

To: Josh Stone, Chair, Maui County Charter Commission, and Members

From: Sally Raisbeck
427 Liholiho St Wailuku Hi 96793 808-244-9604 sallyraisbeck@earthlink.net

Date: June 8, 2011

Subject: Remove authority of Council to propose charter amendments; make it easier for amendment by petition (Chapter 14)

1. Provide a brief description of the purpose of the proposed charter amendment; include a description of the problem the proposal would address and how the proposal would address the problem:

I propose to remove the authority of the Council to propose charter amendments, and to make it slightly easier for citizens to propose amendments, while preserving the Charter Commission's power to propose amendments or draft a new charter.

The charter should not be tinkered with every two years. Back in the 1960s, the county chose the "Strong Mayor with Council" form of government, giving legislative and budget functions to the Council, and executive functions to the Mayor. This separation of powers is intended to limit the power of both Council and Mayor. This mimics the solution (President and Congress) arrived at by our Founding Fathers, who wished to avoid the ills caused by unlimited power. We call them checks and balances.

The charter is meant to keep the powers of Mayor and Council in balance.

The balance can be disturbed by the Council wishing to increase its powers, by making charter amendments that give it more power over the Mayor. For example, they are currently considering amendments making more appointments by the Mayor require confirmation by the Council. This invades the executive domain, making the Mayor less accountable for the Mayor's administration, and limiting the Mayor's ability to be served by people of the Mayor's choosing.

2. If applicable, list the charter provision(s) proposed to be deleted or amended:

Chapter 14 of the Charter would be affected. Sections 14.1, 14.2, and 14.3.

3. If the proposal is based on a provision or provisions in the charter or law of another jurisdiction, name the jurisdiction and, if possible, attach a copy of the relevant provision(s).

I have not checked other jurisdictions.

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4. *If the proposal is based on any written materials you have, please attach a copy with a citation to its source. None*

5. *Attach the text of the proposed charter amendment in Ramseyer format.*

MODIFIED ARTICLE 14 Material to be removed is within brackets [] and is in italics. Material to be added is underlined.

The material in section 14.3 has been rearranged, and put into a more logical place in section 14.1.

I am not an expert in cut-and-paste, so there may be errors.

ARTICLE 14 CHARTER AMENDMENT

Section 14-1. Initiation of Amendments. Amendments to this charter may be initiated only in the following manner:

[1. By resolution of the council adopted after two readings on separate days and passed by a vote of six or more members of the council.

2. By petition presented to the council, signed by not less than ten percent (10%) of the voters registered in the last general election, setting forth the proposed amendments. Such petitions shall designate and authorize not less than three nor more than five of the signers thereto to approve any alteration or change in the form or language or any restatement of the text of the proposed amendments which may be made by the corporation counsel.

Upon filing of such petition with the council, the county clerk shall examine it to see whether it contains a sufficient number of apparently genuine signature of voters. The clerk shall complete the examination of the petition within fifteen (15) days.

The council shall then hold a public hearing and shall determine whether the amendments proposed shall be submitted to the voters for approval. The determination by the council to submit such proposed amendments to the voters shall be by resolution adopted by a vote of five or more members of the council within forty-five (45) days after the receipt of the petition.]

[3] 1. By Petition. By petition presented to the county clerk, signed by not less than ~~*[twenty percent (20%)]*~~ ten percent (10%) of the voters ~~*[registered]*~~ voting in the last general election, setting

forth the proposed amendments. Such a petition shall designate and authorize not less than three nor more than five of the signers thereto to approve any alteration or change in the form or language or any restatement of the text of the proposed amendments which may be made by the corporation counsel.

Upon filing such petition, the county clerk shall examine it to see whether it contains a sufficient number of apparently genuine signatures of voters. The clerk shall complete the examination of the petition within fifteen (15) days.

When the petition has been determined sufficient by the county clerk, the county clerk shall submit the proposed amendments to the voters of the county at

the next general election.

2. By Charter Commission.

Following any special or general election on any proposed charter, or revision or amendment thereto, at intervals of ten (10) years, the mayor, with the approval of the council, shall appoint a charter commission composed of eleven members to study and review the operation of the government of the county under such amendments or new charter and to propose amendments or to draft a new charter in the manner set forth below.

The commission may propose amendments to the charter or draft a new charter which shall be submitted to the county clerk within sixteen (16) months after such commission has been appointed. Upon receipt of the amendments or new charter, the county clerk shall provide for the submission of such amendments or new charter to the voters of the county at any general or special election as may be deemed by the commission. Any special election shall be held not less than forty-five (45) days and no more than seventy-five (75) days after the receipt of the amendments or the new charter by the county clerk.

The commission shall publish not less than forty-five (45) days before any election, at least once in the newspaper of general circulation within the county, a brief digest of the amendments or new charter and notice to the voters that copies of the amendments or new charter are available at the office of the county clerk.

Section 14-2. Elections to be Called.

1. *[Any resolution of the council proposing amendments to the charter, whether initiated by the council or by petition], Any amendment to the Charter, whether initiated by the Charter Commission or by petition, shall provide that the proposed amendments shall be submitted to the voters of the county at the next general election.*

2. The county clerk shall have the proposed amendments published in a newspaper of general circulation in the county at least forty-five (45) days prior to submission of the proposed amendments to the voters of the county at the next general election.

3. Should the majority of the voters voting thereon approve the proposed amendments to this charter, the amendments shall become effective at the time fixed in the amendment, or if no time is fixed therein, thirty (30) days after its adoption by the voters of the county. Any charter amendment shall be published in a newspaper of general circulation in the county within forty-five (45) days of the effective date of such amendment.

*[**Section 14-3. Mandatory Review.** Not later than the first day of March, 2001, the mayor, with the approval of the council, shall appoint a charter commission composed of eleven members to study and review the operation of the government of the county under this charter.*

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file: 110608 no council amendments

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It is the position of the Kula Community Association that that current method of electing Council Members does not best represent the will of the community. There are several alternative proposals that have been presented and there may be others as well. The KCA is not endorsing a specific approach at this time, but encourages this Commission to study the alternatives and decide on a new method of electing our Council Members.

As an individual, I am requesting consideration that the Commission adopt new term limits for County Council Members. Terms should be two four-year terms, or a 2-year, 4-year, 4-year sequence. In addition, after term limits have been exhausted the person cannot run for Council again.

Don Montgomery

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Public Testimony

Don Montgomery