

COUNCIL OF THE COUNTY OF MAUI  
**COMMITTEE OF THE WHOLE**

August 6, 2010

**Committee  
Report No.** \_\_\_\_\_

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 July 15, 2010, makes reference to County Communication No. 09-229, from Michael J. Molina, Chair of your Committee, relating to Charter amendments.

By correspondence dated August 10, 2009, the Kula Community Association (“KCA”) transmitted a proposed Charter amendment to establish new election districts for the Council. Under the KCA’s proposal, the Council would be composed of nine members elected from three districts with approximately the same population. The districts would be known as the Central District (comprising the towns of Wailuku, Waihee, Waikapu, and Kahului); the Leeward District (comprising West Maui and South Maui); and the Rural District (comprising the East Maui land surrounding Haleakala and the islands of Molokai and Lanai). Three Council members would be elected from each district, and each member would have to be a resident of that district.

By correspondence dated April 23, 2010, Councilmember Jo Anne Johnson transmitted a draft resolution entitled “PROPOSING AMENDMENTS TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983), AS AMENDED, TO ESTABLISH MAUI COUNTY COUNCIL ELECTION DISTRICTS”. The purpose of the draft resolution is to place the following question on the 2010 General Election ballot:

Should at-large elections for Maui County Council members be abolished and replaced with elections for members from each of nine election districts, with the district boundaries to be determined by a County Reapportionment Commission according to established criteria?

Your Committee notes that Section 3-1 of the Revised Charter of the County of Maui (1983), as amended, mandates that the Maui County Council be composed of nine members who are elected at-large.

Your Committee discussed the history of Council elections in Maui County. Because Maui County is comprised of multiple islands, it is particularly challenging to

**COUNCIL OF THE COUNTY OF MAUI**  
**COMMITTEE OF THE WHOLE**

August 6, 2010  
Page 2

**Committee**  
**Report No.** \_\_\_\_\_

create an election system that is constitutional and provides the fairest representation for remote areas.

Your Committee expressed concerns that, under each proposal, Molokai and Lanai would share a district with portions of the island of Maui. This could allow for a resident of Maui to become the Council representative of Molokai or Lanai, even if the individual may not have a clear understanding of the unique issues facing Molokai or Lanai.

Your Committee recognized that there was not a clear consensus on the issue of whether Maui County should adopt a district-voting system for the Council. Your Committee further recognized the importance of soliciting community input to ensure a full and fair discussion about the pros and cons of a district-voting system.

Your Committee decided that the KCA's proposal and the draft resolution should be considered by the next Charter Commission.

The Corporation Counsel informed your Committee that appointments to the Charter Commission must be made by March 1, 2011.

Your Committee voted 5-0 to recommend referral of the KCA's proposal and the draft resolution to the Charter Commission. Committee Chair Molina, Vice-Chair Mateo, and members Johnson, Medeiros, and Nishiki voted "aye". Committee members Baisa, Kaho'ohalahala, Pontanilla, and Victorino were excused.

Your Committee of the Whole **RECOMMENDS** the following:

1. That the attached correspondence dated August 10, 2010, from the Kula Community Association be REFERRED to the Council Chair for the next Council term, for transmittal to the next Charter Commission; and
2. That the attached draft resolution, entitled "PROPOSING AMENDMENTS TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983), AS AMENDED, TO ESTABLISH MAUI COUNTY COUNCIL ELECTION DISTRICTS", be REFERRED to the Council Chair for the next Council term, for transmittal to the next Charter Commission.

**COUNCIL OF THE COUNTY OF MAUI**  
**COMMITTEE OF THE WHOLE**

August 6, 2010  
Page 3

**Committee**  
**Report No.** \_\_\_\_\_

This report is submitted in accordance with Rule 7 of the Rules of the Council.

  
\_\_\_\_\_  
MICHAEL J. MOLINA, Chair

cow:cr:10010(1)aa:kmh

## Kula Community Association

P.O. Box 417 - Kula, HI 96790 <http://kulamaui.com>

*The vision of the Kula Community Association is to preserve open space, support agriculture, maintain a rural residential atmosphere, and to work together as a community.  
The specific purpose of this association is to improve the quality of life for the residents of Kula, to promote civic welfare, and generally to benefit the community of Kula.*

August 10, 2009

**TO: Chairman Danny Mateo, Maui County Council**  
**FROM: Ron Montgomery, Vice-President, Kula Community Association**  
**Dick Mayer, Board Member, Kula Community Association**

### **RE: Establishment of new Maui County Council election districts**

The Board of the Kula Community Association at its June 2, 2009 meeting approved the attached resolution and recommended its transmittal to the Maui County Council. We ask that the Council place a proposed County Charter amendment on the ballot for the November 2010 election.

#### **THE ISSUE:**

Ever since the Maui County charter was amended in 1991, the County Council has consisted of nine members, each representing a residential district with very unequal population sizes. Furthermore, all candidates must run countywide which places an expensive and unneeded burden on all candidates, and a special burden on new, less well-known candidates. This proposed amendment will correct that problem in a relatively simple manner.

#### **PROPOSED MAUI COUNTY CHARTER AMENDMENT - Example of possible wording:**

**“Delete in its entirety Maui County Charter Section 3-1. Composition.** There shall be a council composed of nine members who shall be elected-at large. Of the nine members elected to the council, one shall be a resident of the Island of L~na`i, one a resident of the Island of Moloka`i, one a resident of the residency area of East Maui, one a resident of the residency area of West Maui, one a resident of the residency area of Makawao-Ha`ikā-P~`ia, one a resident of the residency area of "Upcountry" comprising Pukalani-Kula-`Ulupalakua, one a resident of the residency area of South Maui, one a resident of the residency area of Kahului, and one a resident of the residency area of Wailuku-Waihe`e-Waikapā. The county clerk shall prepare the nomination papers in such a manner that candidates desiring to file for the office of council member shall specify the residency area from which they are seeking a seat. The ballots shall, nevertheless, be prepared to give every voter in the county the right to vote for each and every council seat.

1. The East Maui (Hana-Keanae-Kailua) residency area shall be described as follows:
2. The West Maui residency area shall be described as follows:
3. The Wailuku-Waihe`e-Waikapā residency area shall be described as follows:
4. The Kahului residency district area shall be described as follows:
5. The South Maui residency area shall be described as follows:
6. The Makawao-Ha`ikā-P~`ia residency area shall be described as follows:
7. The Upcountry (Pukalani-Kula-`Ulupalakua) residency area shall be described as follows:”

**And substitute the following:**

**“Section 3-1. Composition.** There shall be a council composed of nine members who shall be elected from three distinct districts, each district having approximately the same population number. There will be three council members elected from each district; the elected council members must be residents of that district.

“The districts shall be known as: Central District (comprising primarily the towns of Wailuku, Kahului, Waihee and Waikapu); Leeward District (comprising primarily West Maui and South Maui); and Rural District (comprising the East Maui land is surrounding Haleakala and the islands of Molokai and Lanai). The district boundaries will initially be those of Maui County’s three State Senate districts, and after each decennial census will be reviewed, and if necessary adjusted, to reflect approximately equal population size in each of the three districts.

“The county clerk shall prepare the nomination papers in such a manner that candidates desiring to file for the office of council member shall specify the district from which they are seeking a seat. The ballots shall be prepared to give every voter in a district the right to vote for three council members from the voter’s district.”

**Furthermore Section 3-2 shall be modified to read as follows:****“Section 3-2. Election of Council and Term of Office.**

1. Council members shall be elected by nonpartisan special elections. Such special elections shall be held in conjunction with the primary and general elections every two (2) years commencing in 2012. The special election held in conjunction with the primary election every two (2) years shall be known as the first special election. The special election held in conjunction with the general election every two (2) years shall be known as the second special election.
2. The names of all candidates for each council seat district shall be placed on the ballot for the first special election; provided, that for any council seat district with ~~two~~ six or fewer candidates, the names of the candidates shall appear only on the ballot for the second special election.
3. For any council seat district with ~~three~~ seven or more candidates, the names of the ~~two~~ six candidates receiving the highest number of votes for each council seat district in the first special election shall be placed on the ballot for the second special election; provided, that if two or more candidates tie for the highest number of votes received in the first special election, the names of the candidates tied for the highest number of votes shall be placed on the ballot for the second special election; and further provided, that if ~~a single~~ five candidate receives the highest number of votes in the first special election and two or more candidates tie for the ~~second~~ sixth-highest number of votes received, the names of the candidate receiving the highest number of votes and the candidates tied for the ~~second~~ sixth-highest number of votes shall be placed on the ballot for the second special election.
4. At the second special election, the three candidates receiving the highest number of votes for each council seat district shall be deemed elected. If there is are no more than ~~one~~ three candidates for a council seat district, such persons shall be deemed elected regardless of the number of votes received.

5. The term of office of council members shall be for two (2) 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 consecutive full terms of office. (Amended 1998, 1992)"

#### **RATIONALE FOR THE PROPOSED AMENDMENTS:**

The biggest opposition to this election method will probably be the perception that isolated areas of our county with the smallest population/voice (Lanai, Molokai and Hana) will be losing representation. That is not necessarily so.

A. Each of these smaller and more isolated areas will now have three council members whom they elect and who will represent them.

B. Voters will not be limited to electing from a small population pool in a very small geographic area. With the proposed system the emphasis would be on candidate qualifications, their abilities, ideas and opinions, not simply the specific town within a district where they live. It may even be possible that three councilpersons from a most sparsely populated area could hold office if the electorate decides they are the most qualified individuals in the district.

C. With the internet and Akaku broadcasts, geographically remote areas are no longer so isolated from knowledge and information. Communication has bridged physical isolation and distance. The needs and desires of our small communities can be expressed and receive attention today in ways that barely existed a decade ago.

D. At present voters in a residential seat with a small population (such as Lanai, Molokai or East Maui) may find that the candidate whom they would want loses an election because voters in distant more populated districts vote for someone else.

Furthermore, in the "whereas" clauses of the attached resolution, there are several reasons why it would be beneficial to adopt the proposed amendments.

In the election of our Maui County council members, there is a legal requirement to have a representative system based on the principle of "one person, one vote". However, some of the present residential districts have very small populations, while other residential districts have very large population numbers.

New candidates find it very expensive to run county-wide, and thus are at a considerable disadvantage in running against well-known incumbents. Quality individuals should be elected and given the opportunity to be heard (one of the goals of the change in election method) without the financial burden of campaigning county wide.

Voters may not know each candidate well, because candidates live distant from them; consequently, voters may not vote in important council races.

It is beneficial to know that there are several council members who would feel responsible to each district's constituents and concerns.

Finally, with the proposed amendments it will be possible to solve some of the problems mentioned above with a simple remedy. Maui County would have three districts with approximately equal populations.

The Board of the Kula Community Association looks forward to working with our County Council to place the suggested amendments on the ballot in 2010.

---

Ron Montgomery, KCA Vice-President

---

Dick Mayer, KCA Board Member

CC. Mayor Charmaine Tavares  
Maui News  
Maui Weekly  
Maui Time Weekly

*The vision of the Kula Community Association is to preserve open space, support agriculture, maintain a rural residential atmosphere, and to work together as a community. The specific purpose of this association is to improve the quality of life for the residents of Kula, to promote civic welfare, and generally to benefit the community of Kula.*

## **Resolution: Election of Council members from Residential Districts.**

Whereas, In the election of our Maui County Council members, there is a need to have a representative system based on the principle of "one person, one vote";

Whereas, Some of the present residential districts have very small populations, while other residential districts have very large population numbers;

Whereas, New candidates find it very expensive to run county-wide, and thus are at a disadvantage in running against well-known incumbents;

Whereas, Voters (because they live distant from candidates) may not know each candidate well, and may therefore not vote in important council races;

Whereas, It would be beneficial to know that there are several council members who feel responsible to each district's constituents and concerns;

Whereas, There exists a mechanism by which Maui County can have districts with approximately equal populations; now,

THEREFORE, BE IT RESOLVED, that Board of Directors of the Kula Community Association recommends to the Maui County Council that it shall place on the ballot in the next general election an amendment to the Maui County Charter;

BE IT FURTHER RESOLVED, that the amendment would change Maui County Charter "Article 3, Section 3-1. Composition" to reduce the number of residential districts from nine to three, utilizing the boundary lines of the State's three senate districts;

BE IT FURTHER RESOLVED, that the amendment shall allow each district to have three Council members who must be residents of that district;

BE IT FURTHER RESOLVED, that the amendment shall allow voters in each district to vote for the three council members from their residential district; and

BE IT FURTHER RESOLVED, that a copy of this resolution be transmitted to all the members of the Maui County Council, Mayor Charmaine Tavares, and the Maui News.

Adopted by the Board of Directors of the Kula Community Association on June 2, 2009.

---

Ron Montgomery, KCA Vice-President

---

Dick Mayer, KCA Board Member



<http://www.co.maui.hi.us/documents/Council%20Services/2003charter.PDF>

**Section 3-1. Composition.** There shall be a council composed of nine members who shall be elected-at large. Of the nine members elected to the council, one shall be a resident of the Island of Lānaʻi, one a resident of the Island of Molokaʻi, one a resident of the residency area of East Maui, one a resident of the residency area of West Maui, one a resident of the residency area of Makawao-Haʻikā-Pūia, one a resident of the residency area of "Upcountry" comprising Pukalani-Kula-Ulupalakua, one a resident of the residency area of South Maui, one a resident of the residency area of Kahului, and one a resident of the residency area of Wailuku-Waiheʻe-Waikapā. The county clerk shall prepare the nomination papers in such a manner that candidates desiring to file for the office of council member shall specify the residency area from which they are seeking a seat. The ballots shall, nevertheless, be prepared to give every voter in the county the right to vote for each and every council seat.

1. The East Maui (Hana-Keanae-Kailua) residency area shall be described as follows:
2. The West Maui residency area shall be described as follows:
3. The Wailuku-Waiheʻe-Waikapā residency area shall be described as follows:
4. The Kahului residency district area shall be described as follows:
5. The South Maui residency area shall be described as follows:
6. The Makawao-Haʻikā-Pūia residency area shall be described as follows:
7. The Upcountry (Pukalani-Kula-Ulupalakua) residency area shall be described as follows:

### **Section 3-2. Election of Council and Term of Office.**

1. Council members shall be elected by nonpartisan special elections. Such special elections shall be held in conjunction with the primary and general elections every two (2) years commencing in 2000. The special election held in conjunction with the primary election every two (2) years shall be known as the first special election. The special election held in conjunction with the general election every two (2) years shall be known as the second special election.
2. The names of all candidates for each council seat shall be placed on the ballot for the first special election; provided, that for any council seat with two or fewer candidates, the names of the candidates shall appear only on the ballot for the second special election.
3. For any council seat with three or more candidates, the names of the two candidates receiving the highest number of votes for each council seat in the first special election shall be placed on the ballot for the second special election; provided, that if two or more candidates tie for the highest number of votes received in the first special election, the names of the candidates tied for the highest number of votes shall be placed on the ballot for the second special election; and further provided, that if a single candidate receives the highest number of votes in the first special election and two or more candidates tie for the second-highest number of votes received, the names of the candidate receiving the highest number of votes and the candidates tied for the second-highest number of votes shall be placed on the ballot for the second special election.
4. At the second special election, the candidates receiving the highest number of votes for each council seat shall be deemed elected. If there is no more than one candidate for a council seat, such person shall be deemed elected regardless of the number of votes received.
5. The term of office of council members shall be for two (2) 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 consecutive full terms of office. (Amended 1998, 1992)

**Section 3-3. Qualifications.** To be eligible for election or appointment to the council, a person must be a citizen of the United States, a voter in the county, a resident of the county for a period of ninety (90) days next preceding the filing of nomination papers and at the time of filing of nomination papers a resident in the area from which the person seeks to be elected. If a council member ceases to be a resident of the county, or ceases to be a resident of the council member's residency area during the council member's term of office, or if a council member is adjudicated guilty of a felony, the council member shall immediately forfeit office and the seat shall thereupon become vacant. (Amended 1992)

# Resolution

No. \_\_\_\_\_

PROPOSING AMENDMENTS TO THE REVISED CHARTER OF THE  
COUNTY OF MAUI (1983), AS AMENDED, TO ESTABLISH MAUI  
COUNTY COUNCIL ELECTION DISTRICTS

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

1. That, pursuant to Section 14-1(1) of the Revised Charter of the County of Maui (1983), as amended (Charter), it hereby proposes that Section 3-1 of the Charter, pertaining to the composition of the Council, be deleted in its entirety and replaced with the following:

“Section 3-1. Composition. There shall be a council composed of nine members who shall be elected from each of nine election districts, as established by section 3-9.”

2. That, pursuant to Section 14-1(1) of the Charter, it hereby proposes that Section 3-3 of the Charter, pertaining to qualifications, be amended as follows:

“Section 3-3. Qualifications. To be eligible for election or appointment to the council, a person must be a citizen of the United States, a voter in the county, a resident of the county and the district from which the person seeks to be elected for a period of ninety (90) days next preceding the filing of nomination papers [and at the time of filing of nomination papers a resident in the area from which the person seeks to be elected]. If a council member ceases to be a resident of the county, or ceases to be a resident of the council member’s [residency area] district during the council member’s term of office, or if a council member is adjudicated guilty of a felony, the council member shall immediately forfeit office and the seat shall thereupon become vacant.”

**Resolution No. \_\_\_\_\_**

3. That, pursuant to Section 14-1(1) of the Charter, it hereby proposes that Section 3-5 of the Charter, pertaining to procedure, meetings, rules and journal, and voting, be amended as follows:

**“Section 3-5. Procedure; Meetings; Rules and Journal; Voting.**

1. The council shall meet in the council room at the county building for its organization at two o'clock p.m. on the second day of January following its election, or on the following Monday if the second day be a Saturday or Sunday, at which time it shall elect one of its members as chair and presiding officer of the council. Until such time as the chair shall be elected, the [mayor] council member elected from the First Council District shall preside at such meeting[, provided that the mayor shall not have a vote]. The council shall also elect a vice-chair who shall act as the presiding officer in the event of the chair's absence or disability. The council shall appoint a presiding officer pro tempore from its own members in the event of the absence or disability of both the chair and vice-chair.

2. The council shall meet regularly at least twice in every month at such times and places as the council may prescribe by rule. Special meetings may be held on the call of the mayor, the chair or [of] five or more members and, whenever practical, upon no less than seventy-two (72) hours effective notice to each member.

3. The council shall determine its own rules and order of business, provided that all members shall have an equal, inalienable, independent right to propose to the council what they believe it should consider without need for a second, and shall provide for keeping a public journal of its proceedings.

4. Voting and all motions shall be in accordance with the rules of the council and shall be recorded in the journal of the council, provided, however, a roll call vote must be taken if requested by any one council member. Five members of the council shall constitute a quorum, but a smaller number may convene from time to time and compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the council. Unless otherwise provided for herein, no action of the council shall be valid or binding unless adopted by a vote of five or more members of the council.”

## Resolution No. \_\_\_\_\_

4. That, pursuant to Section 14-1(1) of the Charter, it hereby proposes that a new section be added to the Charter, establishing a reapportionment commission, as follows:

**“Section 3-9. County Reapportionment Commission.** 1. There shall be a county reapportionment commission responsible for establishing the boundaries of the council districts.

2. The initial reapportionment commission shall consist of nine members, one from each of the state House of Representatives districts; except that the Thirteenth House District shall have three members including a resident of Maui, a resident of Moloka`i, and a resident of Lana`i. The members shall be appointed by the mayor with the approval of the council.

3. Each subsequent reapportionment commission shall consist of nine members appointed by the mayor with the approval of the council, and shall include members from each council district.

4. The year of 2011 and every tenth year thereafter shall be reapportionment years. The reapportionment commission shall be appointed and confirmed by March 1 of the reapportionment year, and shall file a reapportionment plan with the county clerk by December 31 of the reapportionment year that shall be applicable to the next election at which council members are elected to regular terms. The reapportionment commission shall be dissolved after the filing of the reapportionment plan.

5. The county clerk shall furnish all necessary technical and secretarial services for the reapportionment commission. The council shall appropriate necessary funds to enable the commission to carry out its duties.

6. The reapportionment commission shall be guided by the following criteria in establishing the boundaries of the council districts:

a. No district shall be drawn to unduly favor or penalize a person or political faction;

b. Except in the case of districts encompassing more than one island, districts should be contiguous and compact when possible;

c. Where possible, district lines shall follow permanent and easily recognized features, such as streets, streams and clear geographical features, and, when practicable, shall coincide with census tract boundaries;

d. Districts shall have approximately equal resident populations; and

**Resolution No. \_\_\_\_\_**

e. No single district shall include both any part of the island of Lana'i and any part of Moloka'i and consideration shall be given to provide the voters of the islands of Lana'i and Moloka'i effective representation.

7. The district boundaries as established by the reapportionment commission shall be in effect at the first regularly scheduled council election following the filing of the reapportionment plan and for any subsequent council election. The district boundaries in effect prior to the filing of the reapportionment plan shall remain in effect during the duration of the term of all council members elected or appointed to represent such districts until the expiration of the full term of such council members, including any election held to fill an unexpired term under section 3-4.

8. Any registered voter may petition the proper court to compel, by mandamus or otherwise, the appropriate person or persons to perform their duty or to correct any error made in a reapportionment plan, or the court may take such other action to effectuate the purpose of this section as it may deem appropriate. Any petition must be filed within fifteen (15) calendar days after the filing of the reapportionment plan."

5. That material to be repealed is bracketed and new material is underscored;

and

6. That, pursuant to Section 14-2(1) of the Charter, this resolution be submitted to the voters of the County of Maui at the next general election; and

7. That the County Clerk prepare the necessary ballot for presentation to the voters at the 2010 General Election; and

8. That the ballot question relating to the amendment be set forth as follows:

Should at-large elections for Maui County Council members be abolished and replaced with elections for members from each of nine election districts, with the district boundaries to be determined by a County Reapportionment Commission according to established criteria?

**Resolution No. \_\_\_\_\_**

9. That, upon approval of the majority of the voters as indicated by the number of votes cast and upon official certification of such result, the amendment proposed herein take effect; and

10. That certified copies of this resolution be transmitted to the Mayor, the County Clerk, and the Corporation Counsel.

APPROVED AS TO FORM AND LEGALITY

---

Department of the Corporation Counsel  
County of Maui

paf:kmh:10-081a