

COUNCIL OF THE COUNTY OF MAUI
COMMITTEE OF THE WHOLE

COMMITTEE
REPORT NO. 88-163

June 3, 1988

Honorable Chairman and Members
of the County Council
County of Maui
Wailuku, Hawaii 96793

Chairman and Members:

Your Committee of the Whole, having met on May 25, 1988, makes reference to the following:

1. County Communication No. 87-179, from Councilmember Patrick S. Kawano, regarding proposed amendments to the Revised Charter of the County of Maui (1983) pertaining to a Molokai Planning Commission and Lanai Planning Commission;
2. Committee Report No. 87-354, from the Planning and Land Use Committee, regarding a proposed amendment to the Revised Charter of the County of Maui (1983) pertaining to the Planning Commission's authority over the Coastal Zone Management law;
3. Miscellaneous Communication, from Councilmember Goro Hokama, regarding a proposed amendment to the Revised Charter of the County of Maui (1983) pertaining to voting requirements for Boards and Commissions;
4. Miscellaneous Communication, from Council Chairman Bob Nakasone, regarding a proposed amendment to the Revised Charter of the County of Maui (1983) pertaining to the appropriation of unanticipated revenues;
5. Miscellaneous Communication, from Council Chairman Bob Nakasone, regarding a proposed amendment to the Revised Charter of the County of Maui (1983) pertaining to the audit of accounts;

COMMITTEE OF THE WHOLE

June 3, 1988
Page 2

6. Miscellaneous Communication, from Councilmember Linda Crockett Lingle, regarding proposed amendments to the Revised Charter of the County of Maui (1983) pertaining to Council confirmation of the appointment of the Planning Director;
7. County Communication No. 87-471, from Mayor Hannibal Tavares, transmitting a proposed resolution entitled "PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983) RELATING TO THE TERMS OF MEMBERS OF BOARDS AND COMMISSIONS";
8. Miscellaneous Communication, from Councilmember Wayne K. Nishiki, regarding proposed amendments to the Revised Charter of the County of Maui (1983) pertaining to term of office for the County Council and Office of the Mayor;
9. County Communication No. 88-37, from Mayor Hannibal Tavares, transmitting a proposed resolution entitled "PROPOSING AN AMENDMENT TO SECTION 7-6.2 OF THE REVISED CHARTER OF THE COUNTY OF MAUI (1983)";
10. County Communication No. 88-76, from Mayor Hannibal Tavares, transmitting a proposed resolution entitled "PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983) RELATING TO ESTABLISHING A DEPARTMENT OF HOUSING";
11. County Communication No. 88-77, from Mayor Hannibal Tavares, transmitting a proposed resolution entitled "PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983), RELATING TO THE REVIEW OF SALARIES OF ELECTED OFFICIALS BY THE COST OF GOVERNMENT COMMISSION";
12. County Communication No. 88-78, from Mayor Hannibal Tavares, transmitting a proposed resolution entitled "PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983) RELATING TO LAPSING OF CAPITAL IMPROVEMENT APPROPRIATIONS";

COUNCIL OF THE COUNTY OF MAUI
COMMITTEE OF THE WHOLE

COMMITTEE
REPORT NO. 88-163

June 3, 1988
Page 3

13. County Communication No. 88-87, from Mayor Hannibal Tavares, transmitting a proposed resolution entitled "PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983) RELATING TO APPEALS CONCERNING THE USE OF NEW OR ALTERNATE MATERIALS, TYPES OF CONSTRUCTION, EQUIPMENT, DEVICES OR APPLIANCES"; and
14. Miscellaneous Communication, from Councilmember Linda Crockett Lingle, regarding a proposed amendment to the Revised Charter of the County of Maui (1983) pertaining to setting liquor license fees.

Your Committee notes that it is in receipt of the following proposed resolutions submitted by the members of the Council:

1. "PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983) RELATING TO ESTABLISHING PLANNING COMMISSIONS FOR LANAI, MOLOKAI, AND MAUI".

The purpose of the proposed resolution is to provide for separate planning commissions for the islands of Lanai, Molokai and Maui.

2. "PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983) RELATING TO COASTAL ZONE MANAGEMENT".

The purpose of the proposed resolution is to delete the provision requiring the planning commission to act as the authority in all matters relating to the Coastal Zone Management law.

3. "PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983) RELATING TO VOTING REQUIREMENTS FOR BOARDS AND COMMISSIONS".

The purpose of the proposed resolution is to change the number of affirmative votes of a board or commission necessary to take any action, from the majority of those present, to the majority of the entire membership of a board or commission.

COUNCIL OF THE COUNTY OF MAUI
COMMITTEE OF THE WHOLE

COMMITTEE
REPORT NO.

88-163

June 3, 1988
Page 4

4. "PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983) RELATING TO APPROPRIATION OF REVENUES".

The purpose of the proposed resolution is to allow the Mayor to certify grant revenues which are not actually received, but which are to be reimbursed after the County advances the program costs.

5. "PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983) RELATING TO AUDIT OF ACCOUNTS".

The purpose of the proposed resolution is to improve the procedures for the selection of an independent auditor for the County by changing the deadline for the designation of an independent auditor, from thirty (30) days to six (6) months after the beginning of each fiscal year.

6. "PROPOSING AMENDMENTS TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983) RELATING TO THE PLANNING DIRECTOR".

The purpose of the proposed resolution is to include the Planning Director as an officer whose appointment is subject to approval by the Council.

7. "PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983) RELATING TO TERMS OF OFFICE OF COUNCIL MEMBERS".

The purpose of the proposed resolution is to change the term of office for council members from two (2) years to four (4) years, concurrent with the term of office of the Mayor.

8. "PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983) RELATING TO TERM OF OFFICE OF THE MAYOR".

The purpose of the proposed resolution is to change the term of office for the Mayor from four (4) years to two (2) years, concurrent with the term of office of council members.

COUNCIL OF THE COUNTY OF MAUI
COMMITTEE OF THE WHOLE

COMMITTEE
REPORT NO. 88-163

June 3, 1988
Page 5

Your Committee further notes that it is in receipt of the following proposed resolutions submitted by the Mayor:

1. "PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983) RELATING TO THE TERMS OF APPOINTED BOARDS AND COMMISSIONS".

The purpose of the proposed resolution is to provide that the terms of members of boards and commissions shall commence on April 1st and end on March 31st. Those members holding office upon the effective date of the amendment, shall continue in office for the balance of the term and for ninety (90) days following March 31st.

The proposed resolution also provides that new boards and commissions established by the Charter shall have nine (9) members. Of the nine members initially appointed, three (3) shall serve for a term of five (5) years, two (2) shall serve for a term of four (4) years, two (2) shall serve for a term of three (3) years, and two (2) shall serve for a term of two (2) years.

2. "PROPOSING AN AMENDMENT TO SECTION 7-6.2 OF THE REVISED CHARTER OF THE COUNTY OF MAUI (1983)".

The purpose of the proposed resolution is to provide that the Managing Director shall act as Mayor in the temporary absence of the Mayor from the County or temporary leave (vacation or sick of the Mayor.

3. "PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983) RELATING TO ESTABLISHING A DEPARTMENT OF HOUSING".

The purpose of the proposed resolution is to provide for a new Department of Housing consisting of a director and necessary staff. The director shall be appointed and may be removed by the mayor and shall have had a minimum of five years of experience in an administrative capacity, either in public service or private business, or both.

COUNCIL OF THE COUNTY OF MAUI

COMMITTEE OF THE WHOLE

COMMITTEE
REPORT NO. 88-163

June 3, 1988
Page 6

The director of housing shall:

- a. Be the administrative head of the Department of Housing.
 - b. Develop and administer projects, programs and plans of action designed to stimulate or aid the supply of housing in the County.
 - c. Act as the local public officer for the purpose of implementing state-assisted and federally-aided housing programs.
 - d. Perform such other duties and functions as shall be assigned by the Mayor.
4. "PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983), RELATING TO THE REVIEW OF SALARIES OF ELECTED OFFICIALS BY THE COST OF GOVERNMENT COMMISSION".

The purpose of the proposed resolution is to repeal the provision relating to the Cost of Government Commission's review of the salaries of the Mayor and Council Members since the Charter provides for a Salary Commission to determine the compensation of elected officials.

5. "PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983) RELATING TO LAPSING OF CAPITAL IMPROVEMENT APPROPRIATIONS".

The purpose of the proposed resolution is to change the lapsing date of capital improvement appropriations from six (6) months after the close of the fiscal year in which they were appropriated, providing no funds were expended or encumbered by a written contract, to provide that capital improvement appropriations of less than \$100,000 shall be deemed abandoned eighteen (18) months from the date of the appropriation and that capital improvement appropriations of \$100,000 or more shall be deemed abandoned thirty (30) months from the date of appropriation, providing no funds were expended or encumbered by a written contract.

COUNCIL OF THE COUNTY OF MAUI

COMMITTEE OF THE WHOLE

COMMITTEE
REPORT NO. 88-163

June 3, 1988
Page 7

6. "PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983) RELATING TO APPEALS CONCERNING THE USE OF NEW OR ALTERNATE MATERIALS, TYPES OF CONSTRUCTION, EQUIPMENT, DEVICES OR APPLIANCES" (as revised).

The purpose of the proposed resolution is to clarify the Board of Code Appeals' jurisdiction relating to construction materials, methods, etc. and to include appeals from the requirements of the Department of Water Supply as it pertains to such construction materials, methods, etc.

In Committee Report No. 88-77, your Committee recommended that the Council hold public hearings on the foregoing proposed resolutions. The Council adopted your Committee's recommendation on March 18, 1988, and held public hearings on March 28, March 31, April 4, and April 7, 1988.

At its meeting of May 25, 1988, meeting, your Committee met with the Corporation Counsel to discuss the various Charter amendment proposals. Your Committee also reviewed a letter dated May 24, 1988, from the Mayor, stating his position on the various proposals offered by Council members. Your Committee took the following actions:

1. The proposal to create separate planning commissions for Lanai, Maui and Molokai, was supported as a way to reduce the perceived isolation of Lanai and Molokai residents from their County government. However, it was also opposed on the grounds that planning functions should be viewed from a County-wide perspective. In his letter, the Mayor also opposed this proposal, contending that the advisory committees to the Planning Commission already serve the same purpose, and that the estimated additional cost of \$90,000 would not be justified.

A question arose as to whether Hawaii Revised Statutes Section 46-5 implies that there should be only one planning commission in each County. The Corporation Counsel stated that a Charter amendment would override the statutory provision.

Your Committee deferred consideration of this proposal.

COUNCIL OF THE COUNTY OF MAUI

COMMITTEE OF THE WHOLE

COMMITTEE
REPORT NO. 88-163

June 3, 1988
Page 8

2. The proposal to eliminate the specific designation of the Planning Commission as the authority for Coastal Zone Management (CZM) law purposes was supported on the grounds that an elected body should have the final authority over such matters. Even if the proposal were ratified, an ordinance (subject to mayoral veto) would be needed to transfer the Planning Commission's CZM authority to the Council. The proposal was opposed on the grounds that many unresolved questions would arise if the Planning Commission were divested of its powers in this area.

The Mayor opposed the proposal because he felt the Council would take more time than the Planning Commission, to perform the function.

Your Committee decided to recommend that the Council adopt the proposal.

3. The proposal to change the majority vote requirement for actions of a board or commission was supported on the grounds that decisions should not be made by a minority, as is possible under the current Charter provision. Your Committee noted that the existing provision was formulated because various boards and commissions were experiencing difficulty securing adequate attendance. Your Committee was informed that members of boards and commissions who fail to attend meetings are now asked to resign.

The Mayor supported the proposal.

Your Committee decided to recommend that the Council adopt the proposal.

4. The proposal to allow the Mayor to certify grant revenues which are not actually received, but which are to be reimbursed to the County after expenditure, was supported by the Mayor.

Your Committee decided to recommend that the Council adopt this proposal.

COUNCIL OF THE COUNTY OF MAUI
COMMITTEE OF THE WHOLE

COMMITTEE
REPORT NO. 88-163

June 3, 1988
Page 9

5. The proposal to extend the deadline for the designation of the independent auditor was not objected to by the Mayor.

Your Committee decided to recommend that the Council adopt this proposal.

6. The proposal to require confirmation of the Planning Director was supported on the grounds that the office greatly impacts the future of the County. However, the proposal was opposed as being inconsistent with other County officials.

Your Committee decided to recommend that the Council not adopt this proposal.

7. The proposals to make the terms of both the mayor and the Council members equal in duration was questioned by the members, since it would be difficult to frame appropriate questions on the ballot. Furthermore, there was some question as to whether the two-term limit on the Mayor's four-year term would be imposed on the Council.

Your Committee deferred the matter, pending further consideration.

8. The Mayor's proposal to begin and end the terms of board and commission members on April 1st and March 31st, respectively, was discussed by your Committee. Your Committee briefly considered the possibility of reducing the terms of board and commission members from five (5) to three (3) years.

Your Committee deferred the matter, pending further consideration.

9. The Mayor's proposal to permit the designation of the Managing Director or, if the Managing Director is absent or unavailable, the Director of Finance to act as Mayor when the Mayor is temporarily absent from the County, or on temporary leave, was supported by your Committee.

COUNCIL OF THE COUNTY OF MAUI
COMMITTEE OF THE WHOLE

COMMITTEE
REPORT NO. 88-163

June 3, 1988
Page 10

Your Committee decided to recommend that the Council adopt this proposal.

10. The Mayor's proposal to establish a Department of Housing was opposed by your Committee.

Your Committee decided to recommend that the Council not adopt this proposal.

11. The Mayor's proposal to delete the requirement that the Cost of Government Commission review elected officials' salaries was supported, because the Salary Commission now performs the function.

Your Committee decided to recommend that the Council adopt this proposal.

12. The Mayor's proposal to extend the lapsing period for capital improvement appropriations was opposed on the grounds that the current lapsing period allows ample time to encumber appropriations, and provides a means of reviewing implementation of capital projects.

Your Committee decided to recommend that the Council not adopt this proposal.

13. The Mayor's proposal to authorize the Council to assign to another county agency the power to hear certain appeals (regarding the use of new or alternative materials, types of construction, equipment, devices or appliances) was supported by your Committee.

Your Committee decided to recommend that the Council adopt this proposal.

14. The proposal to eliminate the provisions authorizing the Liquor Control Commission to fix liquor license fees was supported on the grounds that fees should be set by a body other than the licensing body. Your Committee notes that no public hearing has been held on this proposal.

Your Committee decided to recommend that the Council adopt this proposal.

COUNCIL OF THE COUNTY OF MAUI

COMMITTEE OF THE WHOLE

COMMITTEE
REPORT NO. 88-163

June 3, 1988
Page 11

Your Committee requested that the Department of the Corporation Counsel prepare a resolution to eliminate the Liquor Control Commission's authority of fixing liquor license fees.

Your Committee is in receipt of revised resolutions, making nonsubstantive changes.

Your Committee notes that pursuant to Section 14-1.1 of the Revised Charter of the County of Maui, the Council may initiate amendments to the Charter by resolution adopted after two readings on separate days and passed by a vote of six or more members of the Council.

Your Committee of the Whole concurs with the intent and purpose of the following and RECOMMENDS that each PASS FIRST READING:

1. Resolution No. 88-57, as revised herein and attached hereto, entitled "PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983) RELATING TO COASTAL ZONE MANAGEMENT".
2. Resolution No. 88-58, attached hereto, entitled "PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983) RELATING TO VOTING REQUIREMENTS FOR BOARDS AND COMMISSIONS".
3. Resolution No. 88-59, attached hereto, entitled "PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983) RELATING TO APPROPRIATION OF REVENUES".
4. Resolution No. 88-60, attached hereto, entitled "PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983) RELATING TO AUDIT OF ACCOUNTS".
5. Resolution No. 88-61, attached hereto, entitled "PROPOSING AN AMENDMENT TO SECTION 7-6.2 OF THE REVISED CHARTER OF THE COUNTY OF MAUI (1983)".

COUNCIL OF THE COUNTY OF MAUI
COMMITTEE OF THE WHOLE

COMMITTEE
REPORT NO. 88-163

June 3, 1988
Page 12

6. Resolution No. 88-62, as revised herein and attached hereto, entitled "PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983), RELATING TO THE REVIEW OF SALARIES OF ELECTED OFFICIALS BY THE COST OF GOVERNMENT COMMISSION".
7. Resolution No. 88-63, as revised herein and attached hereto, entitled "PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983) RELATING TO APPEALS CONCERNING THE USE OF NEW OR ALTERNATE MATERIALS, TYPES OF CONSTRUCTION, EQUIPMENT, DEVICES OR APPLIANCES".

Your Committee of the Whole further RECOMMENDS that County Communication Nos. 88-37, 88-76, 88-77, 88-78, 88-87; Committee Report No. 87-354; and Miscellaneous Communications (except those pertaining to a Planning Commission for Molokai and Lanai, the term of office for the County Council and Office of the Mayor, and the setting of liquor license fees) be FILED.

Adoption of this report is respectfully requested.

78:COW2:gyo

COUNCIL OF THE COUNTY OF MAUI
COMMITTEE OF THE WHOLE

COMMITTEE
 REPORT NO. 88-163

June 3, 1988
 Page 13

Goro Hokama

 GORO HOKAMA Chairperson

Howard S. Kihune

 HOWARD S. KIHUNE Vice-Chairperson
1. p. 9, #6; Pg. 8, #2; - I do not concur

Linda Crockett Lingle

 LINDA CROCKETT LINGLE Member
WLR

Patrick S. Kawano

 PATRICK S. KAWANO Member

Thomas P. Morrow

 THOMAS P. MORROW Member

Robert H. Nakasone

 ROBERT H. NAKASONE Member

EXCUSED

WAYNE K. NISHIKI Member

Velma M. Santos

 VELMA M. SANTOS Member

Joe S. Tanaka

 JOE S. TANAKA Member

COUNCIL OF THE COUNTY OF MAUI
 Wailuku, Hawaii 96793

CERTIFICATION OF ADOPTION

It is HEREBY CERTIFIED that the foregoing COMMITTEE REPORT was adopted by the Council of the County of Maui, State of Hawaii, on the 3rd day of June, 19 88 by the following vote:

MEMBERS	Linda CROCKETT LINGLE	Goro HOKAMA Vice-Chairman	Patrick S. KAWANO	Howard S. KIHUNE	Thomas P. MORROW	Robert H. NAKASONE Chairman	Wayne K. NISHIKI	Velma M. SANTOS	Joe S. TANAKA
ROLL CALL	Aye	Aye	Aye	Aye	Aye	Aye	Excused	Excused	Aye

Res. 88-57 recommitted to COW (no 1st reading).
 Crockett Lingle voted no on filing of communications.

Daryl T. Yamamoto

 COUNTY CLERK