

**ACTIVE PROPOSALS FOR SUBSTANTIVE CHANGES TO THE  
MAUI COUNTY CHARTER**

October 17, 2011

Sherry P. Broder, Esq. and Jon M. Van Dyke, Esq.

**Article 3, County Council**

**Subject Matter – District Elections**

**Discussed at prior meetings and additional information requested**

#3.2 - Amended Proposal to have a general discussion on proposals of Single Member Districts

#3.3 – Amended Proposal to have as part of a general discussion on Single Member Districts – Single Member District Proposal with Lanai and Molokai in Separate Districts

Amend Section 3-1, Composition, to change the composition of the Maui County Council to Nine Single Member Districts but without placing Lanai and Molokai in the same council district

#3.4 - Amended Proposal to have as part of a general discussion on Single Member Districts - Single Member Districts Proposal with Self-Rule for Lanai and Molokai

Amend Section 3-1, Composition, to change the composition of the Maui County Council to Nine Single Member Districts and grant Lanai and Molokai self-rule

#3.5 - Amended Proposal to have as part of a general discussion on Single Member Districts - Proposal to Create Three Single Member Districts and Three Geographic Districts for Lanai, Molokai and Maui

#3.6 - Amended Proposal to have as part of a general discussion on Single Member Districts - Proposal to create Island Boards for the Islands of Lanai and Molokai.

These would be elected bodies of five (Lanai) to seven (Molokai) members who would (1) replace and would take on the responsibilities of the appointed planning commissions and (2) in addition have authority over all other land use approvals on the island, including zoning and variances. These bodies would also (3) be the official voice of their communities, at the County, State and national levels.

#3.7 - Amended Proposal to have as part of a general discussion on Single Member Districts Proposal with Lanai, Moloka'i, and Hana in one district together

Amend Section 3-1, Composition, to change the composition of the Maui County Council to Nine Single Member Districts and grant Lanai and Molokai self-rule

#3.8 - Amended Proposal to have as part of a general discussion on Proposal to Retain At-large Districts with Geographic Residency

Do not amend Article 3, County Council, Section 3-1, Composition

#3.9 - Amended Proposal to have as part of a general discussion on Proposal to Expand the Number of Council Members to 13

#3.10 - Amended Proposal to have as part of a general discussion on Proposal to have three Council members in each of three districts

#3.11 - Amended Proposal to have as part of a general discussion on Proposal to have six Council districts with equal population plus three at-large Council districts

### **Subject Matter -- Nonpartisan elections**

#### **Possible amendment language to be drafted by staff**

#3.13 - Proposal to Return to a Closed Primary System

#3.14 - Proposal to Abolish Nonpartisan Elections for County Council

Amend Article 3, County Council, Section 3-2, Election of Council and Term of Office, to delete nonpartisan elections and implement a system of partisan elections in the primary and general elections

### **Subject Matter – Residency Requirements**

#### **Possible amendment language to be drafted by staff**

#3.15 - Proposal for Residency Requirements for County Council Members

Amend Section 3-3, Qualifications, to require that candidates have lived in and voted in the district in the previous election for which they are currently running

Amend Section 3-3, Qualifications, to require that candidates have lived in the district for one year

#3.16 - Proposal to adopt a Five-Year Residency Requirement for County Council Members

Amend Section 3-3, Qualifications, to require that candidates have lived in the district for which they are running for at least five years.

### **Subject Matter – Term Limits**

#### **Possible amendment - language to be drafted by staff**

##### #3.17 - Proposal for Eight-Year Term Limits

Amend Section 3-2 (5), Election of Council and Term of Office, to limit a council member to two terms of four years or four terms of two years for a total of eight years altogether and, after the eight years have been exhausted, to prohibit the individual from ever serving on the Council again

##### #3.18 - Three-Term Four-Year Term Limits Proposal

Amend Section 3-2 (5), Election of Council and Term of Office, to limit a council member to 3 terms of 4 years

##### #3.19 - Two-Term Four-Year Term Limits Proposal

##### #3.20 - One-Term Four-Year Term Limit Proposal

#3.21 - Proposal to change the present system of five two-year terms of Council members to three full four-year terms, whether consecutive or not, and to require that terms of Council members to be staggered.

#3.22 - Proposal to Amend Term of Office for Council Members from a Two-Year Term to a Four-Year Term, to Stagger the Terms, and to Limit the Number of Terms

Amend Section 3-2, Election of Council and Term of Office, from a two-year term to a four-year term, stagger the terms by implementing for the first election the highest four vote getters who will serve four-year terms and the next highest five vote getters will serve two year terms, limit the terms to two consecutive terms and a total of 12 years or three full terms.

#3.23 - Proposal to Retain Article 3, Section 3-2 (5), Term of Office for Council Members, for a two-year term

### **Subject Matter – Council Power**

#### **Removed from active list**

~~#3.33— Proposal to Amend Section 3-6, Powers of the Council, to require that the Council approve the appointments of all department heads~~

~~In the alternative, require that the Council approve the appointments of the Planning Director and the Director of the Department of Finance~~

## **Subject Matter – Structure of Office of the Executive**

### **Removed from active list**

~~#7.2— Proposal to Make the Office of the Mayor Ceremonial and Implement an Appointed County Manager as Chief Executive Officer~~

~~Amend Section 7-5, Powers, Duties and Functions, to change the powers of the Mayor to be ceremonial, to include accepting service of process and to be recognized by the Governor for civil defense and military purposes and to allow the County Council to appoint an interim mayor in the event of a vacancy~~

~~Amend Article 8, County Departments, Chapter 1, Department of the Management, Section 8-1.1 Organization, [1] to change the title of this section to Office of the County Manager, [2] to provide that the County Manager will be selected by the County Council, [3] to require that the County Manager have proven administrative qualifications, [4] to require residency in Maui only after selection, [5] to set forth a procedure for removal from office that includes the conduct of a hearing, [6] to provide the County Council with final authority for removal and [7] to Amend Section 8-1.3, Powers, Duties and Functions, to enumerate the duties of the County Manager and make other conforming changes in Article 8~~

## **Article 8, County Departments**

### **Chapter 1, Department of Management**

#### **Removed from active list**

~~#8.1.1— Proposal to Amend Section 8-1.1, Organization, to specify that there shall be a deputy managing director~~

### **Chapter 3, Department of Prosecuting Attorney**

#### **Possible amendment - language to be drafted by staff**

#8.3.1 - Proposal to Section 8-3.3 Powers, Duties and Functions, to clarify that the investigators in the prosecuting attorney's office have all the powers and privileges of a police officer of the county

#8.3.2 - Proposal to Section 8-3.3 Powers, Duties and Functions, to clarify that the County Prosecuting Attorney prosecutes offenses against the law of the State of Hawaii under the authority of the Attorney General of the State of Hawaii.

## **Chapter 7, Department of Fire and Public Safety**

### **Defer to October 24, 2011 meeting**

#8.7.1 - Proposal to Abolish the Department of Fire and Public Safety, to Require the Fire Chief to Report to the Mayor, and to Set Minimum Qualifications for Fire Chief and Other High-Ranking Fire Officials

Delete Section 8-7.2 Fire and Public Safety Commission, and amend Section 8-7.3, Fire Chief, to give the Mayor the authority rather than the Fire and Public Safety Commission to appoint the Fire Chief, and require the Fire Chief and Assistant Chief to have a four-year college degree and the Battalion Chief to have a two-year college degree as one of the minimum requirements

#8.7.2 - Proposal to give the Mayor the authority to in the selection and removal of the Fire Chief.

Amend Section 8-7.3 to require approval by the Mayor of the Commission's recommendation to remove the Fire Chief

Amend Section 8-7.3 to require that the Mayor initiate and the Commission approve the request to remove the Fire Chief by a majority vote

#8.7.3 - Proposal to Amend Chapter 7, Department of Fire and Public Safety, to change the name of the Department of Fire and Public Safety and delete the term Public Safety in order to more accurately reflect the duties of the Fire Department, and to conform other provisions of the Charter to reflect the new name

Suggested new name - Fire Protection and Prevention and Rescue

#8.7.5 - Proposal to Amend Chapter 7, Department of Fire and Public Safety, Section 8-7.2, Fire and Public Safety Commission, to delete the current language and to add new language on a Statement of Policy as follows:<sup>1</sup>

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<sup>1</sup> For the working purposes of the Commission, corrections to this proposal have been made and are as follows in the next #8.7.5 corrected proposal.

It is hereby declared to be the purpose of this chapter of the charter to establish in the county a system of fire protection and prevention, emergency rescue, and emergency services which shall be based on qualified and professional leadership and personnel In order to achieve this purpose, the Maui County INSERT NEW NAME OF DEPARTMENT shall be operated in accordance with the following:

The goal of the county shall be to have qualified and professional leadership and personnel in this department

Standards for recruitment shall be designed to attract into the department persons with high degrees of education, intelligence, and personal stability

Promotions and other personnel actions shall be in accordance with all applicable laws and based upon fair and appropriate standards of merit, ability and work performance

Appropriate training shall be provided to the maximum extent possible and practicable

*#8.7.5 Corrected* - Proposal to Amend Chapter 7, Department of Fire and Public Safety, Section 8-7.2, Fire and Public Safety Commission, <sup>2</sup>to add new language on a Statement of Policy as follows:

It is hereby declared to be the purpose of this chapter of the charter to establish in the county a system of fire protection and prevention, emergency rescue, and emergency services which shall be based on qualified and professional leadership and personnel In order to achieve this purpose, the Maui County INSERT NEW NAME OF DEPARTMENT shall be operated in accordance with the following:<sup>3</sup>

Standards for recruitment shall be designed to attract into the department persons with high degrees of education, intelligence, and personal stability

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<sup>2</sup> The exiting charter language was just being moved to a different section and not completely deleted.

<sup>3</sup> This language was removed as being duplicative: The goal of the county shall be to have qualified and professional leadership and personnel in this department

Promotions and other personnel actions shall be in accordance with all applicable laws and based upon fair and appropriate standards of merit, ability and work performance

Appropriate training shall be provided to the maximum extent possible and practicable

#8.7.6 - Proposal to Amend Section 8-7.2, Fire and Public Safety Commission, to have one member from each council district, to expand the powers of the Commission to appoint such staff as it needs and to engage consultants as necessary for the performance of its duties and to add that the Commission members be appointed by the Mayor and confirmed by the Council in the manner prescribed in Section 13-2.

#8.7.7 - Proposal to Amend Section 8-7.2, Fire and Public Safety Commission, to expand and clarify the powers, duties and functions of the Commission to do one or more of the following:

Expand the authority of the Commission to review rules for the administration of the Department.

Add to subsection 4 - publish a summary of the charges filed against members<sup>4</sup> and officers and the disposition of each charge to be included in the annual report of the Commission.

Review personnel actions within the Department for conformance with the policies under the statement of policy.

Review and recommend on the strategic plan for the Fire Department or other similar type of plans

Add to subsection 5 regarding the annual evaluation of the fire chief that the Commission shall at least annually compare the actual achievements in the strategic or other similar types of plans or latest update submitted by the fire chief

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

#8.7.8 - Proposal to Amend Section 8-7.2, Powers, Duties and Functions of the Commission, to require that a summary of the charges filed and their disposition shall be included in the annual report of the Commission.

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<sup>4</sup> Added the term "members" to reflect intent to include all employees of the department

#8.7.9 - Proposal to Amend Section 8-7.4, Fire Chief, Powers, Duties and Functions to add the following:

Prepare and, when deemed necessary, update a strategic or other similar type of plan of goals and objectives for the Maui County [NEW NAME OF FIRE DEPARTMENT]. The chief shall submit the plan and each update to the Commission for review and recommendations.

#8.7.10 - Proposal to Amend Section 8-7.4 (4), Powers, Duties, and Functions, to add and assign ocean safety and rescue to the Department of Fire and Public Safety

#8.7.11 - Proposal to Amend Section 8-7.4 (4), Powers, Duties, and Functions, to clarify that reserve fire fighters and emergency rescue personnel can be trained and utilized, when needed.

#8.7.12 - Proposal to Delete Section 8-7.2 to eliminate the Fire and Public Safety Commission

**Subject Matter – Housekeeping: Chapter 9, Department of Personnel Services**

**Possible amendment - language to be drafted by staff**

#8.9.1 - Proposal to Amend Article 8, County Departments, Chapter 9, Department of Personnel Services, Section 9.4, Civil Service Commission, with a housekeeping measure to align the Maui County Charter with the Hawaii Revised Statutes regarding recent changes to the civil service law.

**Subject Matter – Water Supply Department and Board**

**Chapter 11, Department of Water Supply**

**Removed from active list**

~~#8.11.1 – Proposal to Eliminate the Board of Water Supply~~

~~Delete Section 8-11.3, Board of Water Supply and Section 8-11.4 Powers Duties and Functions, in order to eliminate the Board of Water Supply.~~

~~#8.11.2 – Proposal to Amend Article 8, County Departments, Chapter 11, Department of Water Supply, Section 8-11.3 Board of Water Supply and Section 8-11.4 Powers Duties and Functions, to strengthen the independence of the Board of Water Supply and to establish it as a semi-autonomous entity and to have some or all of the following powers:~~



- ~~\* issue revenue bonds~~
- ~~\* hire its own legal counsel, so that it does not need to the Corporation Counsel~~
- ~~\* set rates~~
- ~~\* promulgate rules and regulations~~
- ~~\* set its own budget~~
- ~~\* appoint the Director of the Department of Water Supply~~
- ~~\* use as a model the provisions in the Charter of the City and County of Honolulu~~
- ~~\* use as a model the provision proposed by the 2001 Maui County Charter Commission~~
- ~~\* complete an independent authority for rules, budget, fees, and rates~~

~~#8.11.3 Proposal to amend Section 8-11.5, Powers Duties and Functions [of Director of Water Supply], to increase his or her powers~~

~~report to either the Council or the Board of Water Supply on all issues to eliminate piecemeal authority~~

~~#8.11.4 Proposal to delete the requirement in Sec. 8.11-5 that the Director of the Department of Water Supply be confirmed by the County Council~~

## **Chapter 12, Department of Police**

### **Removed from active list**

~~#8.12.4 - Proposal to amend Section 8-12.2, Police Commission, to add a new subsection to require that the Police Commission hold public meetings in truly public venues in different parts of the County four times a year.~~

## **Chapter 15 – Department of Environmental Management [current section was in the 2006 Charter Amendment]**

### **Defer to October 24, 2011 meeting and additional information requested**

#8.15.1 - Proposal to Amend Article 8, County Departments, Chapter 15, Department of Environmental Management, to add the function of sustainability to the Department of Environmental Management and change the name of the department to Department of Sustainability and Environmental Management, and thus to create a new department entitled the Department of Sustainability and Environmental Management :

Add specific language to include the function of sustainability as follows:

Guide efforts to maximize opportunities for natural resource protection, conservation, and restoration.

Coordinate and develop policies and initiatives that integrate sustainable resource development, support local food and energy production, and establish partnerships with agencies and organizations to implement programs, policies, and projects that promote sustainability

## **Chapter 16 –Cost of Government Commission [formerly section 15 in 2003 edition of the Charter]**

#8.16.1 - Proposal to Amend Article 8-16.2, Cost of Government Commission, to require that its annual appropriation not be less than the year before, and that the Commission decide the compensation of elected officials, appointed directors, and deputy directors of all departments, consulting with the boards and commissions which have appointing authority for department heads.

#8.16.2 - Proposal to Amend Article 8-16.3, Term of Commission, from a two-year term to a four-year term and to limit the number of terms

#8.16.3 – Proposal to Amend Article 8-16.3, Term of Commission, from a two-year term to a five-year term and to limit the terms to two consecutive terms for a total of ten years

#8.16.4 – Proposal to Amend Article 8-16.3, Term of Commission, from a two-year to a six-year term and to require that members must have been a resident of Maui for at least one year preceding the filing of nomination papers and have voted in the last election, and must continue to reside on Maui for his or her elected term. Vacancy in office shall be filled at the next special election, unless it is more than six months before, and then the Mayor shall make the appointment to serve until the next special election

#8.16.5 – Proposal to Amend Article 8-16.3, Term of Commission, to have three members, elected for six years, whose terms shall be staggered every two years. The longest serving commissioner shall serve as temporary chair until the Commission elects a permanent chair

#8.16.6 – Proposal to Amend Article 8-16.3, Term of Commission, to have Commission members elected in a nonpartisan special election, with a second special election where necessary

#8.16.7 - Proposal to Amend Article 8, Section 16.3, Term of Commission, to conform the term of the Cost of Government Commissioners to be the same as the terms and the timetables of other commissions as provided in the Charter in Article 13, General Provisions, Section 13.2, Boards and Commissions.

**Subject Matter - Independent Counsel for Boards and Commissions [new section]**

#8.New.3 – Amended Proposal to Create an Office of Independent Counsel for Boards and Commissions – General Discussion of Independent Counsel for Boards and Commissions

Amend Article 8, County Departments, to add a new section to create an Office of Independent Counsel separate from the Department of Corporation Counsel to provide independent legal advice to County boards and commissions

**Subject Matter - Article 9, Financial Procedures**

#9.1 - Proposal to Amend Article 9, Financial Procedures, Section 9-2, Preparation and Submission of Budget and Capital Program to change from an annual budget to a biennial budget to commence in a non-election year.

#9.2 - Proposal to Amend Article 9, Financial Procedures, Section 9-2, Preparation and Submission of Budget and Capital Program, to change from an annual budget in odd years for the operating budget and even years for the CIP budget.

**Subject Matter – Discussion on Voter-Initiated Ballot Measures**

**Article 11, Initiative**

#11.1 - Proposal to Reduce Number of Signatures Required for Initiative Petition

Amend Section 11-3(2), Petitions, to reduce the percentage of signatures required from 20% to 10% of voters, and to amend the definition of "voters" from those who were registered to those who voted

#11.2 - Proposal to Require Explanation of the Effect of Blank Votes on Ballot Initiative

Amend Article 11-6(2), Action on Petitions, to add a new section to require an explanation on the ballot itself of the consequence of leaving the vote blank

**Article 12, Recall**

#12.1– Proposal to Reduce Number of Signatures Required for Recall Petition

Amend Section 12-3(2), Petitions, to reduce the percentage of signatures required from 20% to 10% of voters, and to amend the definition of voters from those who were registered to those who voted

#12.2 - Proposal to Extend Time to File Papers for Recall Petition

Amend Section 12-4, Filing and Certification, to extend the date for filing all papers comprising a recall petition from 30 days to 180 days after the filing of the affidavit (to conform to the initiative requirements).

#12.3 - Proposal to Reduce Number of Votes Required to Recall

Amend Section 12-6, Recall Election, to change the definition of voters from those who were registered to those who voted

#12.4 – Proposal to Require Explanation of Blank Vote on Ballot for Recall

Amend Section 12.7, Ballots, to add a new section to require an explanation on the ballot itself of the consequence of leaving the vote blank

#14.5 - Proposal to Reduce the Number of Votes Required for Charter Amendment Petition

Amend Section 14-2(3), Initiation of Amendments, to reduce from 20% to 10% the percentage of voters required to sign a petition to change the County Charter, and amend the definition of voters from those who were registered to those who voted

**Subject Matter – General Discussion on Boards and Commissions**

**Article 13 – General Provisions**

#13.1 - Proposal to Amend Section 13-2 (16), Subsection 17, to clarify that the 30 days for the Mayor to submit to the Council the name of the Mayor's nominee to fill the vacancy commences upon the date of informing the Council of a vacancy.

#13.2 - Proposal to Remove the Council's power to nominate and approve Board and Commission Members under Sections 13.2-16 and 13.2-17

#13.3 - Proposal to Require Interactive Communications Access for the Public to All County Public Meetings and to County Departments

Amend Article 13, General Provisions, to add a new section to require interactive communications access for the public to all County Public Meetings and to County Departments

#13.4 - Proposal to Add a New Paragraph to require that all county boards and commissions post on the county website [1] the minutes of any public meeting or hearing within a certain number of days after the meeting and [2] any and all internal policies of all departments

#13.5 - Proposal to Amend Article 13, General Provisions, to create a new section to require telecommunications access for Hana, Lānaʻi, and Molokai residents to all County Public Hearings with the capability for Hana, Lānaʻi, and Molokai residents to testify remotely at all County Public Hearings

#13.6 - Proposal to Amend Article 13, General Provisions, to create a new section to establish a blue ribbon committee to make recommendations to the Mayor for appointments to boards and commissions

Amend Article 13, General Provisions, to add a new section to require the creation of a blue ribbon committee to make recommendations to the Mayor for appointments to Boards and Commissions, with three members to be appointed by the Mayor and three to be appointed by the Council, to serve for two-year terms that can be renewed one time. Recommendations shall be revealed to the Mayor only and the Mayor shall make every effort to utilize the Committee's recommendations.

#13.7 - Proposal to Amend Article 13, General Provisions, to add a new section entitled reports to make available all reports required by Charter, Code or Ordinance to be posted and available to the public at no cost.

#13.8 - Proposal to delete Section 13.2, Boards and Commissions, Subsection 2, which requires that no more than a majority of the members of a board or commission can belong to the same political party

#13.9 - Proposal to Amend Section 13-2 (3) Boards and Commissions to require that each board or commission include a qualified resident of Lanai and Molokai

#### **Article 14, Charter Amendments**

#14.3 - Proposal to Amend Article 14, Charter Amendment, Sections 14-1, Initiation of Amendments, Subsections (1) and (2), to delete the power of County Council to amend the Maui Charter during the time that a Charter Commission is constituted

#14.4 - Proposal to Amend the Charter Commission Appointment Process, Sec. 14.3, so that it follows the time requirements for regular Maui County boards and commissions in Sec. 13.2-16.

#14.9 – Proposal to Extend the Term of Charter Commissioners to 18 months

#14.10 – Proposal to require that the Charter be republished each time it is amended, with a significant amendment

### **New Article – Office of County Auditor**

A. Proposal to Establish an Office of County Auditor to include one or more of the following:

- \* be independent of both the Mayor and Council/complete autonomy
- \* perform all financial and operational audit functions
- \* coordinate with the COG or otherwise work with COG
- \* complete discretion to prioritize assignments
- \* administrative assigned to the Council
- \* possible appointment by the Judiciary
- \* possible appointment by a committee
- \* county auditor could be removed only by a 2/3rds vote of the council [as in Honolulu Charter]
- \* model powers and duties after the Auditor for the City and County of Honolulu

### **PROPOSALS ADDED TO THE ACTIVE LIST AT OCTOBER 10, 2011 MEETING**

#3.40 – Proposal to Amend Section 3-1, Composition, to have three districts and three Council persons from each district, and have the districts organized as follows: (1) Lanai, Lahaina, and part of South Maui; (2) Molokai, Kahului, and maybe Paia, and (3) part of South Maui, Upcountry, and Hana.

#8.7.13 – Proposal to add to #8.7.2 to include the following language: Four out of the nine members of the fire and public safety commission shall be nominated to the mayor by the fire fighters labor union. The fire fighters labor union shall submit names of nominees for up to four out of the nine fire and public safety commissioners that shall be appointed by the mayor and confirmed by the council in the matter prescribed in Section 13-2.

#8.7.14 – Proposal to change the names to Fire Department and Fire Commission and to amend section 8-7.1 to provide that the Fire Department shall consist of the Fire Chief, Fire Commission and the necessary staff.

#8.7.15 – Proposal to amend Sections 8-9.4, 8-12.2, 8-13.2, and 8-13.4 to create consistency in the powers and duties of the Fire and Public Safety, Police, Liquor, and the Civil Service Commissions and the due process afforded directors of these departments in the event of dismissal.

#8.16.8 – Proposal to establish an Independent Office of County Auditor, to have the Commission on Government be attached to the Office of County Auditor, and to have the Commission on Government have the power to hire and fire the County Auditor.

#13.10 – Proposal to amend Article 13, General Provisions, Section 2, Boards and Commissions, to add provisions requiring the county to indemnify and fund the legal representation of members of Boards and Commissions in the event of civil action as a result of the lawful performance of their duties.