

CHARTER COMMISSION

Monday, FEBRUARY 13, 2012

10:00 a.m.

Planning Conference Room
KALANA PAKUI BUILDING
WAILUKU, MAUI, HAWAII

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OFFICE OF THE
COUNTY CLERK

AGENDA

COMMISSION MEMBERS

Joshua A. Stone, Chair

Wayne N. Hedani, Vice Chair

Artemio C. Baxa

Stephanie S. Crivello

David P. DeLeon

Frank R. De Rego, Jr.

Clifford P. Hashimoto

Susan A. Moikeha

Linda Kay Okamoto

Yuki Lei Sugimura

Flo V. Wiger

AGENDA ITEMS ARE SUBJECT TO CANCELLATION. For a confirmation of the meeting date and time, and for scheduling of agenda items, please contact Supervising Law Technician, (Lisa A. Kahuhu), at: Department of the Corporation Counsel, 200 S. High Street, 3rd Floor, Wailuku, Hawaii 96793, 808-270-7742, 1-800-272-0117 (toll-free from Molokai and Lanai), 808-270-7152 (fax).

ORAL OR WRITTEN TESTIMONY Oral testimony shall be received in the order which testimony forms are submitted. Each testifier shall be allowed to speak for a total of five (5) minutes on all agenda items. Written testimony should be submitted to the Charter Commission, c/o the Department of the Corporation Counsel, 200 S. High Street, 3rd Floor, Wailuku, Hawaii, or via email to charter.commission@co.mauhi.us and should be submitted at least 24 hours in advance of the meeting so that copies can be provided to the commissioners in a timely manner. If written testimony is to be submitted at the meeting, 16 copies are required.

INDIVIDUALS WHO INTEND TO ATTEND THE MEETING AND WHO HAVE DISABILITIES REQUIRING SPECIAL ASSISTANCE should call the Department of the Corporation Counsel at least three days in advance.

REGULAR SESSION

I. CALL TO ORDER

A. Attendance

B. Minutes - December 12, 2011 Regular Meeting
December 12, 2011 Public Hearing Lahaina
December 13, 2011 Public Hearing Kihei
December 14, 2011 Public Hearing Molokai

C. Public Testimony

II. COMMUNICATIONS

- A. Communication dated December 5, 2011 from Lenie Lawrence regarding Maui Police Commission and the LEOSA Law.
- B. Communication dated December 8, 2011 from Ken Taira regarding Statement to the Charter Commission.
- C. Communication dated December 16, 2011 from Edward S. Kushi, Jr., to Donald G. Couch, Council Member, transmitting as requested a draft proposed resolution entitled "PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983), AS AMENDED, RELATING TO PENALTIES".
- D. Communication dated December 20, 2011 from John L. Buck, III, Executive Assistant to the Mayor, regarding Ocean Safety Officers Moving to Fire and Public Safety Department.
- E. Communication dated December 21, 2011 from Ken Taira regarding Comments Regarding the Charter.
- F. Communication dated January 19, 2012 from Sylvia Cabral regarding District Voting is an Issue Mauians Do Care About.
- G. Communication dated January 23, 2012 from Hana Steel regarding Keep Elections Non-Partisan.
- H. Communication dated January 23, 2012 from Ananda Stone regarding Support for Proposal #19.
- I. Communication dated January 24, 2012 from Mel Hipolito, Jr. regarding Charter Amendment 19, Section 8-15.3.

III. PROPOSED CHARTER AMENDMENTS MATRIX

Note: No new proposals were received as of the December 12, 2011 meeting. Therefore, the current Matrix remains the same, updated as of October 17, 2011.

IV. PROPOSED CHARTER AMENDMENTS ACTIVE PROPOSAL LIST

A. Review of draft amendment language:

1. Article 3, County Council Term Limits.

Shall Section 3-2 of the Charter be amended to:

- (a) increase the term of office for Councilmembers from 2 years to 4 years; and
- (b) limit the service of Councilmembers from 5 consecutive 2-year terms to 3 full 4-year terms, whether consecutive or not?

2. Article 8, Chapter 9, Department of Personnel Services.

Shall Sections 8-9.3 and 8-9.4 of the Charter be amended to authorize the Director of Personnel Services and the Civil Service Commission to adopt rules having the force and effect of law to carry out the provisions of the civil service laws of the State?

3. Article 3, Chapter 8, Department of the Prosecuting Attorney.

Shall Section 8-3.3 of the Charter be amended to authorize the Prosecuting Attorney to:

- (a) appoint investigators who shall have all the powers and privileges of a police officer of the county; and
- (b) prosecute offense against the laws of the State under the authority of the attorney general of the State?

4. Article 3, Election of Council, and Article 7, Election of Mayor; from nonpartisan to partisan.

Shall Section 3-2 and 7-2 of the Charter be amended to delete the reference to nonpartisan elections, and provide that Councilmembers and the Mayor shall be elected by partisan elections in accordance with the election laws of the State?

5. Article 8, Section 7, Department of Fire and Public Safety - Adopt New Name for the Department of Fire and Public Safety, and the Department of Fire and Public Safety Commission.

Shall Section 8-7 of the Charter be amended to change the name of the Department of Fire and Public Safety to the Maui County Fire Department, and the name of the Fire and Public Safety Commission to the Maui County Fire Commission?

6. Article 8, Section 7, Department of Fire and Public Safety - Assign Ocean Safety and Rescue to Department of Fire and Public Safety.

Shall Section 8-7.4 of the Charter be amended to include ocean rescue and safety to the Powers, Duties and Functions of the Fire Chief of the Department of Fire and Public Safety?

7. Article 9, Financial Procedures - Adopt Biennial Budget and Capital Program in Non-election Years.

Shall Article 9 of the Charter be amended to provide that the Budget and Capital Program be prepared and approved on a biennial basis and in non-election years?

8. Article 8, Chapter 16, Cost of Government Commission - Create an Office of the County Auditor, with the Cost of Government as Part of the Organization of that Office.

Shall the Charter be amended to establish an independent Office of the County Auditor, and that the County Auditor be appointed and subject to removal by the Cost of Government Commission?

9. Article 13, General Provisions, Section 13-2, Boards and Commissions, Subsection 2 - Non Partisan Boards and Commissions.

Shall Section 13-2 of the Charter be amended to delete any reference to members of boards and commissions belonging to any political party?

10. Article 13, General Provisions, Section 13-2, Boards and Commissions, Subsection 17 - Require Interactive Communications Access for the Public to All County Council and County Council Committee Meetings.

Shall Article 13 of the Charter be amended to add a provision which would require the Council to provide for Interactive Communications Access for all Council meetings for residents of Hana, Lanai, Molokai and other geographic areas as the Council deems appropriate and reasonable?

11. Article 13, General Provisions, Section 13-2, Boards and Commissions, Subsection 17 - Increase the number of days the Mayor has to submit to Council the name of Mayor's nominee to fill a vacancy.

Shall section 13-2.17 of the Charter be amended to increase the time from 30 days to 45 days from the date the Mayor is notified of a vacancy on any board or commission, for the Mayor to submit to the Council the Mayor's nominee to fill the vacancy?

12. Article 14, ,Section 14-1, Initiation of Amendments - Remove Authority of County Council to Propose Charter Amendments During the General or Special Election Cycle that the Charter Commission is Conducting its Mandatory Review.

Shall Section 14-1 of the Charter be amended to remove the authority of the Council to propose charter amendments during any general or special election cycle in which the Charter Commission is conducting its mandatory review?

13. Article 14 - Add a New Section to Require that the Charter be Revised and Published to Include All New Significant Amendments Adopted.

Shall Article 14 of the Charter be amended to add a new provision requiring that the Charter of the County of Maui be republished in its entirety following any adopted revisions or amendments?

14. Article 14, Section 14-3, Mandatory Review - To Conform the Term of Appointment of Charter Commissioners to the Terms of Other Maui County Boards and Commissions.

Shall Section 14-3 of the Charter be amended to provide that, beginning on December 1, 2017, members of the Maui County Charter Commission be appointed for 5 year terms?

15. Article 13, General Provisions, Section 13-2, Boards and Commissions, Subsection 17 - Require the County of Maui to Fund the Defense of Members of All County of Maui Boards and Commissions and to Indemnify Said Members.

Shall Article 13 of the Charter be amended to require that the County defend and indemnify board and commission members in civil actions when board and commission members have performed their official duties in a good faith and lawful manner?

16. Article 3, Section 3-3, Qualifications - Require Council candidates to be a resident of the County for a period of one year, and a resident in the area for a period of one year.

Shall Section 3-3 of the Charter be amended to increase the time period for residency requirements in the County of Maui, and from the area which the person seeks to be elected, from 90 days to 1 year before a candidate for Council files nomination papers?

17. Article 7, Section 7-3, Qualifications - Require candidates for Mayor to be a resident of the County for a period of one year.

Shall section 7-3 of the Charter be amended to increase the time period for residency requirement in the County of Maui from 90 days to 1 year before a candidate for Mayor files nomination papers?

18. Article 8, Chapter 7, new section, Department of Fire and Public Safety - Create a Declaration of Policy; Article 8, Chapter 7, Section 8-7.2, Fire and Public Safety Commission - To add review personnel actions with the department for conformance with the policies under Article 8, Chapter 7.

Shall Chapter 7, Article 8 of the Charter be amended as follows:

- (a) to add a new section entitled "Declaration of Policy" for the Department of Fire and Public Safety, which section would include statements concerning qualified and professional leadership, standards of recruitment, fair and appropriate personnel actions, and appropriate training opportunities?

- (b) to add a new section to the Powers, Duties and Functions of the Fire and Public Safety Commission to authorize the commission to review personnel actions within the department for conformance with the policies set forth in "a" above?

19. Article 8, Chapter 15, Department of Environmental Management, Section 8-15.3 - To add sustainability to the Powers, Duties, and Functions of the Department of Environmental Management.

Shall Section 8-15.3 of the Charter be amended to add the following to the Powers, Duties and Functions of the Director of the Department of Environmental Management:

- (a) Guide efforts to maximize opportunities for natural resource protection, conservation, and restoration; and
- (b) 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?

20. Article 8, Chapter 7, Department of Fire and Public Safety, Section 8-7.2; Article 8, Chapter 9, Department of Personnel Services, Section 8-9.4; Article 8, Chapter 12, Department of Police, Section 8-12.2; Article 8, Chapter 13, Department of Liquor Control, Section 8-13.2, to create consistency in the powers, duties and functions of the Fire and Public Safety Commission with the Civil Service, Police, and Liquor Commissions.

Shall Chapters 7 (Department of Fire and Public Safety), 9 (Department of Personnel Services), 12 (Department of Police), and 13 (Department of Liquor Control) of Article 8 of the Charter be amended to provide consistency in the process in which the various commissions of the listed departments that appoint its directors or chiefs handle the removal of its directors or chiefs, specifically, in the following areas:

- (a) charges for removal being given in writing;
- (b) opportunity for hearing before the commission;
- (c) periodic review and evaluation of director's/chief's performance; and
- (d) report to the Mayor and Council covering the review and evaluation?

21. Article 8, County Departments - Create a Declaration of Policy.

Shall Article 8 of the Charter be amended to add a new section entitled "Declaration of Policy" which would be applicable to

all County departments, and include statements concerning qualified and professional leadership, standards of recruitment, fair and appropriate personnel actions, and appropriate training opportunities?

V. OLD BUSINESS

None

VI. NEW BUSINESS

A. Discussion on communication items.

VII. ANNOUNCEMENTS

A. Next Meeting Date and Discussion on Next Meeting Agenda Items

B. Calendaring

C. NEXT REGULAR MEETING (subject to change):

Date: Monday, February 27, 2012

Time : 10:00 a.m.

Place: Planning Conference Room, Kalana Pakui Building

VIII. ADJOURNMENT