

Ward Mardfin Testimony for the Maui County Charter Commission to be presented on July 5, 2011 regarding the **Hana Advisory Committee (HAC)** to the Maui Planning Commission (MPC).

Dear Commissioners of the Maui County Charter Commission,

Though I am in my last year as a Commissioner on the Maui Planning Commission (MPC), I am writing strictly as an individual and a resident of Hana who wants what is best for our community.

I suspect a number of people may urge you to recommend the establishment of a Hana Planning Commission to replace the Hana Advisory Committee (HAC) to the Maui Planning Commission (similar to a Lānaʻi Planning Commission and the Molokaʻi Planning Commission). For a number of reasons. I strongly urge you NOT to give in to this and **to try to have the Hana Advisory Committee to remain as it is** as we are the only community in Maui County that has the BEST of both worlds. Note that the Hana Advisory Committee does not actually appear in the current Maui County Charter; it is in section 2.28.060 established by ordinance (Ord. 1859 § 1 (part), 1989).

I have heard it argued that there is deep frustration on the HAC because it is "merely advisory" and its wishes can be overruled by the MPC (much as the MPC is "merely advisory" to the Maui County Council on a variety of issues and can be overruled by the Council). This is true but I would suggest that it is fairly infrequently done. My observations over the last three plus years is that the recommendations of the HAC are almost always followed by the MPC with perhaps a small modification where it is perceived necessary and helpful.

In the past the HAC only meets several times per year and it has sometimes had trouble in getting a quorum for the meeting (or if a bare quorum is met then it takes unanimity to pass any motions).

For example, a recent issue dealt with Ala Kukui (a spiritual retreat in Hana). The HAC had a bare quorum but did not have enough votes to actually make a recommendation. After the issue left the HAC and before it arrived on the MPC agenda, there were some discussions with the Planning Department and modifications made (partially in response to the discussion that took place in Hana). The result was that the final product before the MPC was improved. During the MPC proceedings, verbal commitments were made reflecting Hana concerns and an amendment was made to have any future ownership transfers and time extensions come back to the HAC as the HAC had wanted. In short, the extra time and two levels of review resulted in a much improved final recommendation that reflected the HAC's views but incorporated experiences from other parts of Maui that reflected the broader experience base of the MPC.

All of this might not have come about if there were not BOTH a HAC and a MPC. The HAC allowed for the community to express itself, there was then time to make appropriate adjustments prior to the MPC meeting and then the wishes of the Hana community were incorporated into the final recommendations to the County Council (for a Conditional Permit) and the decision on the Special Use Permit. All in all, I see this as a superior outcome to having just one body look at it.

Because the majority of the MPC members are not as familiar with Hana, they are much more likely to accede to what the HAC says and almost rubberstamp it unless there are major things that have been overlooked. That is one advantage of a "second look". Suppose, however, there was an independent Hana Planning Commission (HPC). In one meeting, they might approve something and it is done. There is no opportunity for the community to have second thoughts and a do-over. This "second bite of the apple" is, to me, a huge advantage for Hana. No other community has this opportunity. On Lānaʻi and Molokaʻi, the Planning Commissions are the first and last word. For the other communities on Maui Island, the MPC is the first and last word. But Hana has both the HAC for immediate community input, then a month or two to mull it over, seek more evidence, etc. before the MPC has its chance (and a second chance for Hana residents to have their views taken into consideration). Except for the fact that every other community on Maui is more populous and perhaps less

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homogeneous, if I lived in one of them I would be pushing for a Lahaina Advisory Committee or a Kula Advisory Committee or a Paia Advisory Committee. All the rest only have one chance.

While it is possible that a future MPC could totally violate what the Hana community wanted, I think this is not likely to happen especially if the HAC acts promptly and responsively and is clear about what the community wants.

It is sometimes said that having both the HAC and the MPC slows things down and it probably does since the HAC meets much less frequently than the MPCs twice a month schedule. But I personally think that this also is an advantage to us by allowing for more community input – we want to keep Hana, Hana.

I believe there is also an advantage in going through the MPC which sees a large number of projects in various parts of the island. That extra experience that Commissioners have can help provide some perspective for Hana. For instance, for Ala Kukui at the HAC meeting there was never a discussion of weddings. At the MPC there are several projects where neighbors are seriously bothered by the noise, traffic, etc. from constant weddings and receptions. So when Ala Kukui came before the MPC, I was able to raise these issues due to my experience with similar projects outside of Hana District. Also many things are interconnected on our island and having an HPC might not take much account of the interconnectedness. This is much less true for Lānaʻi and Molokaʻi because they are separate islands.

Hana is a small community. It is easily possible that future HACs could be dominated by some small group that is not terribly representative of the community as a whole. As it is currently, the community could appeal to the MPC for modifications of a recommendation. With a HPC, this would not be possible. Of course if it were an MPC recommendation to the Council, the community could still directly appeal to the Council.

In short, I believe the status quo has huge advantages for the Hana community and is far superior to a stand-alone Hana Planning Commission. I urge you to support the HAC as such, encourage full attendance at all meetings, and enjoy the advantages of a “two bites of the apple” arrangement.

Ward Mardfin Testimony for the Maui County Charter Commission to be presented on July 5, 2011 regarding the **composition and election of the County Council.**

Dear Commissioners of the Maui County Charter Commission,

Though I am in my last year as a Commissioner on the Maui Planning Commission (MPC), I am writing strictly as an individual and a resident of Hana who wants what is best for our community.

I know there has been a lot of discussion throughout Maui about changing our current system of electing the County Council (Article 3 of the current Charter). The current system has nine council members all non-partisan elected **At-Large but with Geographic Residency** requirements (AL-GR). **I fully support the current system.**

In the early years of the 20<sup>th</sup> century Hana was represented on the Board of Supervisors [John Halualani 1905-06, William P. Haia 1907-11, Ramon A. Drummond 1911-31, 33-35, 37-39] but between 1939 and 1978 I can find no evidence of a Hana person elected to the Board of Supervisors or, later, County Council. The 1976 Charter change established the district residency requirement with one from "East Maui" (effective 1978 election). Even with the residency requirement, the "East Maui" Councilmember often did not really live in Hana proper but was from part of the East Maui district on the "other side" [e.g. Haiku, Huelo]. In 1992 it was Alice Lee, in 1994-96 it was Tom Morrow. After Tom Morrow's passing we finally had a Hana person, J. Kalani English on the Council from 1997-2000, when Bob Carroll was elected 2001-08, then Bill Medeiros 2009-10, and Bob Carroll 2011-present.

I will freely acknowledge that whichever Councilmember does reside in the East Maui district is de facto elected by the majority of people in Central Maui, South Maui, and West Maui since that is where the most of the voters live.

According to the 2010 census, what is considered the Hana District (Kanae to Kahikinui) has a population of 2291 people (a 24% increase over 2010's 1855 residents) while Maui County has 154,834 people (21% growth). Thus Hana District is 1.48% of the County population. Under the "1 person, 1 vote" principal the County Council would have to have 68 Councilmembers so that Hana could have 1 Councilmember. Yet Hana has some unique challenges and characteristics. We need to have someone on the Council who is VERY familiar with the circumstances and issues here. The residency requirement gives us that even if the Councilmember is fundamentally elected by voters on the "other side".

Moreover, at election time at least most of the candidates make the trip to Hana once. That gives Hana residents an opportunity to explain our positions and establish relationships with all of the nine Councilmembers who are eventually elected. And all candidates will have a cursory familiarity with Hana's needs. With single member districts, the candidates from the eight other districts will be able to avoid coming to Hana with zero impact on their election chances. There will be the potential for each Councilmember to only be concerned with the needs of their home district and less concerned for the welfare of Maui overall. Logrolling to get support of other members will help to offset this but the tendency will still be present.

An argument for District elections (rather than At-Large) is that the District will be able to select the Councilmember that the voters in that specific District want. But if the Maui County population is sliced into 9 evenly populated groups each would have 17,204 persons living in it and Hana's 2291 residents would still only have a little over 13% of the vote and hence still not be able to have a significant impact on who the final elected official would be.

There is another side to this whole issue. With a nine member Council, it takes FIVE Councilmembers to pass anything. Currently, Hana residents can go to all NINE members and lobby for support saying that we are

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constituents. Certainly we would have to be persuasive but at least we should get a hearing. If only a single Councilmember is elected with Hana voters we would likely have far less clout since our one member would have to convince four others to get the five votes.

With At-Large voting, every voter gets NINE votes (with single member districts, each would have only ONE vote). Thus every voter can potentially support nine different Councilmembers. And, afterwards go to nine different members for support on issues of concern.

In conclusion, I believe the status quo with At-Large Council elections with Geographic Residency requirements has huge advantages for the Hana community and is far superior to any form of single district voting for Councilmembers. I urge you to **support the current system for electing the Maui County Council.**

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July 5, 2011

Maui County Charter Commission  
Joshua A. Stone, Chair  
Public Meeting, Helene Hall, Hana

**Subject: Suggestions for Discussion and Possible Charter Amendments**

Aloha Chair Stone and Commission Members,

Thank you for your service on the Charter Commission. I urge you to fully discuss these and other ideas you receive from the residents of Maui County and to let the voters decide.

**1) "Telecommunications Center" for Hana, Lanai and Molokai.**

Requiring by County Charter "interactive communication" with the Maui County Council and other government entities is a long overdue idea that was expected to be implemented more than a decade ago. The idea is cost effective and the infrastructure is nearly in place with Akaku Television and University of Hawaii Maui Campus. It is difficult and costly for residents of Hana, Lanai and Molokai to participate in our county government. The late Carl Lindquist, former member of Governor Lingle's Maui Advisory Committee, attended at least one meeting via "Skybridge" from Hana. Hana students of the University of Hawaii Maui Campus regularly attend classes via "Skybridge" from Hana. Should this "democratic infrastructure" idea be built into the democratic charter of the County of Maui? Yes.

**2) "District Voting".**

I urge you to allow the voters to decide the question of district voting. To date, there are three proposals for district voting I have heard of. Please keep the community posted regarding what options you are considering via your web site and other media. It is important to put the best proposal or proposals on the ballot next year. Please give the voters the choice regarding district voting.

**3) "Residency Requirement for Candidates Running for Office".**

Candidates should be required to have lived in and voted in the district for which they are running in the previous election. There is a clear history of candidates running for county council jumping from one district to another.

**4) "Hana Planning Commission".**

This is an idea with "self determination" benefits for the residents of the Hana District. The Hana Advisory Committee to the Maui Planning Commission was

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established around 1988 after a controversial land use dispute. It is time for these decisions to be made by community members of the East-Maui District. A Hana Planning Commission, effectively administered, should be cost effective for all taxpayers.

**5) June 13, 2011, proposal by Commissioner Dave DeLeon. "Create Single-Member Districts and Lanai and Molokai Island Boards".**

I include this after "District Voting" and "Hana Planning Commission" because there are overlapping considerations.

I agree with the idea of "district voting". What is the structure of the "Single Member Districts"? Does the "Single Member District" idea mean an expanded number of members on the county council?

Regarding the idea of "Island Boards". The idea has merit. However, the proposal should include at least Hana. The idea of "Island Boards" for all nine districts is worth considering.

**6) "Ethics".**

A clear and unambiguous definition of "ethics" needs to be included in the County Charter. Those serving in the county need to distinguish between right and wrong and tell the truth. "Right and wrong" can be subjective. However, a clear definition of lying needs to be included along with appropriate civil and criminal penalties.

I once filed an ethics complaint against a former member of the Maui County Council regarding an intentional misrepresentation made regarding around one hundred thousand dollars of unspent county funds during a filmed meeting of the council. That representative lied. There was no question about that. The Ethics Commission could not or did not want to figure out under what part of the County Charter there was a violation. A clear definition of ethics would, hopefully, solve that problem in the future.

**7) "Transparency Regarding Confirmation of Nominees for Boards and Commissions".**

Currently, the Maui County Council does not know what residents have volunteered for various boards and commissions. The mayor simply sends the council a nomination. The council does not know who else volunteered. The council should have access to the list of volunteers and their credentials. Under the current secretive protocol, the council is at a disadvantage in being able to appoint the best and most qualified candidates to serve the community.

Thank you for your careful consideration.

Mahalo,



Monday, July 4, 2011 □ □

Maui County Charter Commission  
Helene Hall □ Hana, Maui □ □

Members of the Maui County Charter Commission, □ □

Business commitments prevent me from being at your meeting in Hana on July 5, 2010. However, I would like to present my opinion on a section of the Maui County Charter, which is about voting in the Hana district. □ □ “If Hana changes, it will be by pressures from outside of Hana”, someone said a long time ago. This seems to be coming true if the Maui Charter Commission make changes in the way we vote. Change should not be forced onto the minority communities like Hana, Molokai and Lanai. Presently, these minority communities all have seats on the Council. What I hear being proposed by the more populated areas of Maui is to make charter changes that will result in the minority communities losing their present seats on the County Council. The term, “the tyranny of the majority”, comes to mind where the minority communities like Hana, Molokai and Lanai’s rights to their respective seats on the Council, are eliminated by the majority. I believe the Charter was written, specifically, to protect the minority communities’ interests from the oppressive desires of the majority. This Charter Commission should be careful of changes that affect the voting rights of minority communities. □ □

Presently, the rules say that the councilperson must reside in the community he represents but needs county-wide support, which means that whomever gets the most votes county-wide wins. There are pluses and minuses: it is more expensive to canvass the whole county as opposed to only a single district. A candidate may have less votes from his district yet get more votes county-

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H.T. Hasegawa

wide and win the election. Will he then be a good representative for the district? Perhaps he will and perhaps not, but he resides in the district and he will, more likely than not, look after the district he resides in. If he does not represent the district, make changes in the next election. The community has to be diligent in making sure of the candidate's residency. □□

My understanding is if we change to district voting, the minority districts, Hana, Lanai and Molokai will never be a district because they do not have the population; therefore, they will be absorbed by a larger district and lose its council seat. The Hana district with its 3,136 people will have to be combined with another larger district to meet the new charter requirements. Hana will never have a majority vote in a district in whatever combination. Hana will never have a seat on the Council. Molokai and Lanai will be in the same situation. This change is a way of oppressing the minority communities by the majority. □□

There may be other ways of voting, that I am not aware of, but if the system is not broken, no need to fix it. I believe, we should leave the election rules the way they are.

Sincerely, □□□□□

H. T. Hasegawa