Commission.

1. Upon adoption of the proposed 2002 amendments to article 8, chapter 7, the fire chief serving on January 1, 2003 shall continue serving as interim fire chief until the appointment or reappointment of a chief by the fire and public safety commission. Should the office of fire chief become vacant before appointment of a fire and public safety commission, the mayor may appoint an interim fire chief, or, in the absence of such an appointment, deputy fire chief shall serve as interim fire chief.

2. Upon adoption of the proposed 2002 amendments to Article 8, Chapter 7, the current members of the Public Safety Commission shall continue to serve on the new Fire and Public Safety Commission until the end of their term of appointment.

Section 15-3. Salary Commission. Upon adoption of the proposed 2002 amendment to Section 8-16.1, the current members of the salary commission shall determine by lot the lengths of their terms to facilitate the appointment or reappointment pursuant to the annual sequence adopted in the 2002 amendment beginning in 2003.

PROPOSAL SEVENTEEN - HOUSEKEEPING CHANGES

The Commission proposes a series of language changes designed to clean up the Charter, eliminate sections that have no further purpose or are inconsistent with other sections, and conform the language to current usage. None of these proposed changes are designed to have any substantive impact on the governance of Maui County or the rights of any individuals, but they are designed to give the Charter consistency, clarity, and conformity to modern usage.

A. UTILIZE GENDER-NEUTRAL LANGUAGE THROUGHOUT THE CHARTER.

The Commission proposes revising all language that is not gender-neutral and substituting for such language words that are gender neutral. Under this proposal "chairman" and "vice-chairman" in Sections 3-5(1), 3-5(2), 9-13, 9-18(3), and 13-2(9) will become "chair" and "vice-chair"; "he" in Sections 4-

3(1), and 4-3(2) will become "the mayor; "he" in Sections 10-2(5) and 10-4(1)(b) will become "the officer or employee"; "he" in Section 12-5(2) will become "the clerk"; "he" in Section 12-9 will become "the officer"; "his" in Sections 3-8(1) and 4-3(1) will become "the mayor's," "his" in Section 3-8(2) will become "the councilmember's," "his" in Section 8-4(3)(1) will become "the director's," "his" in Section 8-15(1) will become "the administrator's," "his" in Section 8-7(4)(2) will become "the chief's" (if Proposal Six is not adopted), "his deputy" in Section 8-11.5 will become "deputy director" (if Proposal Nine is not adopted), "his" in Sections 8-12.2(3) and 8-12(3) will become "the chief's," "his" in Section 8-15(1) will become "the administrator's," "his" in Sections 10-4(1)(a), 10-4(1)(b), and 10-4(1)(c) will become "the officer or employee's," "his" in Section 12-3(4)(b) will become "the circulator's," "his" in Sections 5-3(2), 11-4(2), 11-5(3), 12-4(2), and 12-5(2), will become "the clerk's," "his" in Section 12-8 will become "that person's," "his" in Sections 14-1(2) and 14-1(3) will become "the"; "of him" in Section 8-1(3)(f) will be eliminated, "him" in Section 10-4(1)(a) will be replaced with "the officer or employee"; and "governs himself" in Section 10-3(5) will be replaced with "acts." In addition, this proposal would eliminate as unnecessary the second sentence in 13-15 "When any personal pronoun appears in this charter, it shall be construed to mean either sex."

These proposed changes will emphasize the inclusive nature of the Maui County Government and confirm the commitment of Maui County to recognizing the equal worth of every individual. Previous Charter Commissions have sought to remove gender-specific language, but a few gender-specific terms can still be found in the Charter. These changes will make the Charter consistent with other governing documents, including the Hawai'i State Constitution and the Hawai'i Revised Statutes.

B. UTILIZE HAWAIIAN LANGUAGE SPELLING FOR HAWAIIAN PLACE NAMES

The Commission proposes that the language referring to geographical boundaries of geographical areas for Council seats in Section 3-1 and the references to Hawai'i, Lāna'i, Kaho'olawe, and

Moloka'i, in other parts of the Charter utilize the diacritical marks in Hawaiian place names to honor the Hawaiian language and conform to current usage.

C. REDESCRIBE THE COUNCIL RESIDENCY AREAS IN GEOGRAPHICAL TERMS (Section 3-

1)

Section 3-1 currently describes the seven Council residency areas on the island of Maui in terms of election precincts, which change every ten years, requiring changes in the Charter language. In order to avoid having to make these regular changes, the Commission proposes that the residency areas be redescribed in geographical terms (see Attachment; Exhibit A).

D. ELIMINATE REFERENCES TO POLITICAL PARTIES TO FILL COUNCIL VACANCIES.

The Commission recommends eliminating the specific references to political parties in Sections 3-4(1) regarding the filling of vacancies for Council seats, because the elections for the Council are now nonpartisan in nature after the 1998 amendments (see Sections 3-2 and 7-2). (The Commission does not recommend a change in the language of Section 13-2(2) requiring membership on boards and commissions to be balanced between the political parties, because it remains important to have diversity and balance on these bodies, and because state and federal elections still recognize political affiliation.)

E. CHANGE "CRIME OF MORAL TURPITUDE" TO "FELONY" IN SECTION 7-3 INVOLVING DISQUALIFICATION OF THE MAYOR.

The Commission recommends that the phrase "crime of moral turpitude" be changed to "felony" in Section 7-3 in the sentence specifying when a Mayor forfeits office. This change is designed to make the terminology in Section 7-3 concerning the disqualification of the Mayor (which says termination of office occurs when the Mayor "is adjudicated guilty of a crime involving moral turpitude") consistent with that of Section 3-3, which concerns disqualification of councilmembers.(which says termination occurs when "a council member is adjudicated guilty of a felony"). Because "felony" is a more precise

term than "crime of moral turpitude," this terminology is preferable.

F. CLARIFY RESTRICTIONS ON COUNTY EMPLOYEES APPEARING BEFORE BOARDS AND COMMISSIONS.

The Commission recommends eliminating Section 10-4(1)(d) which prohibits County officers and employees from representing private interests before boards and commissions. This change is recommended to correct an inconsistency in the present Charter. In 1992, Section 10-4(4) was added to the Charter to explain in detail when County officers and employees could represent private interests before boards and commissions. When this section was added, the Charter Commission wanted to eliminate the more general language in Section 10-4(1)(d), but this change was inadvertently not made. Because the sections are inconsistent, it is appropriate to eliminate the earlier general provision and retain the later more specific provision.

G. ELIMINATE OBSOLETE SECTIONS.

The Commission recommends eliminating Section 14-4, which required special charter commissions to be established in 1983 and 1987, and the language now found in Article 15, which contains transitional provisions that are no longer relevant or applicable. Section 14-4 required special charter commissions to be established in 1983 and 1987 to study specific sections of the Charter. These commissions met and completed their work long ago, so it is not necessary to keep this section in the Charter. Article 15 governed the transition from the earlier governing document to the Charter that took effect in 1983, and no longer has any further relevance.

H. RENUMBER SECTIONS 8-14, 8-15, AND 8-16.

Proposal 10 creating a new Department of Transportation, if adopted, logically should be put at Section 8-14, after the other County departments and before the three commissions. The numbering of the sections governing the three commissions should then be changed as follows:

CHAPTER [14] 15
COST OF GOVERNMENT COMMISSION

Section 8-[14]15(1). Declaration of Policy. It is declared to be the policy of the county to promote economy, efficiency and improved service in the transaction of the public business in the legislative and executive branches of county by:

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

Section 8-[14]15(2). Cost of Government Commission. For the purpose of carrying out the policy set forth herein the mayor with the approval of the council shall biennially appoint a cost of government commission consisting of nine members.

Each such commission shall:

1. Prepare and submit to the mayor a request for an appropriation for the operation of the commission.
2. Study and investigate the organizations and methods of operations of all departments, commissions, boards, offices and other instrumentality of all branches of the county government and determine what changes, if any, may be desirable to accomplish the policy set forth herein.
3. Be authorized to secure directly from any department, commission, board, office, or any other instrumentalities of all branches of the county government or from any individual officer or employee of the county, information, suggestions, estimates, and statistics necessary to carry out its duties.
4. Submit a report of its findings and recommendations to the mayor and council not later than eleven months after its appointment. (Amended 1988).

Section 8-[14]15(3). Term of Commission. Members of the Cost of Government Commission shall serve for staggered terms of two years, with an initial appointment of four members to serve two year terms and five members to serve one year terms. A member may be reappointed, but shall not serve on the Commission for more than a total of four years.

CHAPTER [15]16
CIVIL DEFENSE AGENCY

Section 8-[15]16(1). Organization and Functions. There shall be a civil defense agency whose powers, duties, functions and organization shall be as provided by law. The fire and public safety commission, as established in Section 8-7([4]2) herein, shall review the operations of the agency and make recommendations for changes which may be desirable to improve the performance of emergency functions and the provision of public safety services. The commission shall receive and investigate any complaints brought forth by the public against the conduct of the agency or any of its members and submit a written report of its findings and recommendations to the civil defense administrator for his disposition.

CHAPTER [16]17
SALARY COMMISSION

Section 8-[16]17(1). Organization and Functions. There shall be a salary commission which shall consist of nine members appointed by the mayor with the approval of the council. The term of office of the salary commission members shall end with the term of office of the mayor. The commission shall determine the compensation of elected officials and appointed directors and deputy directors of all departments of the county provided, however, in establishing the compensation of appointed department heads and their deputies, the salary commission shall consult with those boards and commissions which have appointing authority for department heads.

COMMISSION POLICY RECOMMENDATIONS

In addition to the proposed Charter revisions explained above, the Commission members, based on their year-long study of Maui's governance, makes the following policy recommendations to the Mayor, the Council, and the other governmental bodies of Maui County:

* The Mayor should appoint and utilize a geographically-diverse nominating committee to generate names of individuals for appointment to County boards and commissions.

* The provisions of the Charter should be followed and enforced more vigorously than they have been in the past. The Commission members urge all County officials to pay particular attention to Sections 10-5 and 13-10 of the Charter, and urges the Council to enact the ordinances called for in those

provisions..

- * The council and administration should review the non-charter boards and commissions and consider consolidating them and combining their responsibilities.

- * When available, addresses as well as TMK references should be included in public notices.

- * The Council should continue to review and revise the planning process through ordinance to ensure and facilitate community participation. All county bodies should fulfill their responsibilities regarding the planning process in a timely fashion.

EXHIBIT A

COUNCIL RESIDENCY DISTRICTS

EAST MAUI

Beginning at shoreline and Kakipi Gulch
Proceed to Kepuni Gulch
North along Kepuni Gulch to Kahikinui Forest Reserve boundary
Easterly along Kahikinui Forest Reserve boundary to Haleakalā National Park boundary
Northwest, west, northerly, then southeast along Haleakalā National Park boundary to Waikamoi Stream
North along Waikamoi Stream and continuing due west to Ka'ili'ili Road
West on Ka'ili'ili Road to Opana Gulch
North along Opana Gulch to jeep trail
Easterly on jeep trail to Pālama Gulch then northeasterly to Halehaku Gulch
North along Halehaku gulch to Kakipi Gulch
North along Kakipi gulch to point of beginning

MAKAWAO-HA'IKU-PĀ'IA

Beginning at shoreline and Kanahā Beach Park boundary
Proceed east along shoreline to Kakipi Gulch
South along Kakipi Gulch to Halehaku Gulch
South along Halehaku Gulch to Pālama Gulch
Southeast along Pālama Gulch to unnamed jeep trail
Northwest, then southwest along jeep trail to Opana Gulch
South along Opana Gulch to Ka'ili'ili Road
East on Ka'ili'ili Road to Waikamoi Stream
South along Waikamoi Stream to Haleakalā National Park boundary
Northwest, then southwest along Haleakalā National Park boundary to Kailua Gulch
Northwest along Kailua Gulch to Lowrie Ditch
Southwest along Lowrie Ditch to Haleakalā Highway
Northwest along Haleakalā Highway to Kalialinui Gulch
Northwest along Kalialinui Gulch to 'Āmala Place
Northwest along Kanahā Beach Park boundary to point of beginning

KAHULUI

Beginning at shoreline and Kanaloa Avenue extension
Proceed east along shoreline to Kanahā Beach Park boundary
Southeast along Kanahā Beach Park boundary to Kalialinui Gulch
Southeast along Kalialinui Gulch to Haleakalā Highway
Southeast on Haleakalā Highway to Lowrie Ditch
Southwest along Lowrie Ditch to Spanish Road
West, then northwest on Spanish Road to East Waikō Road
West on East Waikō Road to Wai'ale Road
North on Wai'ale Road to Wai'inu Road
East on Wai'inu Road to Pu'umele Street
North on Pu'umele Street to Mahalani Street
East, then north on Mahalani Street to Ka'ahumanu Avenue
East on Ka'ahumanu Avenue to Kahului Beach Road
Northwest on Kahului Beach Road to Kanaloa Avenue extension
Northeast on Kanaloa Avenue extension to point of beginning

WAILUKU-WAIHE'E-WAIKAPU

Beginning at shoreline and Lahaina-Wailuku District boundary
Proceed southeast along shoreline to Kanaloa Avenue extension
Southwest on Kanaloa Avenue extension to Kahului Beach Road
Southeast on Kahului Beach Road to Ka'ahumanu Avenue
West on Ka'ahumanu Avenue to Mahalani Street
Southwest on Mahalani Street to Pu'umele Street
Southwest on Pu'umele Street to Wai'inu Road
West on Wai'inu Road to Waiale Road
South on Wai'ale Road to East Waikō Road
East on East Waikō Road to Kū'ihēlani Highway
Southwest on Kū'ihēlani Highway to Honoapi'ilani Highway
South on Honoapi'ilani Highway to Pohākea Gulch
West, then northwest along Pohākea Gulch to point of beginning

WEST MAUI

Beginning at shoreline and Lahaina-Wailuku District boundary at Po'elua Bay
Proceed south along boundary to shoreline (Manawainui Gulch)
Northwest, north, then northeast along shoreline to point of beginning (includes the islands of Molokini and Kaho'olawe)

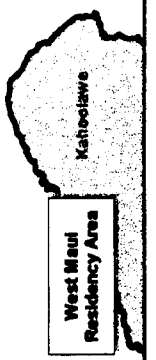
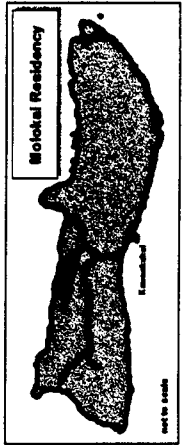
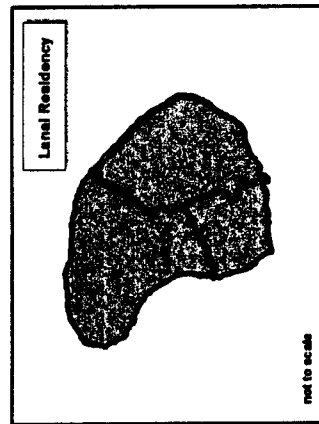
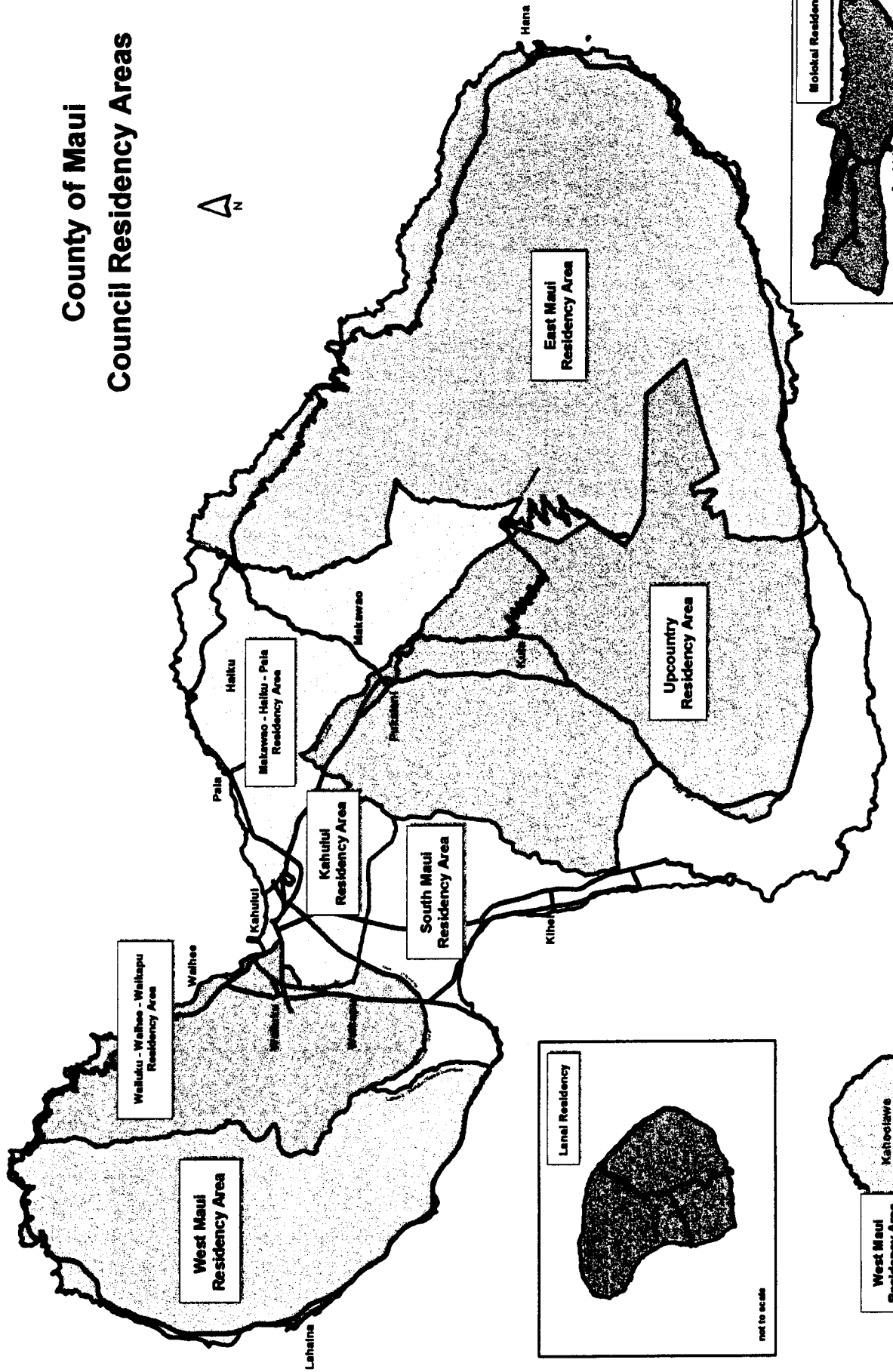
SOUTH MAUI

Beginning at Lahaina-Wailuku District boundary and Pohākea Gulch
Proceed southeast, then east along Pohākea Gulch to Honoapi'ilani Highway
North on Honoapi'ilani Highway to Ku'ihelani Highway
Northeast on Ku'ihelani Highway to East Waikō Road
East on East Waikō Road to Spanish Road
Southeast, then east on Spanish Road to Lowrie Ditch
South along Lowrie Ditch to Pūlehu Gulch
Southeast along Pūlehu Gulch to Waiakoa Road
South on Waiakoa Road to Kihei CDP boundary
South along Kihei CDP boundary to unnamed road
Southwest, then south on unnamed road to unnamed stream (west of Keonekai Road)
East on unnamed stream to Kula Highway
Southwest on Kula Highway to jeep trail (abutting Tiger 2000 line 85098642)
West, then south on jeep trail to Kanaio-Kalama Park Road ('Ulupalakua Road)
Southeast along Kanaio-Kalama Park Road to Pi'ilani Highway
Southeast, then east on Pi'ilani Highway to Kepuni Gulch
Southeast along Kepuni Gulch to shoreline
Southwest, west, north, northwest, southwest then northwest along shoreline to Lahaina-Wailuku District boundary (Manawainui Gulch)
North along boundary to point of beginning

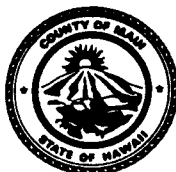
UPCOUNTRY

Beginning at Lowrie Ditch and Kailua Gulch
Proceed southeast along Kailua Gulch to Haleakalā National Park boundary
Southwest, southeast, east, then southwest along Haleakalā National Park boundary to Kahikinui Forest Reserve boundary
Southwest along Kahikinui Forest Reserve boundary to Kepuni Gulch
South along Kepuni Gulch to Pi'ilani Highway
West on Pi'ilani Highway to Kanaio-Kalama Park Road ('Ulupalakua Road)
Northwest along Kanaio-Kalama Park Road to jeep trail
Northeast on jeep trail to Kula Highway (abutting Tiger 2000 line 85098642)
Northeast along Kula Highway to unnamed stream
Northwest, then west along unnamed stream to unnamed jeep trail
North on unnamed jeep trail to unnamed road
North on unnamed road to Kihei CDP boundary
North on Kihei CDP boundary to Waiakoa Road
North on Waiakoa Road to Pūlehu Gulch
Northwest along Pūlehu Gulch to Lowrie Ditch
North, then northeast along Lowrie Ditch to point of beginning

County of Maui Council Residency Areas



ROY T. HIRAGA
County Clerk



DIANE A. WAKAMATSU
Deputy County Clerk

OFFICE OF THE COUNTY CLERK

COUNTY OF MAUI
200 SOUTH HIGH STREET
WAILUKU, HAWAII 96793

April 16, 2002

MEMO TO: Teryl Venci, Chair
Maui County Charter Commission

F R O M: Roy T. Hiraga, County Clerk 

SUBJECT: **PROPOSED CHARTER AMENDMENTS**

Pursuant to the request of the Charter Commission, please find a copy of the narrative description of the Council residency districts that may be used to "describe" the areas currently provided for in the Charter of the County of Maui (1983). Please note that our Office has worked with Mr. Medeiros and Mr. Irwin from the Department of the Managing Director to develop the proposed description of the various districts using natural features, roadways and other landmarks.

As it is currently drafted, the proposal may eliminate the necessity of revising the verbiage when the State conducts its next reapportionment activity ten years hence.

Thank you for your consideration of this matter and please feel free to contact me should you have any questions.

cc: Patrick S. Kawano, Council Chair
James Takayesu, Corporation Counsel
Grant Chun, Managing Director
Bill Medeiros, GIS Division, Department of Management

attachment

Occ: Elec: Correspondence: council districts01

COUNCIL RESIDENCY DISTRICTS

EAST MAUI

Beginning at shoreline and Kakipi Gulch
proceed to Kepuni Gulch
north along Kepuni Gulch to Kahikinui Forest Reserve boundary
easterly along Kahikinui Forest Reserve boundary to Haleakala National Park boundary
northwest, west, northerly, then southeast along Haleakala National Park boundary to
Waikamoi Stream
north along Waikamoi Stream and continuing due west to Kailili Road
west on Kailili Road to Opana Gulch
north along Opana Gulch to jeep trail
easterly on jeep trail to Palama Gulch then northeasterly to Halehaku Gulch
north along Halehaku gulch to Kakipi Gulch
north along Kakipi gulch to point of beginning

MAKAWAO-HAIKU-PAIA

Beginning at shoreline and Kanaha Beach Park boundary
proceed east along shoreline to Kakipi Gulch
south along Kakipi Gulch to Halehaku Gulch
south along Halehaku Gulch to Palama Gulch
southeast along Palama Gulch to unnamed jeep trail
northwest, then southwest along jeep trail to Opana Gulch
south along Opana Gulch to Kailili Road
east on Kailili Road to Waikamoi Stream
south along Waikamoi Stream to Haleakala National Park boundary
northwest, then southwest along Haleakala National Park boundary to Kailua Gulch
northwest along Kailua Gulch to Lowrie Ditch
southwest along Lowrie Ditch to Haleakala Highway
northwest along Haleakala Highway to Kalialinui Gulch
northwest along Kalialinui Gulch to Amala Place
northwest along Kanaha Beach Park boundary to point of beginning

KAHULUI

Beginning at shoreline and Kanaloa Avenue extension
proceed east along shoreline to Kanaha Beach Park boundary
southeast along Kanaha Beach Park boundary to Kalialinui Gulch
southeast along Kalialinui Gulch to Haleakala Highway
southeast on Haleakala Highway to Lowrie Ditch
southwest along Lowrie Ditch to Spanish Road
west, then northwest on Spanish Road to East Waiko Road
west on East Waiko Road to Waiale Road
north on Waiale Road to Waiinu Road
east on Waiinu Road to Puumele Street
north on Puumele Street to Mahalani Street
east, then north on Mahalani Street to Kaahumanu Avenue
east on Kaahumanu Avenue to Kahului Beach Road
northwest on Kahului Beach Road to Kanaloa Avenue extension
northeast on Kanaloa Avenue extension to point of beginning

WAILUKU-WAIHEE-WAIKAPU

Beginning at shoreline and Lahaina-Wailuku District boundary
proceed southeast along shoreline to Kanaloa Avenue extension
southwest on Kanaloa Avenue extension to Kahului Beach Road
southeast on Kahului Beach Road to Kaahumanu Avenue
west on Kaahumanu Avenue to Mahalani Street
southwest on Mahalani Street to Puumele Street
southwest on Puumele Street to Waiinu Road
west on Waiinu Road to Waiale Road
south on Waiale Road to East Waiko Road
east on East Waiko Road to Kuihelani Highway
southwest on Kuihelani Highway to Honoapiilani Highway
south on Honoapiilani Highway to Pohakea Gulch
west, then northwest along Pohakea Gulch to point of beginning

WEST MAUI

Beginning at shoreline and Lahaina-Wailuku District boundary at Poelua Bay
proceed south along boundary to shoreline (Manawainui Gulch)
northwest, north, then northeast along shoreline to point of beginning
(Includes the islands of Molokini and Kahoolawe)

SOUTH MAUI

Beginning at Lahaina-Wailuku District boundary and Pohakea Gulch
proceed southeast, then east along Pohakea Gulch to Honoapiilani Highway
north on Honoapiilani Highway to Kuihelani Highway
northeast on Kuihelani Highway to East Waiko Road
east on East Waiko Road to Spanish Road
southeast, then east on Spanish Road to Lowrie Ditch
south along Lowrie Ditch to Pulehu Gulch
southeast along Pulehu Gulch to Waiakoa Road
south on Waiakoa Road to Kihei CDP boundary
south along Kihei CDP boundary to unnamed road
southwest, then south on unnamed road to unnamed stream (west of Keonekai Road)
east on unnamed stream to Kula Highway
southwest on Kula Highway to jeep trail (abutting Tiger 2000 line 85098642)
west, then south on jeep trail to Kanaio-Kalama Park Road (Ulupalakua Road)
southeast along Kanaio-Kalama Park Road to Piilani Highway
southeast, then east on Piilani Highway to Kepuni Gulch
southeast along Kepuni Gulch to shoreline
southwest, west, north, northwest, southwest then northwest along shoreline to Lahaina-
Wailuku District boundary (Manawainui Gulch)
north along boundary to point of beginning

UPCOUNTRY

Beginning at Lowrie Ditch and Kailua Gulch
proceed southeast along Kailua Gulch to Haleakala National Park boundary
southwest, southeast, east, then southwest along Haleakala National Park boundary to
Kahikinui Forest Reserve boundary
southwest along Kahikinui Forest Reserve boundary to Kepuni Gulch
south along Kepuni Gulch to Piilani Highway
west on Piilani Highway to Kanaio-Kalama Park Road (Ulupalakua Road)
northwest along Kanaio-Kalama Park Road to jeep trail
northeast on jeep trail to Kula Highway (abutting Tiger 2000 line 85098642)
northeast along Kula Highway to unnamed stream
northwest, then west along unnamed stream to unnamed jeep trail
north on unnamed jeep trail to unnamed road
north on unnamed road to Kihei CDP boundary
north on Kihei CDP boundary to Waiakoa Road
north on Waiakoa Road to Pulehu Gulch
northwest along Pulehu Gulch to Lowrie Ditch
north, then northeast along Lowrie Ditch to point of beginning

Occ:Elec:Correspondence:council districts02

ALOHA FLOOR & WINDOW COVERING INC.

270 LALO ST. SUITE 102 KAHULUI, HI 96732

TELEPHONE: (808) 877-6173

CELL: (808) 870-3628

FAX: (808) 877-8784

LIC. #C-21512

April 11, 2002

Dear Members of the Charter Commission:

My name is Malia Gouveia and I am a resident of Maui County, and writing to inform you as to my concerns and positions relative to the charter proposals presently being considered by your commission for the general election scheduled for this year. I have reviewed the proposed charter proposals and have the following comments and concerns, which I expect you to consider in your deliberations.

1. The Charter Amendments, which I support, are Number 2, 16 and 17

The reason for my support of these amendments are that they provide for greater continuity in local government which will facilitate the decision making process not only on terms of budget but other legislative duties, they facilitate the public hearing discussion process by opening up additional venues for public meetings, and also bring the Department of Water Supply under the executive branch of government so it is accountable to the electorate of Maui County.

2. The Charter Amendments for which I am against are Numbers 1, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 and 15.

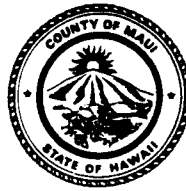
The reasons I oppose these proposed amendments are that they increase the size and cost of running government in Maui County, destabilize the process of government by exposing elected officials, the legislative process and the county economy to continual uncertainty, impair the ability of the executive branch to properly manage its employees, create jurisdictional conflicts and redundancy in enforcing and interpreting existing laws.

Commission members, I sincerely hope you read this letter and consider my thoughts on this important matter. It is my anticipation that you will, during the course of your deliberations, consider my concerns and act accordingly. I intend on appearing at the future charter commission meetings and voicing my opinion with regard to these issues, as well as ensuring that the voters of this county clearly understand the implications of the proposals presently being discussed by the commission.

Sincerely,

Malia Gouveia
Malia Gouveia

JAMES "KIMO" APANA
MAYOR



OFFICE OF THE MAYOR
Ke'ena O Ka Meia

COUNTY OF MAUI
Kalana O Maui

RECEIVED

APR 17 2002

200 South High Street
Wailuku, Maui, Hawaii USA
96793-2155
Telephone (808) 270-7855
Fax (808) 270-7870
e-mail: mayors.office@co.maui.hi.us

April 11, 2002

Terryl VencI, Chair
Maui County Charter Commission
c/o Department of Corporation Counsel
Wailuku, Maui, Hawaii 96793

Dear Chair VencI and Members of the Commission:

I applaud you for your diligence and dedication as you identify the various issues and concerns of the community to up date our County Charter, which will be the basis for charting our course into the future.

It is my understanding that Proposal - 7 To Broaden the Powers of the Department of Public Works and Waste Management to include Public Transportation has been given much thought, however, no decision has been made on this issue.

I feel that we share the same concern that there is an increasing need for the development of systems of public transportation and that this issue be addressed in the charter beyond my administration.

My placement of the Transportation Coordinator within the Department of Management was done strategically to devote the maximum amount of attention that I feel it requires. The current placement within the hierarchy of the County organizational structure is significant, as it is designed to facilitate change and foster interdepartmental cooperation.

It should be noted that the current position of Transportation Coordinator that has been created is a Civil Service position. It is comparable to the personnel in the Management Information Systems (MIS) division within the Department of Management who are not appointed and who have a well-acknowledged role in maintaining our information technology infrastructure.

I submit to you that the role and function of the Transportation Coordinator is evolving within the organization. At this time while I feel that the Department of Management is the appropriate venue for this position, if the commission feels strongly that the position is better suited within another department, I would recommend that it be placed within the Department of Planning.

From: David Raatz
To: Brian.Moto@co.maui.hi.us; Jon Van Dyke
Date: 4/4/02 3:02PM
Subject: "Special" elections

Brian & Jon,

I see on the Charter Commission's April 10 agenda that there's a proposal to change "special elections" to "primary elections."

The existing Charter language providing for two "special" elections (adopted in a 1998 Charter amendment) was borrowed from the Revised Charter of Honolulu:

<http://www.co.honolulu.hi.us/refs/rch/rc130116.htm>

I think that Honolulu decided to describe its elections as "special" at least in part because of A.G. Op. No. 85-7 (attached), which opined that county charters could provide for nonpartisan "special primary elections." There seems to be an implication that using the word "primary" without the "special" qualifier signifies a party primary (although the statutory language upon which the opinion was partially based has since been modified).

Although the A.G. opinion uses the phrase "special primary election," please note that the Honolulu and Maui charters both currently use the phrase "special election." Based on the definitions provided in HRS § 11-1, I think it would probably be appropriate to redesignate our "first special election" as a "special primary election" and to redesignate our "second special election" as a "special general election." According to HRS § 11-1, a "special election" (without the "primary" or "general" qualifier) is a one-time, winner-take-all election.

Please also note that the existing format, in which races featuring only one or two candidates are included only on the November ballot, appears inconsistent with HRS § 12-2:


"No person shall be a candidate for any general or special general election unless the person has been nominated in the immediately preceding primary or special primary."

This provision seems to require that all races be on the ballot for the special primary election.

I hope this is helpful. Please let me know if you have any questions. (If the Charter Commission doesn't get the opportunity to resolve these issues, perhaps the Council can.)

David Raatz
Office of Council Services, County of Maui
raatz@abanet.org or david.raatz@co.maui.hi.us

CC: Lisa Kahuhu

OK  special primary election
special general election



Maui County Charter Commission
c/o Brian Moto, Commission Staff
Office of Corporation Counsel
200 South High Street
Wailuku, Maui, Hawai'i 96793

RECEIVED
CORPORATION COUNSEL
2002 MAR 19 5:11:16

March 17, 2002

Good afternoon,

I'm sorry to be so late sending a follow-up letter to my oral testimony of February 13, 2002. We just started our spring break, and it's been an extremely busy time for teachers of students with special learning needs on Molokai.

While most of the balance of this letter revisits original oral testimony, I also briefly comment on additional items of interest.

Please add to your list of potential proposed Maui County Charter amendments a topic I'll leave for the experts to phrase: establishing a commission to investigate the feasibility and required processes for Molokai to become its own county, either by joining Kalawao County, or by creating a new entity. The commission would then make recommendations to the next Charter Commission in time for inclusion of a measure in the next round of amendments. Ten years should be sufficient time to fairly explore the possibilities, hear all the voices, and possibly invent a new approach to increased self-governance for Molokai. Molokai residents have long discussed the possibility, and recently have heard legislative and council representative voices added to the discussion.

On to specific items already proposed: Proposal 2: I oppose because there is virtually no accountability to the electorate residing on Molokai now among Council members. Proposal 3: I oppose, again because Molokai residents have so little impact on Council members thinking and actions. Proposal 6: Having witnessed both excellent and abysmally poor Corporation Counsel employees in action on Molokai (far too few of the former), would it be possible to further refine this proposal to effect some minimal level of competence in the office, please? Proposal 7: I prefer separate departments for transportation and for environmental protection issues, hoping that separate responsibilities will lead to clearer direction and impact. Proposal 9: Perhaps the Department of Planning should be dismantled, re-thought, and re-configured. It apparently works only for those who might eventually employ Department employees. Proposal 10: These questions have been discussed during meetings called by Charmaine Tavares. Rather than bringing greater power and responsibility to various geographical regions, community district boards with boundaries conforming to Council districts would eliminate Molokai residents having any hope of a clear and direct voice through the Molokai Planning Commission. Proposal 13: I support this proposal, particularly in light of what the Council did to Molokai's Community Plan residents' recommendation for Open Space.

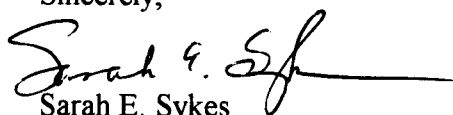
(con'd.)

Page Two-Sykes

Proposal 14: As mentioned in oral testimony, I support this proposal. Proposal 15: Of course I support this proposal, adding that ANY notice of public meetings, and prior availability of documents to be discussed, would be a welcome change on Molokai. Proposal 17: I support 17-B, hoping for at least a little accountability to the people who pay their salaries and rely on them to protect the resource. Perhaps a name change might help. . .from Water Supply to Water Management. This might seem minor, but their focus is too close on developing water, and apparently blind to leaving any unpiped.

Thank you so very much for the opportunity to comment.

Sincerely,

A handwritten signature in cursive script, appearing to read "Sarah E. Sykes", followed by a long horizontal flourish.

Sarah E. Sykes

P.O. Box 370

Kaunakakai, Hawai'i 96748

Executive Assistant I
MD-0034

Subject position functions under general supervision in providing top level staff and executive assistance to the Managing Director of the County of Maui. The primary responsibility of this position is the planning, development and coordination of the County's transportation program.

1. Plans, develops and coordinates an effective transportation program, projects, activities and initiatives for the County of Maui. 55%
 - a. Participates in long range transportation planning and develops and implements short-range plans.
 - 1) Recommends types of transportation programs and levels of support for each kind of service, including such possible modes as: park and ride facilities, scheduled buses, subscription bus services, bikeways, van and car pools, etc.
 - a) Where opportunities arise, make recommendations to the County administration and the State DOT, to negotiate with private developers to do land exchanges or dedications for potential park-n-rides sites. Inventory, monitor, and evaluate the effectiveness of existing park-n-rides sites.
 - b) Develops and promotes policies to implement Transportation Demand Management strategies that will encourage multi-modal transportation systems (bikeways, buses, trolleys, fixed rail systems, etc.). Explore different strategies (congestion pricing, parking fee disincentives, taxes, etc.) that will ultimately reduce the number of vehicles traveling on our roadways. Work through the Maui County Council to introduce ordinances that may be needed to implement such strategies. For items that may affect the State's roadways, coordinate any legislative actions with State/FHWA, to eliminate any duplication of effort.
 - 2) Within the County level, monitors and coordinates all transportation related programs, projects, activities, and initiatives being undertaken by the Maui County Council, the Mayor's Office, Department of Management, Department of Public Works and Waste Management, Department of Planning, etc.
 - 3) Projects program costs through evaluation and analysis of operational data
 - 4) Assists in community design guidelines to accommodate alternative transportation planning.
 - 5) Evaluates and recommends designs for bus stops and shelters, including future communications and interfacing possibilities.
 - b. Reviews changes in program policies and procedures and recommends appropriate revisions as conditions and/or requirements change.
 - c. Reviews and makes recommendations on transportation routes, methods, and plans.
 - 1) Explore short term, mid-term, and long-range implementation strategies for recommendations made by the Mayor's Transportation Action Committee, Transportation Alternatives Maui (TRAM2001), and any other transportation related committee recommendations. Work with the applicable agencies to insure that critically needed improvements are on schedule.
 - d. Participates in planning for future effects of growth or change on established modes of transportation service.
 - 1) Dialog with private entities such as bus, van, or trolley companies that may be interested in partnering to provide public transportation services at low or zero

- fare box prices. Explore incentive strategies that may make it financially feasible for private entities to pursue such partnering projects.
- 2) Similar to the State's existing educational ad campaigns for VanPool Hawaii and "Beat the School Jam", develop local campaigns towards promoting, bicycling, car/van pooling, use of the existing MEO public transportation system, etc.
- e. Develops, on behalf of the County, RFP's (Requests for Proposals) and contracts for transportation services to be provided.
- f. Work with the Planning Department to inventory, monitor, and evaluate the effectiveness of any voluntary or mandated Transportation Management Plans being done by large hotel developments relative to its ultimate impact on the roadway system.
2. Performs administrative functions relative to the management of the transportation program. **30%**
- a. Prepares program budgetary and cost estimates and other program related cost expenditures.
- b. Prepares grant applications and funding proposals.
- c. Evaluates overall effectiveness and adequacy of program and submits recommendations for improvement.
- d. Monitors the activities of transportation providers for compliance with established agreements, goals and objectives.
- e. Participates in the development of technical data, reports and study materials for presentation to the Mayor, County Council and other committees and technical groups.
3. Organizes, coordinates and participates in community relations programs in support of the County's transportation activities in order to publicize and promote services available. **10%**
- a. Act as a clearinghouse for any transportation related information. Attends all workshops, public hearings, or other forums related to transportation as well as land use matters, to be fully aware of public/private actions affecting transportation facilities and current traffic/transportation issues.
4. Performs other duties as required. **5%**

PUBLIC FUNDING INFORMATION

Compiled by The Trust for Public Land, March 2002

Overview of funding options for land conservation

1.) Property Tax: Along with general obligation bonds, the property tax is the most commonly used mechanism for local governments to create dedicated funds for open space acquisition. The property tax is a very stable revenue source and spreads the cost across a wide tax base, reducing the impact on specific taxpayers. Hundreds of examples exist across the country in recent years including the following:

San Francisco, CA: In March 2000, voters approved (74% Yes) a \$.25 (25 cents per \$1,000 of assessed property value) property tax set-aside to acquire and maintain green space, gardens and recreation. Over 30 years, this will raise \$150 million.

San Miguel County CO: A November 2001 ballot question approved by voters (61% Yes) will put in place a 1.5 mill (\$1.50 per \$1,000 of assessed value) property tax increase for parks and open space. Over 20 years, it will raise \$14 million.

Seattle, WA: In November 2000, Seattle voters approved (56% Yes) a \$200 million increase in property taxes for parks and open space, with \$26 million (13% of the total) specifically dedicated for open space acquisition. During the life of the levy (up to 8 years), the average Seattle property owner will annually pay an extra 35 cents per \$1000 assessed value, including .0455 for land acquisition.

2.) General Obligation Bonds: General obligation (G.O.) bonds are a widely used means for local governments to fund the acquisition of open space. Bonds allow local governments to borrow money by issuing bonds, gaining access to immediate funding to protect land while it is still available and at lower costs than is likely in the future. Bonding also spreads out the cost of repayment across both current and future taxpayers rather than current taxpayers fully bearing the cost.

West Palm Beach FL: In March 2000, the City of West Palm Beach approved (55% Yes) a \$20 million bond issue for parkland acquisition and maintenance.

Houston and Harris County TX: In November 2001, Houston voters approved (70% Yes) an \$80 million bond for acquisition and construction of parks. Harris County, of which Houston is the largest part, also approved a separate \$60 million county bond for acquisition and construction of parks.

Hilton Head SC: Voters in this coastal resort community approved (78% Yes) a November 2000 bond that will provide \$20 million for open space acquisition, recreation and historic preservation.

3.) Sales Tax: The sales tax is commonly used by local governments in parts of the country to pay for general capital improvement needs such as roads, schools, government buildings, as well as for parks and open space. Sales tax levies for parks and open space

Lake County FL: In November 2001, Lake County voters passed a 15-year, 1-cent sales tax extension for park preservation. Over the life of the sales tax, an estimated \$30 million will be raised for land conservation.

Boulder County CO: In November 2000, Boulder County residents approved (69% Yes) a 10-year extension of their $\frac{1}{4}$ cent sales tax for open space acquisition that will raise \$124 million.

Suffolk County NY: In November 1999, Suffolk County voters approved a 13-year extension of a $\frac{1}{4}$ cent sales tax exclusively dedicated for the protection of drinking water supplies. The tax is expected to raise \$140 million.

Expenditure Authority

The Role of Citizens Advisory Groups

Citizens' advisory committees are used to provide oversight on land conservation programs. Some committees implement a program's mission or devise program policies. Others run grant programs, review proposed acquisitions, or make recommendations on the use of funds. Committees may be made up entirely of ordinary citizens, or can include municipal officials and staff or nonprofit professionals. Sometimes membership on advisory committees is elected, or members may be appointed.

Listed below are some examples of county and city land conservation measures with citizens' advisory committees. Citizen advisory committees are the exception, not the rule. This paper does not review those situations in which local governments – mayors, county commissions, parks departments— make decisions on land conservation.

- Cities and towns in Massachusetts can adopt, with voter approval, a property tax surcharge of up to three percent for open space preservation under the Community Preservation Act. By law, voter-approved citizens' advisory committees are set up to make recommendations on the use of the funds. The city or town's legislative body then approves all expenditures. Since the law went into effect in December 2000, 35 communities have adopted it.
- Ocean County, New Jersey has a 9-member advisory committee composed of citizens. The committee nominates properties to be acquired. The legislative leaders make the expenditures. The funds are generated from a voter-approved dedicated property tax passed in November 1997.
- In Jacksonville, Florida, a 12-member citizen advisory board makes recommendations on the purchase of land and the mayor makes the expenditures. The funds are generated from a dedicated sales tax, approved by voters in November 2000.
- Boulder, Colorado's citizens' advisory board reviews proposed acquisitions and makes recommendations to the County Commissioners. The sources of funds are the county general fund, three voter-approved bonds, and a dedicated sales tax approved by voters in 1993.
- Dade County, Florida has a citizens' oversight committee to oversee the deposit and disbursement of bond funds. The committee solicits grant applications, evaluates the proposals, and recommends grant awards.
- A charter amendment created a 23-member open space advisory committee in San Francisco, California in May 2000. The committee is charged with establishing criteria for the city's Recreation and Park Department to use in deciding which

properties to acquire and with guiding the Department in implementing the capital plan.

- Austin, Texas created an 11-member bond oversight committee, which reviews the implementation of the City Manager's plans regarding the bonds approved by voters in November 1998. In addition, a citizens' bond advisory committee created by the City Council recommends which projects to fund.
- Helena, Montana's 12-member citizens advisory committee was created in 1997, to advise the city on how to allocate the proceeds of voter-approved open space bonds. The committee developed goals for categories of land to acquire targets on how to allocate the funds. The committee evaluates proposals, and then the committee's acquisition consultant and the city attorney negotiate with the landowner. The city's legislative body makes the final decision on the purchase.

Implementing Long-term Public Funding

A majority of the public funding measures that have been implemented in recent years involve a ballot process, whereby citizens are asked to approve spending for conservation funding. Below are a few examples of communities which have used ballot measures to amend their municipal charters to provide funding for parks and open space.

Charter Amendments for Open Space

- San Francisco, CA, March 2000: continues for thirty years a property tax set-aside to enhance the ability of the City to purchase open space, acquire property for recreation facilities and develop and maintain those facilities. (\$.25 per \$1000 assessed valuation)
- Gates Mills, OH, 1996: charter amendment renewing 1 mill levy for five years for open space conservation
- Foster, RI, 2000: charter amendment to dedicate 100% of real estate transfer tax to Foster Land Trust
- Glocester, RI, 2000: charter amendment to dedicate 75% of real estate transfer tax to Glocester Land Trust
- Smithfield, RI, 2000: charter amendment to dedicate 1% of town budget surplus to Smithfield Land Trust

Good Afternoon Chairman Couch and members of the Board of Ethics

I am Steven Suyat and I am a Service Representative with the Hawaii Carpenters Union, Maui Division. Your decision to disqualify Mr. Molina from voting on the Makena Re-zoning issue due to conflict of interest is ridiculous.

His 20% ownership of a property in trust in the Makena area has never been hidden or not disclosed. How is his ownership in this property considered a conflict of interest?

Are you saying that you can make a better decision if you are not a property owner? If you aren't, then why would you pass judgment upon a person who does even if it is in the area of the issue.

Are you attacking his integrity as a Councilman, saying that he is unable to make a decision based on just the facts because his judgment is clouded simply because he owns property in this area?

Let me understand this. You're saying residents, who are fortunate to own property, who serve on Boards and Commissions, should not vote on issues in these districts because it is a conflict of interest?

I feel your decision to disqualify Mr. Molina because of this is unethical.

March 8, 2002

Members of the Charter Commission

Re: Comments/Concerns Regarding Charter Amendments.

Dear Members of the Charter Commission:

I am a (an) Paul Duda and a resident of Maui County, and writing to inform you as to my concerns and positions relative to the charter proposals presently being considered by your commission for the general election scheduled for this year. I have reviewed the proposed charter proposals and have the following comments and concerns, which I expect you to consider in your deliberations.

1. The Charter Amendments, which I support, are Numbers 2, 16 and 17.

The reason for my support of these amendments are that they provide for greater continuity in local government which will facilitate the decision making process not only in terms of budget but other legislative duties, they facilitate the public hearing and discussion process by opening up additional venues for public meetings, and also bring the Department of Water Supply under the executive branch of government so it is accountable to the electorate of Maui County.

2. The Charter Amendments for which I am against are Numbers 1, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, and 15.

The reasons I oppose these proposed amendments are that they increase the size and cost of running government in Maui County, destabilize the process of government by exposing elected officials, the legislative process and the county economy to continual uncertainty, impair the ability of the executive branch to properly manage its employees, create jurisdictional conflicts and redundancy in enforcing and interpreting existing laws.

Commission members, I sincerely hope you read this letter and consider my thoughts on this important matter. It is my anticipation that you will, during the course of your deliberations, consider my concerns and act accordingly. I intend on appearing at the future charter commission meetings and voicing my opinion with regard to these issues, as well as ensuring that the voters of this county clearly understand the implications of the proposals presently being discussed by the commission.

Sincerely,



March 8, 2002

Members of the Charter Commission

Re: Comments/Concerns Regarding Charter Amendments.

Dear Members of the Charter Commission:

I am a (an) Cynthia E. Edlao and a resident of Maui County, and writing to inform you as to my concerns and positions relative to the charter proposals presently being considered by your commission for the general election scheduled for this year. I have reviewed the proposed charter proposals and have the following comments and concerns, which I expect you to consider in your deliberations

1. The Charter Amendments, which I support, are Numbers 2, 16 and 17

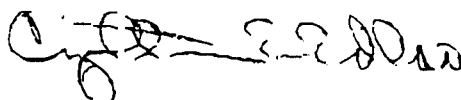
The reason for my support of these amendments are that they provide for greater continuity in local government which will facilitate the decision making process not only in terms of budget but other legislative duties, they facilitate the public hearing and discussion process by opening up additional venues for public meetings, and also bring the Department of Water Supply under the executive branch of government so it is accountable to the electorate of Maui County.

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Sincerely,



March 8, 2002

Members of the Charter Commission

Re: Comments/Concerns Regarding Charter Amendments.

Dear Members of the Charter Commission,

I am a (an) Warren K. Ellis and a resident of Maui County, and writing to inform you as to my concerns and positions relative to the charter proposals presently being considered by your commission for the general election scheduled for this year. I have reviewed the proposed charter proposals and have the following comments and concerns, which I expect you to consider in your deliberations.

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Sincerely,

Warren K. Ellis

March 8, 2002

Members of the Charter Commission

Re: Comments/Concerns Regarding Charter Amendments.

Dear Members of the Charter Commission:

I am a (an) Baron Lazo and a resident of Maui County, and writing to inform you as to my concerns and positions relative to the charter proposals presently being considered by your commission for the general election scheduled for this year. I have reviewed the proposed charter proposals and have the following comments and concerns, which I expect you to consider in your deliberations

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The reasons I oppose these proposed amendments are that they increase the size and cost of running government in Maui County, destabilize the process of government by exposing elected officials, the legislative process and the county economy to continual uncertainty, impair the ability of the executive branch to properly manage its employees, create jurisdictional conflicts and redundancy in enforcing and interpreting existing laws.

Commission members, I sincerely hope you read this letter and consider my thoughts on this important matter. It is my anticipation that you will, during the course of your deliberations, consider my concerns and act accordingly. I intend on appearing at the future charter commission meetings and voicing my opinion with regard to these issues, as well as ensuring that the voters of this county clearly understand the implications of the proposals presently being discussed by the commission.

Sincerely,

Baron Lazo

March 8, 2012

Members of the Charter Commission

Re: Comments/Concerns Regarding Charter Amendments.

Dear Members of the Charter Commission:

I am a (an) Nancy Ediac and a resident of Maui County, and writing to inform you as to my concerns and positions relative to the charter proposals presently being considered by your commission for the general election scheduled for this year. I have reviewed the proposed charter proposals and have the following comments and concerns, which I expect you to consider in your deliberations.

1. The Charter Amendments, which I support, are Numbers 2, 16 and 17

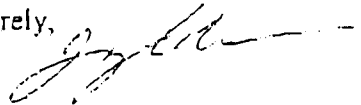
The reason for my support of these amendments are that they provide for greater continuity in local government which will facilitate the decision making process not only in terms of budget but other legislative duties, they facilitate the public hearing and discussion process by opening up additional venues for public meetings, and also bring the Department of Water Supply under the executive branch of government so it is accountable to the electorate of Maui County

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Commission members, I sincerely hope you read this letter and consider my thoughts on this important matter. It is my anticipation that you will, during the course of your deliberations, consider my concerns and act accordingly. I intend on appearing at the future charter commission meetings and voicing my opinion with regard to these issues, as well as ensuring that the voters of this county clearly understand the implications of the proposals presently being discussed by the commission.

Sincerely,



March 8, 2002

Members of the Charter Commission

Re: Comments/Concerns Regarding Charter Amendments

Dear Members of the Charter Commission:

I am a (an) Noreen A. Yagi and a resident of Maui County, and writing to inform you as to my concerns and positions relative to the charter proposals presently being considered by your commission for the general election scheduled for this year. I have reviewed the proposed charter proposals and have the following comments and concerns, which I expect you to consider in your deliberations

1. The Charter Amendments, which I support, are Numbers 2, 16 and 17

The reason for my support of these amendments are that they provide for greater continuity in local government which will facilitate the decision making process not only in terms of budget but other legislative duties. They facilitate the public hearing and discussion process by opening up additional venues for public meetings, and also bring the Department of Water Supply under the executive branch of government so it is accountable to the electorate of Maui County.

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Commission members, I sincerely hope you read this letter and consider my thoughts on this important matter. It is my anticipation that you will, during the course of your deliberations, consider my concerns and act accordingly. I intend on appearing at the future charter commission meetings and voicing my opinion with regard to these issues, as well as ensuring that the voters of this county clearly understand the implications of the proposals presently being discussed by the commission.

Sincerely,

Noreen A. Yagi

Jim Smith
P.O. Box 790403
Paia, Maui, Hawaii 97779

March 5, 2002

Ms. Terri Venc1, Chairperson and
Members of Maui County Charter Commission
County of Maui
Wailuku, Maui, Hawaii 96793

Re: Proposed amendments to Article 3, **County Council**

Dear Ms. Venc1 and Members,

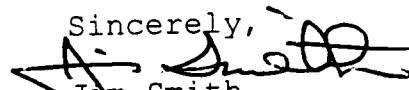
The Maui News on March 5 included an editorial that I hope you will carefully considered. (See Attachment 1)

The Office of Corporation Counsel has been ineffective in preserving the sense of impartiality we assign to the judicial branch both from inside and out. And it seems an adjustment to the structure in this regard may help.

In 1996 and 1997 a friend was involved with a complaint regarding use of agricultural property for a Bed and Breakfast establishment. His name was David S. Ferguson. I am enclosing a letter from Corporation Counsel Joseph Wolsztyniak reponding to Mr. Ferguson's inquiry and a letter to the party operating the establishment. (See Attachment 2 and 3) Its important to note that HRS 205 provides that uses not expressly permitted are prohibited on agricultural land. (paragraph 4 of the Ferguson letter references page 2 of the Koebke letter) and also the attorney claims a power that may not be his, namely that he holds more than advisory status allowing him to preempt statutory authority in settling a dispute before the Board of Variance and Appeals.

It would seem public trust as it relates to the very structure of our political system is at risk and needs your attention. I submit to you an amendment to Article 3 County Council based upon information I have submitted in the past regarding an office of public justice, response to the choas we find ourselves approaching.

Sincerely,


Jim Smith

The Maui News

Charter sets up loyalty conflict

At least one member of the County Council is calling for an investigation of the actions performed by the Office of the Corporation Counsel and is discontented with the head of the Planning Department. Sound familiar? For the past two decades, there has been at least one occasion in which the council has gotten at cross-purposes with the administrations headed by Hannibal Tavares and Linda Lingle. Now it's the James "Kimo" Apana administration's turn.

The County Charter says the corporation counsel "shall be the chief legal advisor and legal representative of the council, the mayor, all departments, all boards and commissions, and of all officers and employees in matters relating to their official duties." The charter says the planning director "shall serve as the chief planning officer of the county and as the technical advisor to the mayor, council and planning commissions on all planning and related matters." Both of those mandates might be considered too encompassing.

The charter lists of "Powers, Duties and Functions" of both the corporation counsel and the planning director concludes with saying the corporation counsel and planning director "shall perform such other duties and functions as shall be assigned by the mayor." That proviso might result in council members believing they are something less than in charge.

Instead of wasting time and energy on investigating a specific instance of alleged administrative misfeasance, the council could come up with charter amendments that would detail the legal relationship between the county's legislative and executive branches, or it could do what many legislative bodies do and set up its own legal office. With a staff attorney or an attorney on retainer, the council would not be limited to consulting with individuals who were appointed by the mayor.

Coming up with charter amendments would be cumbersome and having its own legal representation would be expensive, but either approach might more clearly define the separation of powers and responsibilities without a lot of in-house wrangling, election year or not.

ATTACHMENT 1

Maui News

Maui's Newspaper Since 1900

50 CENTS



The Maui News / MATTHEW THAYER photo

not like good old days

Joite rode her horse Stowie through the heart of town Friday, the end of a ride to Rice Park and back. DeCoite at the house and she longs for the days when there were country. "Before, we could go in the pineapple fields and there are signs all over, and there is no place to ride. All my (who had keys to pastures) have all moved away." DeCoite said all the changes and hustle and bustle, it was still nice to him for a cruise around town.

Corporation counsel's role questioned by councilors

Way Maalaea water park,
minigolf handled triggers
call for an examination

By **MARK ADAMS**
Staff Writer

WAILUKU — The recent controversy over a proposed water park and miniature golf course at Maalaea has led some Maui County Council members to question the allegiance of county attorneys.

Council members decided Friday to ask the Maui Planning Commission to defer any action on the Maalaea Golf and Water Park until the council has a chance to investigate both the project and recent actions of the Office of the Corporation Counsel.

There are two issues involved:

First, did the administration act properly in giving an initial OK to proceed with a project? Critics say the project is significantly different from the one originally covered under Maalaea Triangle Partnership's special management area permit. The original project was to have been a two-story office building.

But the second, larger question is tied to Council Member Jo Anne Johnson's request for an investigation of actions taken by the Office of the Corporation

Counsel and the county Planning Department in advising the developer, Pacific Isle Group, that it was OK to proceed with the golf and water park project.

Johnson says she has received contradictory information from different county attorneys, including Corporation Counsel James Takayasu, who heads the department.

She also thinks that a decision by county Planning Director John Min to ask the Maui Planning Commission to decide whether the previously issued SMA covers the project — including a declaratory ruling on whether the SMA permit has lapsed because of a five-year time limit — circumvents her attempt to investigate the matter.

"The conflicts that this situation brings forward are serious and call for an investigation," she said in her letter asking the council to look into the issues raised.

On Friday, the council received a lengthy written response from Takayasu that was delivered to council members minutes before Johnson's request for an investigation.

After a quick read of the memo, Johnson said she believed it contained some

See CORPORATION COUNSEL
on the next page

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The Maui News

Maui News

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Corporation counsel

Continued from Page A1

misrepresentations and asked that the council's Committee of the Whole investigate the issues involved as quickly as possible.

"The manner in which this was handled greatly concerns me at this point," Johnson said. At one point, she said Deputy Corporation Counsel Richard Minatoya sent an e-mail to the developers authorizing them to proceed with the project.

"It's not corporation counsel's role to issue that authorization," she said. "What is corporation counsel doing when they grasp that authority?"

Two other council members said they also had concerns.

Council Member Wayne Nishiki said his brief assessment of the controversy leads him to wonder if county attorneys breached confidentiality when first dealing with Johnson's questions and then "shaming things" with the developer, who was then sent to the Maui Planning Commission.

mission.

"Who is corporation counsel serving?" he asked.

Council Member Alan Arakawa called the situation "a really sticky issue."

He said this is the latest instance in which the administration has rushed to the planning commission to rectify administrative decisions that have been made and then questioned. He was referring in part to the Montana Beach condominium dispute, where an administrative approval for a project on the beach in Paia was later rescinded.

He asked that the council take the current case up prior to the planning commission meeting on the subject.

Acting Council Chairwoman Charmaine Tavares — sitting in for Council Chairman Pat Kawano, who is at Maui Memorial Medical Center after undergoing another surgery for an infected foot — said she would send a letter to the planning commission asking that the Maui Golf and Water Park project be deferred until after the council's Committee of the Whole takes up the issue.

A date for that committee discussion has not been set.

This is not the first time the allegiance issue has been raised. The council and former Mayor Linda Lingle had a similar spat in the 1990s.

In his memo, Takayasu said the role of government attorneys is a difficult one, a balancing act representing the interests of "political actors" that include the council, board and commission members, department heads and the mayor.

What makes the job most difficult is when a client "adopts the view that the government attorney is 'my attorney' ... who should provide legal advice that furthers the political player's personal views, goals or aspirations," Takayasu said in his memo.

According to Takayasu, the allegiance of county attorneys is straightforward: "Government attorneys must never forget that their loyalty and fidelity must always remain focused on the interest of the public entity, the County of Maui." There are provisions in existing law for the council to hire its own legal staff if it

desires, Takayasu said.

He noted that the state Legislature has its own set of lawyers, and the state attorney general's office does not get involved with legislation until after bills are acted upon.

"If the council wishes to have additional staff attorneys, that is specifically allowed under the County Charter," he said.

Takayasu's interpretation of the Maalea controversy differs from Johnson's in several respects. He said he welcomes speaking with the council on all of the issues raised, including the conflict issue, "preferably before the budgetary process."

In the meantime, Takayasu will seek an opinion from the state Office of Disciplinary Counsel on whether there are conflicts in his own office advising the planning commission on the golf and water park.

"If we are advised that we should not act as legal adviser to the commission, we will be requesting special counsel to assume this role," he said.

OBITUARIES

Michael Krawtz, 77

Michael J. Krawtz, 77, of Wailuku, died Feb. 18, 2002, at Maui Memorial Medical Center.

A memorial service will be held at 4 p.m. Tuesday at Nakamura Mortuary. Mr. Krawtz was born Aug. 6, 1924, in Elmhurst, Pa. He was a mathematics professor at Maui Community College.

He is survived by his wife, Mary Jane Krawtz, and two sisters, Rose Marie Smith of Monongahela, Pa., and Joan Tomovich of Elizabethtown, Pa.

Charles Morris, 90

Charles Morris, 90, of Kahului, died



"Walter and Cathy Scott Scholarship Fund," 472 Kaulana St., Wailuku 96793; or to Hospice Maui, 400 Mahalanui St., Wailuku 96793.

Mr. Morris was born March 5,

1911, in Montana. Married for 63 years, he was active in Sierra Club and Maui Conservation Society efforts to save Makena, Ahhi Bay, Honouliuli Bay and Uluu Beach public access. He loved nature and amateur radio and enjoyed camping and teaching snorkeling.

pital in San Jose, Calif. Private inurnment will be held in the summer.

Mrs. Shimoda was born Oct. 2, 1912, on Oahu, where she also attended school. With her late husband, Masakazu, she managed Haliimalie Supermarket for 37 years until retirement. She was a member of Good Shepherd Episcopal Church.

She is survived by a son, Steven (Lyne) Shimoda of El Dorado Hills, Calif.; three daughters, Ann Robinson of New York City, and Jean (Gerald) Izumi and Wendy (Tom) Miller, both of San Jose; and six grandchildren.

■ **Correction / Bosque:** Elizabeth Kahomehni Bosque, 66, of Makawao, who died Feb. 24, 2002, is survived by a brother, Peter Pana of Ewa Beach, Oahu.

News, 100 Mahalanui St., Wailuku 96793. Include a contact name and daytime phone number. We reserve the right to edit for form, style and newsworthiness. Date of publication cannot be guaranteed. A recent color or black-and-white photo may be submitted. The Maui News is not responsible for any photo left unclaimed a month after publication. For more information, call 242-6346. To publish a paid death notice, call 242-6333.

CORRECTIONS

■ **New Wailuku road.** Waiinu Road was dedicated and opened on Thursday as a new connector from Waialea Road to Maui Town Drive. A story and photo

LINDA CROCKETT LINGLE
MAYOR



J. P. SCHMIDT
CORPORATION COUNSEL

DEPARTMENT OF THE CORPORATION COUNSEL

COUNTY OF MAUI
200 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793
TELEPHONE (808) 243-7740 • FAX (808) 243-7152

August 22, 1996

Mr. and Mrs. Achim Koebke
100 South Lanikai Place
Haiku, Hawaii 96793

Re: 96-BVA-15
Achim Koebke, et al. v. Charles Jencks, et al.

Dear Mr. and Mrs. Koebke:

This letter is being sent to memorialize and finalize our agreement to resolve the above matter pursuant to our telephone conversation of August 21, 1996. We will waive the daily fines assessed in this matter in the approximate amount of \$9,000.00, if you pay the initial fine of \$1,000.00 in full to the County and file an application for a Special Use Permit and a Conditional Use Permit, unless otherwise provided herein. The fine shall be paid in full by October 1, 1996.

You will apply for a Special Use Permit and a Conditional Use Permit within sixty (60) days of the execution of this letter of agreement memorializing this settlement. The following conditions are also included:

1. In the event that the Maui County Council adopts a bed and breakfast ordinance that "grandfathers" existing bed and breakfast operations, then you will not be required to obtain a Special Use Permit and a Conditional Use Permit, provided that your bed and breakfast operation qualifies under said "grandfather" clause and fully complies with all provisions of the bed and breakfast ordinance if any is adopted by Council.
2. In the event the Maui County Council adopts a bed and breakfast ordinance that does not contain a "grandfather" clause for existing bed and breakfast operations, then you will be able to amend the Special Use Permit and a Conditional Use Permit applications to request the type of permit set forth in the bed and breakfast ordinance that is applicable to your bed and breakfast operation, provided that your bed and breakfast operation qualifies for a permit under the bed and breakfast ordinance and fully complies with all provisions of the bed and

ATTACHMENT 2

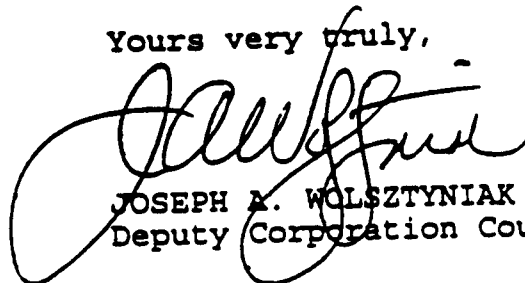
Paul L. Horikawa, Esq.
Page 2
August 22, 1996

breakfast ordinance if any is adopted by the Council.

3. During the time the Special Use Permit and the Conditional Use Permit applications are pending before the County of Maui, you will not be cited nor will any action be taken against you solely due to the fact that a bed and breakfast exists at that location. Naturally, you would be subject to any other violations or any nuisance complaints which would have to be processed through the normal course of business.

As your approval of this agreement settles all matters in controversy, it is also agreed that you will effectuate a withdrawal of the aforementioned BVA Appeal at the hearing scheduled on August 22, 1996 at 1:30 p.m.

Yours very truly,



JOSEPH A. WOLSZTYNIAK
Deputy Corporation Counsel

APPROVED:



ACHIM KOEBKE



MARGARET KOEBKE

c:\wp51\ltrs\koebke

LINDA CROCKETT LINGLE
MAYOR



J. F. SCHMIDT
CORPORATION COUNSEL

DEPARTMENT OF THE CORPORATION COUNSEL

COUNTY OF MAUI
200 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793
TELEPHONE (808) 243-7740 • FAX (808) 243-7152

February 18, 1997

Mr. David S. Ferguson
7 S. Lanikai Place
Haiku, Hawaii 96708

Re: Red and Breakfast Appeals

Dear Mr. Ferguson:

Your letter to Mr. Nagamine of December 16, 1996, has been forwarded to me for response to a portion of that letter, namely, the third paragraph.

I would like to apologize for the delay in responding to your correspondence, but I have been off-island majority of the time since your letter was written. I hope I am able to clarify this matter and answer your questions.

You requested a copy of the memorandum from Mr. Jencks to me authorizing me to send. Please be advised that this is confidential and privileged information covered under the attorney-client privilege. This information is not required to be disclosed under Rule 503 of the Hawaii Rules of Evidence.

The letter appears on my letterhead as opposed to that of the Department of Public Works Director for several reasons. It is quite common for letter agreements to be drafted by attorneys on their letterhead as opposed to that of the company or individual who they are representing. I would be drafting the agreement, and the Office of the Corporation Counsel by County Charter represents the Department of Public Works and Waste Management. It is also true that both the Department of Public Works and Waste Management and the Office of the Corporation Counsel are divisions of the Maui County Government also by Charter.

The fact that the letter indicates Mr. Horikawa was representing the Koebke's was an error. As I am sure you know, it is quite common to use computers and word processors in drafting agreements. As I am sure you know from reviewing the documents, the agreement reached with Mr. Horikawa's client and the Koebke's was very similar. Apparently, someone

ATTACHMENT 3

Mr. David S. Ferguson

Page 2

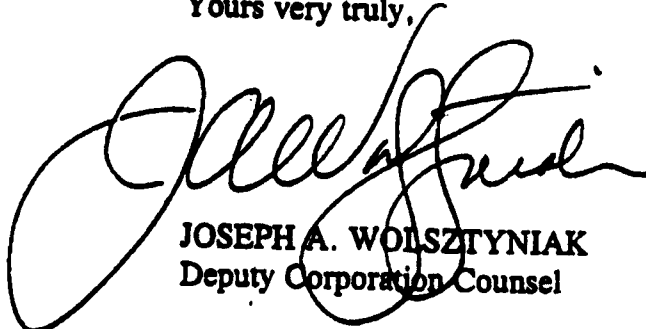
February 18, 1997

forgot to take Mr. Horikawa's name off the Koebke letter of agreement when the Koebke agreement was drafted.

Although I am not an employee of the Department of Public Works, I hold more than advisory status. Our Department under the County Charter represents the Department of Public Works under Article 8, Chapter 2, Section 8-2.3 of the Maui County Charter.

I hope this letter answers any and all questions you may have. If you still have any questions remaining after reviewing my letter or care to discuss this matter further, I remain available to you to answer any further questions and would be happy to discuss this matter with you.

Yours very truly,



JOSEPH A. WOLSZTYNIAK
Deputy Corporation Counsel

JAW:ek

xc: Charles Jencks
Ralph Nagamine
s:\clerical\ek\lrs\ferguson

Proposed amendment to Maui County Charter
Article 3, County Council

Section 1: That Article 3 Section 3 - 9 be redesignated Section 3 - 10 Restrictions on Council and Council Members.

Section 2: That Article 3 is amended to include Section 3 - 9 Office of Public Counsel.

Article 3 County Council

Section 3 - 9 . 1 Organization. There shall be an Office of Public Counsel consisting of a Public Counsel, Public Acts Review Board, and the necessary staff.

Section 3 - 9 . 2 Public Counsel. Public Counsel shall:

1. Be an attorney licensed to practice in Hawaii with a minimum of five years experience that includes not less than three years experience in private practice. The Public Counsel must be qualified to practice before the United States Supreme Court with demonstrated success at appellate level of appeal.
2. Be independent of the authority of Corporation Counsel
3. Hire an associate counsel, legal assistant and clerical staff subject to approval by the Board.

Section 3 - 9. 3. Powers, Duties, and Functions: The Public Counsel shall:

1. Coordinate its services with corporation counsel, boards and commissions established by Charter or State Statute.
2. Upon request provide technical assistance to any citizen regarding proceedings subject to the Hawaii Administrative Procedures Act or Rules of a Board or Commission in order to facilitate a fair and just decision or action, and shall inform recipient that it is not acting nor can it act as a personal attorney.
3. Appear as a party in any proceeding upon its own discretion by filing a notice to participate when it believes it is necessary and shall inform the Board in writing of its reasons. Within 20 days of its notice, the Board may approve by vote of a majority of members or disapprove by unanimous vote of members its participation and Counsel will withdraw.

4. Upon direction of the Board, it shall enter as a party on behalf of the public interest in any matter determined by the Board to require participation.
5. Have standing to appeal to court any decision of a board or commission, or public action by a government agency or official, determined by the board harmful to the public interest.
6. Decide all questions posed by the Executive or Legislative branch regarding proper exercise of Legislative or Executive power or its abuse.

Section 3 - 9 . 4 Public Acts Review Board: The Public Acts Review Board shall consist of three members appointed by the Mayor and approved by the Council.

Section 3 - 9 . 5 Powers, Duties and Functions. The Public Acts Review Board shall:

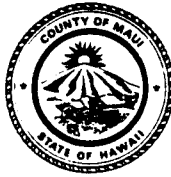
1. Ensure that boards and commissions and public officials empowered by this Charter of the County of Maui promote the public interest and are responsive to citizen concerns related to fair application of public policy and the legality of government action affecting public rights.
2. Seek to encourage public confidence in decision-making process of boards and commission.
3. Appoint public counsel subject to consultation with the Corporation Counsel and approval by the Council.
4. Consider any requests by any citizen or group of citizens, to direct Public Counsel to enter a specific matter to protect the public interest and ensure fair and complete presentation of relevant issues in administrative proceedings or matters of public controversy so that decisions affect public rights may be seen as sound decisions can be made and public confidence in government increased.

Section [3.9] 3.10 Restrictions on Council and Council Members.

1. Neither the council nor any of its members shall, in any manner, dictate the appointment or removal of any officer or employee appointed by the mayor or by his subordinates.

2. Except for the purpose of inquiries under Subsection 3-7(3), the council or its members, in dealing with county employees or with county officers other than those appointed pursuant to Section 3-8 or Article 5, shall deal solely through the mayor, and neither the council nor its members shall give orders to any such employee or officer either publicly or privately. Any willful violation of the provisions of this subsection by a member or the council shall be sufficient grounds for his removal from office by impeachment.

JAMES "KIMO" APANA
Mayor



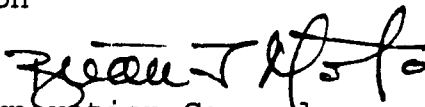
JAMES B. TAKAYESU
Corporation Counsel

DEPARTMENT OF THE CORPORATION COUNSEL

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

February 27, 2002

MEMO TO: Scott Matsuura, Chair
Salary Commission

F R O M: Brian T. Moto 
First Deputy Corporation Counsel

SUBJECT: Attorney General Opinion relating to Act 253, Session Laws of Hawaii 2000, and the adjustment of salary and other terms and conditions of employment for cabinet members whose salaries are currently determined by the Salary Commission of the County of Maui

The purpose of this memorandum is to inform you that the Attorney General of the State of Hawaii has issued an opinion, dated February 21, 2002 ("Opinion"), responding to our request for an opinion on the subject of Act 253, Session Laws of Hawaii 2000 (the "Civil Service Modernization Act").

In summary, and as discussed in the Opinion, the Attorney General is of the opinion that Act 253 is a general law of statewide concern and, as such, supersedes county charter provisions that are repugnant to it.

The Attorney General is of the further opinion that Section 8-16.1, Revised Charter of the County of Maui (1993), as amended, which provides that the Salary Commission "shall determine the compensation of elected officials and appointed directors and deputy directors of all departments of the county", is contrary to, and therefore superseded by, Act 253, which requires the "appropriate authority" to determine adjustments for excluded employees who are exempt from civil service (such as cabinet

Scott Matsuura, Chair
Salary Commission
February 27, 2002
Page 2

members). The Attorney General concludes that the "appropriate authority" for purposes of determining adjustments is the Mayor.

A copy of the Opinion is attached for your review.

Please call me if you have any questions or comments.

BTM:ko

Enclosure

cc: The Honorable James "Kimo" Apana, Jr., Mayor
The Honorable Patrick S. Kawano, Chair, Maui County Council
James B. Takayesu, Corporation Counsel
Grant Y. M. Chun, Managing Director
Raymond Y. Kokubun, Director of Personnel Services
Ken Taira, Deputy Director of Personnel Services
Myles Inokuma, Executive Assistant
Gerald Takase, First Deputy Corporation Counsel,
County of Hawaii
Teryl Vencyl, Chair, and Members of the
Charter Commission

26 February 2002

Chairman Teryl Vencyl & Charter Commission Members
Charter Commission
County of Maui
1727 Wili Pa Loop, Ste. B
Wailuku, HI 96793

Dear Ms. Vencyl & Charter Commission Members:

I apologize for not being able to testify before you in person regarding the amendments to our county charter. I would like to share with you my comments and concerns about some of the amendments being proposed.

First, I have a concern about proposal 1 which deals with adjusting council districts. The possibility exists that expanding the West Maui district to include Maalaea could result in having someone elected from there (Maalaea) who may be more in touch with South Maui issues rather than West Maui. In addition, because of Maalaea's location, many people associate this area more with South Maui than West Maui. Other districts such as Hana could be impacted as well.

I support proposal 2 which lengthens the terms of councilmembers from two to four years. I can personally tell you it is very difficult to accomplish a lot in two years – especially for first term members. A longer term will result in greater continuity, and reduce the time and money spent on campaigning.

I am not in support of proposal 3 which eliminates term limits for councilmembers. I feel it is important to prevent the possibility of long-time members abusing their power and not reduce the opportunities for potential candidates to share "new" ideas. A progressive society should be one that is not afraid to hear out and experiment with new ideas.

I am in favor of proposal 4 which is to eliminate a second election if a candidate receives 50% of the vote in the first election. This will reduce a lot of time, money and emotional stress for both the candidates and taxpayers who have to participate in a second election under the current system.

I am in favor of proposal 5 which relates to allowing councilmembers to talk to and obtain information directly from county officers and employees. This will give councilmembers the same right as the general public and eliminates the possibility of having the administration interfere with councilmembers trying to obtain information necessary to do their jobs.

I am in support of proposals 6 thru 9 with no comments at this time.

I have concerns about proposal 10 which is to create community district boards to make their CACs permanent, adjust their boundaries and expand their powers. While I support the concept of making CACs permanent, I am not convinced we need to do a complete makeover of what is already in existence. Depending on what kind of additional powers are granted, this could lead to a decentralization of power and different approaches being taken in the county in various regions. This I feel could lead to confusion as well as divisiveness within the county. There is another issue which is "should CDB members be elected in their region or appointed?" There may be cost concerns over having an election for Community District Boards as well as having difficulty getting members of the public to run and staff these boards.

I support proposals 11 thru 13 with no comments at this time.

I do not support proposal 14 which relates to reducing the signature requirements for initiative and recall. I believe what we have in place is sufficient. There exists a high probability that special interest groups could abuse the recall and initiative process and make a mockery of the system resulting in further delays in government.

I support proposal 15 with no comments at this time.

I have reservations about proposal 16 which deals with meeting locations. I believe we have to address any liability issues that could occur with meeting in non-county facilities.

Regarding proposal 17-A making the Department of Water Supply More Autonomous. I am not in support of making them fully autonomous. This gives the Water Board too much power with a valuable resource that impacts our economy and way of life. Water is an issue which should include decision making power from all county elected officials as well as appointed ones.

I have no concerns regarding the housekeeping changes.

Thank You,

Mike Molina
Councilmember

RECEIVED
Charter Commission
FEB 25 2002

Subj: Fwd: open space
Date: 2/25/02 2:16:46 PM Hawaiian Standard Time
From: Myles.Inokuma@co.maui.hi.us
To: TVenc1@aol.com
CC: Keala33@aol.com

Sent from the Internet [Details]

Dear Charter Commission,

I would like to urge you to approve the Open Space Amendment. As a lifelong Maui resident, I have seen many of our beautiful wild places become unavailable for the enjoyment of the public and paved over and built up for the enrichment of a few wealthy developers. I believe the open space amendment would take the pressure off by ensuring access to available funds for purchase of valuable open space should it become available. Please help protect Maui's natural beauty for the future.

Jan Elliott

Pf

Post-it* Fax Note 7671

Date	2/25/02	# of pages	1
To	Terryl Venci	From	MARIA FEENSTRA
Co./Dept	Charter Chair	Co.	P&R, Aquatics
Phone #	244-8625	Phone #	270-16134
Fax #	244-3094	Fax #	270-6141

JAMES "KIMO" APANA
Mayor



DEPARTMENT OF PARKS & RECREATION

1580-C Kaahumanu Avenue, Wailuku, Hawaii 96793

RECEIVED
Charter Commission
FEB 25 2002

February 21, 2002

Honorable James "Kimo" Apana
Mayor, County of Maui
Wailuku, Hawaii 96793

For transmittal to:

Terryl Venci, Chair
Maui County Charter Commission
c/o Department of Corporation Counsel
Wailuku, Hawaii 96793

APPROVED FOR TRANSMITTAL

Grantlyn Chun 2/22/02
Mayor Date

Dear Ms. Venci:

SUBJECT: AMENDMENT TO THE MAUI COUNTY CHARTER PERTAINING
TO THE DEPARTMENT OF PARKS AND RECREATION,
CHAPTER 6

The Department requests that an additional item be included under Chapter 6, Section 8-6.3 Powers, Duties and Functions as listed below:

3. Provide lifeguard service protection to the residents and visitors of the County.

The above function is not currently included in the County Charter but it is a vital service that is provided by the Department of Parks and Recreation.

Your favorable consideration would be appreciated. Should there be any questions, please give me a call.

Sincerely,

Floyd S. Miyazono

Fon

FLOYD S. MIYAZONO
Director, Department of Parks & Recreation

p:\ltr\397

DEPT OF PARKS & RECREATION
AQUATIC SECTION

202 FEB 25 AM 10:05

RECEIVED

Subj: Fwd: Open Space Amendment
Date: 2/21/02 4:39:47 PM Hawaiian Standard Time
From: Myles.Inokuma@co.maui.hi.us
To: TVencl@aol.com
CC: Keala33@aol.com
Sent from the Internet (Details)

To the County Charter Commission Members:

In regards to Makena Resort Issue: I recognize that the County has no control over permitting those who own land to build on it but you do have control over the height of the fences or walls that obstruct the beautiful view of the ocean from the car as we take scenic drives. You also have control over the runoff from such construction and homes and I am for zero tolerance vs. the current twenty percent allowed. I believe easy public viewing, as when driving, is part of the island charm appreciated by returning visitors and thus if denied will affect our tourist economy. Enough beauty has been taken away from public viewing.

In regards to the Amendment to set aside 1 percent of the county's unrestricted budget to purchase and conserve open space on Maui. Hopefully, among County Council Members, there is a passionate appreciation for the natural beauty of our island. Once it is in private hands, as mentioned above, you will have no say over development. Natural beauty gone forever. Also, from all the tourists I talk to, many do not set foot on the beach but enjoy viewing only from their car. There are special driving tour packages based on this need. They think it is so beautiful and return year after year. Please keep our tourist based jobs and the natural beauty intact.

Sincerely,

Wanda Ng
321 Hale Kai Street
Kihei, HI 96753
879-0184