

GRANT Y.M. CHUN, CHAIR
KEONI J. KUOHA, VICE CHAIR
KELSON KAUANOE BATANGAN
DOREEN N. CANTO
DAVID P. DELEON
PAUL C. DESLAURIERS
KAREY K. KAPOI
DOUGLAS WARD MARDFIN
ASHLEY S. OLSON
GEORGE PURDY IV
MICHAEL L. WILLIAMS



CHARTER COMMISSION
COUNTY OF MAUI
200 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793
EMAIL: CHARTER.COMMISSION@MAUICOUNTY.GOV
TELEPHONE: (808) 270-7740
FACSIMILE: (808) 270-7152
EMAIL: CHARTER.COMMISSION@MAUICOUNTY.GOV



February 18, 2022

The Honorable Alice L. Lee
Chair, Maui County Council
200 South High Street
Wailuku, Maui, Hawaii 96793

RE: Final Report of the 2021-2022 Maui County Charter Commission

Dear Chair Lee:

I am pleased to transmit herewith on behalf of the Maui County Charter Commission a copy of the 2021-2022 Maui County Charter Commission Final Report, February 18, 2022.

This report is the result of a substantial amount of work contributed by the dedicated members of the Charter Commission, and its staff, since March, 2021.

On behalf of all of the members of the Charter Commission, I would like to express our gratitude for the opportunity to propose these amendments, which the Commission feels will be beneficial to our government and the people of Maui County.

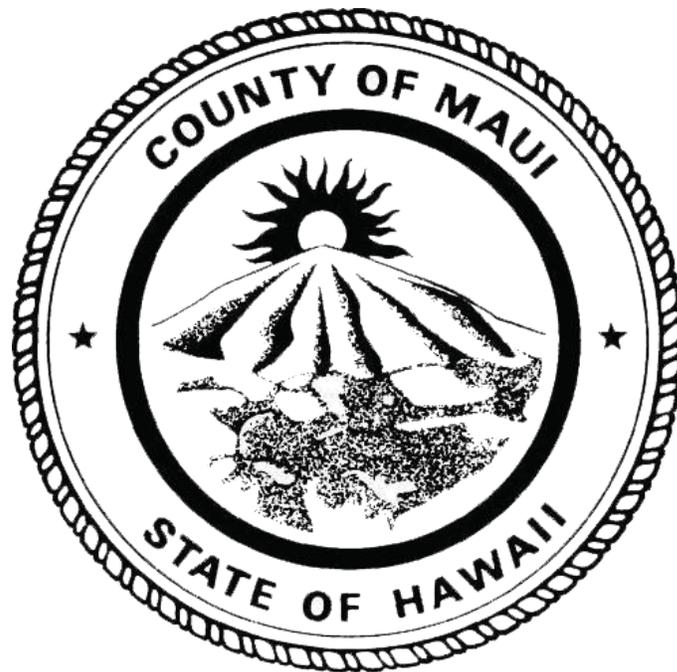
Mahalo,

A handwritten signature in black ink that reads "Grant Y.M. Chun".

GRANT Y.M. CHUN, Chair
Maui County Charter Commission

Enc.

Cc: The Honorable Michael P. Victorino, Mayor (w/enclosure)



2021-2022

Maui County
Charter Commission
Report to the
Maui County Council
February 18, 2022

2021-2022 MAUI COUNTY CHARTER COMMISSION **REPORT TO THE MAUI COUNTY COUNCIL**

BACKGROUND

The eleven members of the 2021-2022 Maui County Charter Commission (“Commission”) were appointed as follows: two appointed by Mayor Michael P. Victorino, and nine appointed by the Maui County Council, with each Council member nominating one of the nine members, to study and review the operation of the government of the County under the Charter of the County of Maui (1983), as amended to 2021, and to propose amendments or to draft a new charter in the manner set forth in Section 14-3 of the Charter and Chapter 50, Hawai‘i Revised Statutes (HRS). On February 19, 2021, the members nominated by the Council members were subsequently appointed by Resolution No. 21-027. On January 21, 2022, Michael L. Williams was appointed by the Council via Resolution No. 22-13 to replace Lance D. Collins, who resigned December 16, 2021, as chair and member due to conflict between his service on the Commission and his appointment as a per diem judge.

The members of the 2021-2022 Maui County Charter Commission were:

Grant Y.M. Chun (Wailuku) – Chair
Keoni J. Kuoha (Pukalani) – Vice-Chair
Kelson Kauano Batangan (Kahului)
Doreen N. Canto (Kula)
David P. DeLeon (Ha‘ikū) (appointed by Mayor)
Paul C. Deslauriers (Kihei)
Karey K. Kapoi (Wailuku) (appointed by Mayor)
Douglas Ward Mardfin (Hāna)
Ashley S. Olson (Lahaina)
George Purdy IV (Lāna‘i)
Michael L. Williams (Kula)

ORGANIZATION

Due to the COVID-19 pandemic and related State and County Emergency Proclamations, which suspended the requirement for in-person meetings, all Commission meetings were conducted by BlueJeans videoconference.

The Commission’s first meeting was held on March 18, 2021. Mayor Michael P. Victorino agreed that due to the ambiguity in the law, he would allow the Charter Commission to select its chairperson. The Commission nominated and Mayor Victorino subsequently appointed Lance D. Collins as Chairperson in compliance with Section 50-3, HRS. Grant Y.M. Chun was thereafter appointed by the Commission to serve as Vice-Chair. Following Mr.

Collins' resignation, on January 26, 2022, the Commission appointed Grant Y.M. Chun to serve as Chairperson and Keoni J. Kuoha as Vice-Chair.

The Commission adopted organizational and procedural rules for the conduct of its business that were amended, adopted, and effective April 15, 2021.

The Commission sought to hire a Commission Analyst and a Commission Secretary via public procurement. The Commission was successful in hiring Sherry P. Broder, as the Commission's Analyst. The Commission was unsuccessful in hiring a Commission Secretary but was able to have the Department of Corporation Counsel assign Cory Lynn Vicens as Commission Secretary.

On May 7, 2021, via Resolution No. 21-72, the Council authorized the retention of Sherry P. Broder as special counsel to provide legal advice regarding the applicability of Chapter 50, HRS, to the Commission. Pursuant to that assignment, Ms. Broder issued an opinion letter dated August 5, 2021, on the applicability of the Maui County Charter when in conflict with Chapter 50, HRS, including an analysis of the constitutional principles of "Home Rule" in the Article on Local Government, Hawai'i State Constitution. Ms. Broder's opinion letter is available on the Maui Charter Commission website.

The Commission was advised by Richelle M. Thomson, First Deputy Corporation Counsel, and Keola R. Whittaker, Deputy Corporation Counsel. Lisa A. Kahuhu and Graham M. Resell also assisted the Commission.

The Commission established a website at www.mauicounty.gov and an email address at charter.commission@co.maui.hi.us. All documents, agendas, minutes, and meeting materials were posted on the website, and notifications to subscribers were sent immediately after the postings. Videos of all the Commission meetings are available online at <https://www.mauicounty.gov/AgendaCenter/Charter-Commission-4>.

The Commission followed the State's Sunshine Law in posting agendas in a timely fashion, and in allowing public testimony at its meetings, in accordance with Chapter 92, HRS, as modified by Governor David Y. Ige's and Mayor Michael P. Victorino's Emergency Proclamations in response to the COVID-19 pandemic. Meeting minutes were transcribed and posted online.

The Commission met twice monthly and held its 2021-2022 meetings via BlueJeans videoconference, which allowed the Commission and members of the public to attend and participate remotely via video/audio as well as telephone.

The 2021-2022 regular meetings were scheduled as follows:

March 18, 2021
April 1, 2021
April 15, 2021
May 6, 2021
May 20, 2021
June 3, 2021
June 17, 2021
July 1, 2021
July 15, 2021
August 5, 2021
August 19, 2021
September 2, 2021
September 16, 2021
September 30, 2021
October 7, 2021
October 21, 2021
November 4, 2021
November 18, 2021
December 2, 2021
December 16, 2021
January 11, 2022

The Commission established a master list of proposals (“matrix”), which was updated regularly as proposals were received. The Commission received a total of 158 proposals and thereafter established an “Active Proposal List,” which included 139 proposals that the Commission advanced for further consideration.

From the Active Proposal List, the Commission voted to have 85 proposals put into draft language in a draft report to the Council prepared by the Commission Analyst. The draft report initially contained the 85 proposals combined into 40 proposed amendments and ballot questions. The draft report was distributed to the public and meetings were held on January 26 and 27, 2022, via BlueJeans, to receive public comment on the proposed amendments in the draft report.

The Commission continued public meetings to consider and deliberate on the proposals in the draft report as follows:

February 3, 2022
February 7, 2022
February 8, 2022, recessed and reconvened February 15, 2022

On February 15, 2022, the Commission took its final votes to put 13 proposed amendments through to the ballot and approved this report for transmission to the Maui County Council and the Mayor.

CHARTER COMMISSION REPORT

The report that follows is set out in modified Ramseyer format, with deletions indicated by brackets and strike-through, and additions underlined. The report presents the proposed amendments to the Charter of the County of Maui (1983), as amended (“Charter”), resulting from the deliberations of the 2021-2022 Maui County Charter Commission.

TABLE OF CONTENTS

FIRST PROPOSAL	8
Change Council elections from at-large elections to electing three Councilmembers from each of three Council electoral regions; require that one Councilmember reside in each of the following areas: Moloka`i, Lāna`i, East Maui, North Maui, South Maui, West Maui, Kahului, Wailuku, and Upcountry; create a Reapportionment Commission.	
SECOND PROPOSAL	15
Clarify that Council and board/commission meetings may be held by videoconference in accordance with state law and that public disclosure laws be followed to allow public access to government records.	
THIRD PROPOSAL	18
Require the County Auditor to assess the fiscal impacts of proposed Charter amendments.	
FOURTH PROPOSAL	19
Add additional duties to the powers of the County Clerk, and prohibit the Clerk and employees from participating in certain political activities.	
FIFTH PROPOSAL	21
Alter the powers of the Mayor to appoint and retain administrative department heads.	
SIXTH PROPOSAL	23
Require the Maui Planning Commission to have representation from each Maui community plan district; allow for Kalaupapa to be included within the jurisdiction of the Molokai Planning Commission upon State action; clarify the order of community plan development; and set 10-year deadline for review of all community plans.	
SEVENTH PROPOSAL	26
Separate the Department of Housing & Human Concerns into two departments; create the Housing Advisory Board and Department of Hawaiian Home Lands Liaison within the Department of Housing; effective July 1, 2024.	

EIGHTH PROPOSAL..... 29

Create the Department of ‘Ōiwi Resources, effective July 1, 2024, and affirm that the County will operate as a bilingual government by implementing opportunities to include the Hawaiian language.

NINTH PROPOSAL 32

Add additional requirements to the Code of Ethics regarding the financial interests of County officers.

TENTH PROPOSAL 35

Effective July 1, 2023, create an Independent Nomination Board to recruit, evaluate, and nominate individuals for county boards, commissions, and the positions of County Clerk, Auditor, Corporation Counsel, and Prosecuting Attorney; and modify the qualifications to serve on boards and commissions.

ELEVENTH PROPOSAL 41

Set the term of the Prosecuting Attorney and Corporation Counsel at five years, not to exceed six months into the term of a new Mayor; provide that the Prosecuting Attorney may not run for County elected office immediately following the end of the Prosecutor’s term in office; and modify the removal provisions for these officers.

TWELFTH PROPOSAL 43

Remove the cap on penalties for violations of law so that they may be set by Council by ordinance.

THIRTEENTH PROPOSAL 44

Require that the Chief of Police submit a written report when the Chief disagrees with the findings of the Police Commission.

FIRST PROPOSAL

Change Council elections from at-large elections to electing three Councilmembers from each of three Council electoral regions; require that one Councilmember reside in each of the following areas: Moloka`i, Lāna`i, East Maui, North Maui, South Maui, West Maui, Kahului, Wailuku, and Upcountry; create a Reapportionment Commission.

The Commission recommends that:

- 1. Section 3-1 of the Charter be amended to read as follows:**

“ARTICLE 3 COUNTY COUNCIL

Section 3-1.1 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 Lāna`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`ikū-Pā`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 Waikapū. 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:

~~Beginning at shoreline and Kakipi Gulch
Proceed to Kepuni Gulch
North along Kepuni Gulch to Kahikinui Forest Reserve boundary
Easterly along Kahikinui Forest Reserve boundary to Haleakalā National Park boundary
Northwest, west, northerly, then southeast along Haleakalā National Park boundary to Waikamoi Stream
North along Waikamoi Stream and continuing due west to Ka`ili`ili Road~~

West on Ka`ili`ili Road to Opana Gulch
North along Opana Gulch to jeep trail
Easterly on jeep trail to Pālama Gulch then northeasterly to
Halehaku Gulch
North along Halehaku Gulch to Kakipi Gulch
North along Kakipi Gulch to point of beginning

2.—~~The West Maui residency area shall be described as follows:
Beginning at shoreline and Lahaina Wailuku District boundary at
Po`elua Bay
Proceed south along boundary to shoreline (Manawainui Gulch)
Northwest, north, then northeast along shoreline to point of
beginning
(includes the islands of Molokini and Kaho`olawe)~~

3.—~~The Wailuku Waihe`e Waikapū residency area shall be
described as follows:
Beginning at shoreline and Lahaina Wailuku District boundary
Proceed southeast along shoreline to Kanaloa Avenue extension
Southwest on Kanaloa Avenue extension to Kahului Beach Road
Southeast on Kahului Beach Road to Ka`ahumanu Avenue
West on Ka`ahumanu Avenue to Mahalani Street
Southwest on Mahalani Street to Pu`umele Street
Southwest on Pu`umele Street to Wai`inu Road
West on Wai`inu Road to Wai`ale Road
South on Wai`ale Road to East Waikō Road
East on East Waikō Road to Kū`ihēlani Highway
Southwest on Kū`ihēlani Highway to Honoapi`ilani Highway
South on Honoapi`ilani Highway to Pohākea Gulch
West, then northwest along Pohākea Gulch to point of beginning~~

4.—~~The Kahului residency district area shall be described as
follows:
Beginning at shoreline and Kanaloa Avenue extension
Proceed east along shoreline to Kanahā Beach Park boundary
Southeast along Kanahā Beach Park boundary to Kalialinui Gulch
Southeast along Kalialinui Gulch to Haleakalā Highway
Southeast on Haleakalā Highway to Lowrie Ditch
Southwest along Lowrie Ditch to Spanish Road
West, then northwest on Spanish Road to East Waikō Road
West on East Waikō Road to Wai`ale Road
North on Wai`ale Road to Wai`inu Road
East on Wai`inu Road to Pu`umele Street
North on Pu`umele Street to Mahalani Street
East, then north on Mahalani Street to Ka`ahumanu Avenue~~

~~East on Ka`ahumanu Avenue to Kahului Beach Road
Northwest on Kahului Beach Road to Kanaloa Avenue extension
Northeast on Kanaloa Avenue extension to point of beginning~~

~~5.—The South Maui residency area shall be described as follows:
Beginning at Lahaina Wailuku District boundary and Pohākea Gulch~~

~~Proceed southeast, then east along Pohākea Gulch to Honoapi`ilani Highway~~

~~North on Honoapi`ilani Highway to Kū`ihēlani Highway~~

~~Northeast on Kū`ihēlani Highway to East Waikō Road~~

~~East on East Waikō Road to Spanish Road~~

~~Southeast, then east on Spanish Road to Lowrie Ditch~~

~~South along Lowrie Ditch to Pūlehu Gulch~~

~~Southeast along Pūlehu Gulch to Waiakoa Road~~

~~South on Waiakoa Road to Kihei CDP boundary~~

~~South along Kihei CDP boundary to unnamed road~~

~~Southwest, then south on unnamed road to unnamed stream (west of Keonekai Road)~~

~~East on unnamed stream to Kula Highway~~

~~Southwest on Kula Highway to jeep trail (abutting Tiger 2000 line 85098642)~~

~~West, then south on jeep trail to Kanaio Kalama Park Road (Ulupalakua Road)~~

~~Southeast along Kanaio Kalama Park Road to Pi`ilani Highway~~

~~Southeast, then east on Pi`ilani Highway to Kepuni Gulch~~

~~Southeast along Kepuni Gulch to shoreline~~

~~Southwest, west, north, northwest, southwest then northwest along shoreline to Lahaina Wailuku District boundary (Manawainui Gulch)~~

~~North along boundary to point of beginning~~

~~6.—The Makawao Ha`ikū Pā`ia residency area shall be described as follows:~~

~~Beginning at shoreline and Kanahā Beach Park boundary~~

~~Proceed east along shoreline to Kakipi Gulch~~

~~South along Kakipi Gulch to Halehaku Gulch~~

~~South along Halehaku Gulch to Pālama Gulch~~

~~Southeast along Pālama Gulch to unnamed jeep trail~~

~~Northwest, then southwest along jeep trail to Opana Gulch~~

~~South along Opana Gulch to Ka`ili`ili Road~~

~~East on Ka`ili`ili Road to Waikamoi Stream~~

~~South along Waikamoi Stream to Haleakalā National Park boundary~~

~~Northwest, then southwest along Haleakalā National Park boundary to Kailua Gulch~~

~~Northwest along Kailua Gulch to Lowrie Ditch
Southwest along Lowrie Ditch to Haleakalā Highway
Northwest along Haleakalā Highway to Kalialinui Gulch
Northwest along Kalialinui Gulch to Āmala Place
Northwest along Kanahā Beach Park boundary to point of beginning~~

~~7.——The Upcountry (Pukalani-Kula-ʻUlupalakua) residency area shall be described as follows:~~

~~Beginning at Lowrie Ditch and Kailua Gulch
Proceed southeast along Kailua Gulch to Haleakalā National Park boundary
Southwest, southeast, east, then southwest along Haleakalā National Park boundary to Kahikinui Forest Reserve boundary
Southwest along Kahikinui Forest Reserve boundary to Kepuni Gulch
South along Kepuni Gulch to Piʻilani Highway
West on Piʻilani Highway to Kanaio Kalama Park Road (ʻUlupalakua Road)
Northwest along Kanaio Kalama Park Road to jeep trail
Northeast on jeep trail to Kula Highway (abutting Tiger 2000 line 85098642)
Northeast along Kula Highway to unnamed stream
Northwest, then west along unnamed stream to unnamed jeep trail
North on unnamed jeep trail to unnamed road
North on unnamed road to Kihei CDP boundary
North on Kihei CDP boundary to Waiakoa Road
North on Waiakoa Road to Pūlehu Gulch
Northwest along Pūlehu Gulch to Lowrie Ditch
North, then northeast along Lowrie Ditch to point of beginning~~

Each member is to be elected from one of three council electoral regions, as defined by the reapportionment commission.

Of the nine members elected to the council, one shall be a resident of Lānaʻi, one shall be a resident of Molokaʻi, one shall be a resident of East Maui, one shall be a resident of North Maui, one shall be a resident of South Maui, one shall be a resident of West Maui, one shall be a resident of Kahului, one shall be a resident of Wailuku, and one shall be a resident of Upcountry.

The county clerk shall prepare 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 ballot shall give every voter in a given council electoral region the right to vote for each and every council seat within that council electoral region.

Section 3-1.2 Reapportionment Commission. There shall be a county reapportionment commission which shall establish the boundaries of the council electoral regions and determine the boundaries and names of each of the three residency areas within each council electoral region. The reapportionment commission shall consist of one member from each community plan area with a permanent population. In the event that the number of community plan areas is even, an additional member of the commission shall be appointed from any community plan area. The county clerk shall be a non-voting ex officio member of the commission. No member of the commission shall be eligible to become a candidate for election to the council in the first election after any plan is adopted. The year 2023 and every tenth year thereafter shall be reapportionment years. The commission shall be appointed by April 1 of the reapportionment year and shall file its reapportionment plan with the county clerk by December 31 of the same year and it shall apply to the next succeeding election at which council members are elected to regular terms. The commission shall hold a public hearing in each residency area before final adoption of the reapportionment plan.

Section 3-1.3 Council Electoral Regions and Residency Area Boundaries. The reapportionment commission shall determine the specific boundaries of the three council electoral regions and nine residency areas. The reapportionment commission may adjust the boundaries of the council electoral regions and residency areas to the extent required by law or the policies set forth in the charter.

Each council electoral region shall include:

1. One of the following residency areas: East Maui, Moloka'i, or Lāna'i.

2. Approximately one-third of the county's population according to the most recent census.

3. Three of the following residency areas: Lāna'i, Moloka'i, East Maui, North Maui, South Maui, West Maui, Kahului, Wailuku, and Upcountry.

The commission shall be guided by the following criteria in establishing boundaries of council electoral regions and residency areas:

1. No region or residency area shall be drawn to unduly favor or penalize a person or political faction.

2. In so far as possible, council electoral region or residency area lines shall follow permanent and easily recognized features such as clear geographical features or historical ahupua`a boundaries.

3. Council electoral regions shall have approximately equal resident population, as required by law.

4. Each residency area shall be contained within its council electoral region so that no two residency areas overlap.

5. In so far as possible, council electoral regions shall be contiguous and compact.

6. In so far as possible, council electoral regions and residency areas shall align with community plan areas.”

2. Section 3-2 of the Charter be amended to read as follows:

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

1. Council members shall be elected by nonpartisan ~~[special] elections[-],~~ with three council members elected by voters in each of the three council electoral regions held in conjunction with the primary and general elections ~~[Such special elections shall be held in conjunction with the primary and general elections]~~ every two ~~[(2)]~~ years commencing in ~~[2000.]~~ 2024. ~~[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]~~ primary 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]~~ general 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]~~ primary election shall be placed on the ballot for the ~~[second special]~~ general election; provided, that if two or more candidates tie for the highest number of votes received in the ~~[first special]~~ primary election, the names of the candidates tied for the highest number of votes shall be placed on the ballot for the ~~[second special]~~ general election; and further provided, that if a single candidate receives the highest number of votes in the ~~[first special]~~ primary 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]~~ general election.

4. At the ~~[second special]~~ general 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 full terms of office."

3. Article 15 of the Charter be amended by adding a new section to be appropriately designated and to read as follows:

"15. The residency areas described in section 3-1 of the charter shall terminate upon the adoption of the three council electoral regions and nine residency areas by the reapportionment commission as proposed in the 2022 amendments to section 3-1."

The ballot question would be as follows:

Shall Sections 3.1 and 3.2 of the Charter of the County of Maui be amended to:

1. Change the method of electing Councilmembers from electing nine Councilmembers at-large to electing nine Councilmembers as follows: three Councilmembers elected by the voters in each of three Council electoral regions of approximately equal population size;

2. Remove the current residency areas and require that one Councilmember reside in each of the following areas: Lānaʻi, Molokaʻi, East Maui, North Maui, South Maui, West Maui, Kahului, Wailuku, and Upcountry; and

3. Create a Reapportionment Commission to determine the boundaries of the three Council electoral regions and nine residency areas in 2023 and every 10 years thereafter?

SECOND PROPOSAL

Clarify that Council and board/commission meetings may be held by videoconference in accordance with state law and that public disclosure laws be followed to allow public access to government records.

The Commission recommends that:

1. Section 3-5 of the Charter be amended to read 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 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[-], including the use of a video conference platform that is accessible to the public by telephone or internet in accordance with state law. Special meetings may be held on the call of the mayor, 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 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.

5. ~~[To the extent capable, the]~~ The council shall provide interactive remote communications access for the residents of ~~[Hana]~~ Hāna, Lāna`i, Moloka`i and other geographic areas as the council shall deem appropriate and reasonable to all county council meetings and county council committee meetings. Said access shall include, but not be limited to, the ability of the public to testify, of council members to ask questions, and of the public to respond to questions[.] and shall include, at a minimum, both audio and visual interaction between the council or its committees and the public in accordance with state law.”

2. Section 13-9 of the Charter be amended to read as follows:

“Section 13-9. Records and Meetings Open to Public.

1. All books and records of every department shall be open to the inspection of any person at any time during business hours, except as otherwise provided by law. Certified copies or extracts from such books and records shall be given by the officer having custody of the same to any person demanding the same and paying or tendering a reasonable fee to be fixed by ordinance for such copies or extracts.

2. All meetings of boards and commissions shall be held in the county building or other publicly owned place~~[-]~~, or be conducted by a videoconference platform that is accessible to the public by telephone or internet in accordance with state law. In the event that a publicly owned building is not available or appropriate for the meeting, the meeting can be held in another facility that is accessible to the public.

3. When a person requests access to records, employees shall, to the extent reasonable under the circumstances:

a. Assist the person to identify records that are responsive to the request or to the purpose of the request, if stated.

b. Describe the information technology and physical location in which the records exist.

c. Provide suggestions for overcoming any practical basis for denying access to the records sought.

d. Make every effort to ensure that any fees or other charges are minimized.”

The **ballot question** would be as follows:

Shall Sections 3-5 and 13-9 of the Charter of the County of Maui be amended to:

1. Require access to all meetings of the Council and boards and commissions to be available to the public by video conference, including telephone or internet in accordance with state law;
2. Require audio and video communications during Council meetings between the Council and public located in Hāna, Lāna`i, and Moloka`i in accordance with state law; and
3. Require County employees to facilitate access to County records and minimize fees and charges?

THIRD PROPOSAL

Require the County Auditor to assess the fiscal impacts of proposed Charter amendments.

The Commission recommends that Section 3-9.2 of the Charter be amended to add a new subsection to be appropriately designated and to read as follows:

“5. The county auditor shall assess the fiscal impact of any proposed amendment to the charter within sixty days prior to the general election and make such assessment available to the public.”

The **ballot question** would be as follows:

Shall Section 3-9.2 of the Charter of the County of Maui be amended to require that the County Auditor assess the fiscal impacts of proposed charter amendments?

FOURTH PROPOSAL

Add additional duties to the powers of the County Clerk, and prohibit the Clerk and employees from participating in certain political activities.

The Commission recommends that Section 5-3 of the Charter be amended to read as follows:

“Section 5-3. Powers, Duties and Functions. The county clerk shall:

1. Be the clerk of the council.
2. Take charge of, safely keep and dispose of all books, papers, and records which may properly be filed in the clerk's office and keep in separate files all bills, ordinances, resolutions, and rules and cumulative indices of the same~~[-]~~, or exact copies thereof.
3. Have custody of the county seal~~[-]~~, which shall be used to authenticate all official papers and instruments requiring execution of certification by the county clerk in the exercise of the county clerk's office.
4. Conduct all elections held within the county as provided by law.
5. Certify ordinances.
6. ~~[Adopt rules for the classification, storage, and destruction of all records of the county.]~~ Subject to approval by the corporation counsel and a majority of the council, the clerk shall have authority to rearrange, renumber, reletter, capitalize, punctuate, and divide provisions of this charter, and to correct clerical errors and omissions and insert captions in accordance with the meaning and intent of the provisions of this charter, from time to time, and may delete provisions that have become inoperative, including any transitional provisions that no longer have any legal effect, or any provision ruled invalid by a court of competent jurisdiction. The clerk may substitute any current title of an official or department in lieu of the title originally appearing in the charter, in accordance with the changes of title or duties subsequently made by law.
- ~~[7.]~~7. The clerk and all persons employed by the office of the county clerk shall not take an active part in political management or in political campaigns for county elective office.
8. Perform such other functions as may be prescribed by the council rules or law.”

The **ballot question** would be as follows:

Shall Section 5.3 of the Charter of the County of Maui be amended to add additional duties to the powers of the County Clerk and prohibit the Clerk and all persons employed by the Clerk from actively participating in political management or campaigns for County elective office?

FIFTH PROPOSAL

Alter the powers of the Mayor to appoint and retain administrative department heads.

The Commission recommends that Section 6-2 of the Charter be amended to read as follows:

“Section 6-2. Appointment and Removal of Officers and Employees.

1. The administrative head of a department may not appoint more than the staff for which appropriations have been made by the council.
2. No appointing authority shall appoint any person to any office or position exempted from civil service until satisfied by proper investigation that the person to be appointed is fully qualified by experience and ability to perform the duties of the office or position.
3. The term of office of any administrative head of a department who is appointed by the mayor shall end with the term of office of the mayor, except that any such administrative head may be earlier removed as provided for in this charter. Such officers shall not hold over more than sixty ~~[(60)]~~ days after their respective terms of office, and shall immediately vacate their respective offices at the end of the ~~[60-day]~~ sixty-day period or upon the appointment of a successor in accordance with this charter, whichever occurs first.
4. The mayor shall have the authority to appoint, on a temporary basis, an administrative head of any department, provided that such department is one where the administrative head is appointed by the mayor.
5. ~~[Within sixty (60) days of taking office, or within sixty (60)]~~ Unless otherwise provided in this charter, within thirty days of taking office, or within thirty days after a vacancy is created[;] in the office of an administrative head appointed by the mayor, the mayor shall appoint the ~~[managing director, corporation counsel, prosecuting attorney, director of finance, director of public works, director of parks and recreation, planning director, director of housing and human concerns, director of water supply, director of transportation, and director of environmental management, with written notice of the appointment to the council.]~~ administrative head. The council shall confirm or deny the appointment within ~~[sixty (60)]~~ thirty days after receiving notice of the appointment by the mayor. If the council does not act within the ~~[60-day]~~ thirty-day period, the appointment shall be deemed to be confirmed. The appointee shall take office upon appointment by the mayor but shall not continue in office if the council denies the appointment. If the

appointment is denied by the council, the mayor shall make a new appointment within ~~[sixty (60)]~~ thirty days of the council's denial, and the council shall confirm or deny within ~~[sixty (60)]~~ thirty days after receiving notice of the new appointment by the mayor. If the council does not act within the ~~[60-day]~~ thirty-day period, the appointment shall be deemed to be confirmed.

6. No letter of resignation of an administrative head shall be effective unless it is sworn or affirmed to before a person authorized to administer oaths and made within thirty days of the intended date of resignation."

The **ballot question** would be as follows:

Shall Section 6.2 of the Charter of the County of Maui be amended to reduce the deadlines for appointments to administrative heads from sixty days to thirty days and require that any letter of resignation of an administrative head be sworn to under oath within thirty days prior to the intended resignation date?

SIXTH PROPOSAL

Require the Maui Planning Commission to have representation from each Maui community plan district; allow for Kalaupapa to be included within the jurisdiction of the Molokai Planning Commission upon State action; clarify the order of community plan development; and set 10-year deadline for review of all community plans.

The Commission recommends that:

1. Section 8-8.4 of the Charter be amended as follows:

“Section 8-8.4. Planning Commissions. Each planning commission shall consist of nine members appointed by the mayor with the approval of the council. The members of each planning commission shall be residents of the island of the planning commission on which the member serves. The ~~[director]~~ directors of the ~~[department]~~ departments of public works, ~~[and]~~ environmental management, and ~~[the director of the department of]~~ water supply shall be non-voting ex-officio members of each commission.

Each planning commission shall exercise its powers, duties, and functions as follows:

1. The Maui planning commission shall be concerned with the area encompassing the islands of Maui and Kaho`olawe and all other islands lying within three nautical miles of the shores thereof, and the waters adjacent thereto. Of its nine members, there shall be at least one and no more than two members who reside in each Maui community plan district.

2. The Moloka`i planning commission shall be concerned with those areas of the county encompassed within the island of Moloka`i and all other islands lying within three nautical miles of the shores thereof, and the waters adjacent thereto~~[-except that portion of the island known as Kalaupapa, Kalawao, and Waikolu and commonly known as the Kalaupapa Settlement].~~

3. The Lāna`i planning commission shall be concerned with the area encompassing the island of Lāna`i and all other islands lying within three nautical miles of the shores thereof, and the waters adjacent thereto.”

2. Section 8-8.5 of the Charter be amended as follows:

“Section 8-8.5. General Plan and Community Plans.

1. The general plan shall be developed after input from state and county agencies and the general public, and shall be based on sound policy and information.

2. The general plan shall indicate desired population and physical development patterns for each island and region within the county; shall address the unique problems and needs of each island and region; shall explain the opportunities and the social, economic, and environmental consequences related to potential developments; and shall set forth the desired sequence, patterns, and characteristics of future developments. The general plan shall identify objectives to be achieved, and priorities, policies, and implementing actions to be pursued with respect to population density, land use maps, land use regulations, transportation systems, public and community facility locations, water and sewage systems, visitor destinations, urban design, and other matters related to development.

3. The planning director shall issue a report annually providing a detailed explanation of the implementation and enforcement of the general plan and the community plans to the mayor and the council.

4. There shall be a citizen advisory committee for each community plan area. Each citizen advisory committee shall consist of thirteen members, with nine appointed by the council and four appointed by the mayor. Each citizen advisory committee is charged with reviewing and recommending revisions to the community plan for its community plan area. Each citizen advisory committee shall remain in existence until its revisions are adopted, modified, or rejected by the council and until such action is approved, modified, or rejected by the mayor.

5. The community plans created and revised by the citizen advisory committees shall set forth, in detail, land uses within the community plan regions of the county. The objectives of each community plan shall be to implement the policies of the general plan. Each community plan shall include implementing actions that clearly identify priorities, timelines, estimated costs, and the county department accountable for the completion of the implementing actions.

6. The community plans ~~[generated through the citizen advisory councils and accepted by the planning commission,]~~ initiated by the department of planning, reviewed and revised by the community plan advisory committees and the appropriate planning commission, and [accepted] approved by the council[,] and mayor are part of the general plan. The community plans shall be reviewed every ten years.”

The **ballot question** would be as follows:

Shall Sections 8-8.4 and 8-8.5 of the Charter of the County of Maui be amended to require that the Maui Planning Commission have representation from each Maui community plan district; allow for Kalaupapa to be included within the jurisdiction of the Molokai Planning Commission upon State action; clarify the order of community plan development; and set a requirement that all community plans be reviewed every 10 years?

SEVENTH PROPOSAL

Separate the Department of Housing & Human Concerns into two departments; create the Housing Advisory Board and Department of Hawaiian Home Lands Liaison within the Department of Housing; effective July 1, 2024.

The Commission recommends that:

- Chapter 10 of Article 8 be amended to read as follows:**

“CHAPTER 10 DEPARTMENT OF ~~[HOUSING AND]~~ HUMAN CONCERNS

Section 8-10.1. Organization. There shall be a department of ~~[housing and]~~ human concerns which shall consist of a director and the necessary staff.

Section 8-10.2. Director of ~~[Housing and]~~ Human Concerns. The director of ~~[housing and]~~ human concerns shall be appointed by the mayor with the approval of the council and may be removed by the mayor. The director of ~~[housing and]~~ human concerns shall have ~~[had]~~ a minimum of five years of experience in an administrative capacity ~~[either in public service or private business, or both].~~

Section 8-10.3. Powers, Duties, and Functions. The director of ~~[housing and]~~ human concerns shall:

1. Develop a comprehensive approach to the effective administration and coordination of programs and plans of action designed to meet human needs in the county.

- ~~[2.]~~ 2. Strive to effectively address the health, safety, and basic social needs of all segments of the county community and to enhance the quality of life of all residents.

- ~~[3.]~~ 3. Implement programs and services for senior citizens, youth, the economically challenged, and homeless.

4. Develop, supervise, and coordinate such programs and projects as shall be assigned by the mayor.

5. Perform such other duties and functions as may be assigned by the mayor.”

2. **Article 8 of the Charter be amended by adding a new chapter 19 to read as follows:**

“CHAPTER 19
DEPARTMENT OF HOUSING

Section 8-19.1. Organization. There shall be a department of housing, consisting of a director, a housing advisory board, and the necessary staff.

Section 8-19.2. Director of Housing. The director of housing shall be appointed by the mayor with the approval of the council and may be removed by the mayor. The director of housing shall have a minimum of ten years of experience in either the fields of housing development, housing planning, civil engineering, banking and finance, and/or an advanced degree in economics or planning.

Section 8-19.3. Powers, Duties, and Functions. The director of housing development shall:

1. Support efforts to create housing that Maui residents can afford.

2. Seek opportunities to develop financing that will underwrite the cost of housing.

3. Focus the resources of the county and the community to promote all viable, reasonable alternative forms of housing, including community land trusts.

4. Promote, lead, and coordinate the county’s programs to provide its residents with housing they can afford.

Section 8-19.4. Housing Advisory Board. The housing advisory board shall consist of five members who shall be appointed by the mayor with the approval of the council. The directors of human concerns, public works, planning, and environmental management shall be non-voting, ex-officio members of the housing advisory board. The voting members of the housing advisory board shall be appointed based on their experience in housing finance, housing development, or other fields related to the creation of housing Maui county residents can afford. The geographic residency requirement set in section 13-2 shall not apply. This board is tasked with advising, aiding, and supporting the director’s efforts to create affordable housing.

Section 8-19.5. Department of Hawaiian Home Lands Liaison.
There shall be a liaison within the department to the Department of Hawaiian Home Lands on all matters involving housing development in the county.”

The **ballot question** would be as follows:

Effective July 1, 2024, shall Article 8 of the Charter of the County of Maui be amended to separate the Department of Housing and Human Concerns into two departments, and create the Housing Development Advisory Board and a liaison with the Department of Hawaiian Home Lands within the Department of Housing?

EIGHTH PROPOSAL

Create the Department of ‘Ōiwi Resources, effective July 1, 2024, and affirm that the County will operate as a bilingual government by implementing opportunities to include the Hawaiian language.

The Commission recommends:

- 1. That Article 8 of the Charter be amended to add a new chapter to be appropriately designated and to read as follows:**

“CHAPTER **DEPARTMENT OF ‘ŌIWI RESOURCES**

Section 8- . Organization. There shall be a department of ‘ōiwi resources consisting of a director of ‘ōiwi resources and the necessary staff.

Section 8- . Director of ‘Ōiwi Resources. The director of ‘ōiwi resources shall be appointed by the mayor with the approval of the council and may be removed by the mayor. The director shall be experienced in native Hawaiian cultural resource management, native Hawaiian cultural practices in the county, and proficient in the Hawaiian language. The director must have had five years of experience in a leadership capacity.

Section 8- . Powers, Duties, and Functions. The director of ‘ōiwi resources shall:

1. Be the administrative head of the department of ‘ōiwi resources.
2. Collaborate with the mayor, the executive branch, and the council to ensure proper management of ‘ōiwi resources throughout the county.
3. Design and implement programs to care for and develop ‘ōiwi resources.
4. Guide the county in the correct usage of the Hawaiian language, including place names, and the integration of Hawaiian language within county functions.
5. Promote healthy ecosystems through natural-cultural resource regeneration, protection, and sustainable utilization.
6. Advise state and federal agencies on all programs and projects that affect ‘ōiwi resources in the county.
7. Report to the mayor and council annually on the county's overall performance in meeting ‘ōiwi resources objectives and any issues that could be addressed by ordinance.

8. Perform other duties and functions as assigned by the mayor or managing director.”

2. Section 8-8.3 of the Charter be amended to read as follows:

“Section 8-8.3. Powers, Duties, and Functions. The planning director shall:

1. Be the administrative head of the department of planning.

2. Serve as the chief planning officer of the county and as the technical advisor to the mayor, council, and planning commissions on all planning and related matters.

3. Recommend revisions of the general plan at least every ten [(10)] years to guide the development of the county [-], in collaboration with the director of ‘ōiwi resources.

4. Prepare, administer, and enforce long-range planning programs[-], in collaboration with the director of ‘ōiwi resources.

5. Prepare, administer, and enforce a cultural resource management plan[-], in collaboration with the director of ‘ōiwi resources.

6. Prepare, administer, and enforce zoning ordinances, zoning maps and regulations and any amendments or modifications thereto.

7. Review the lists of proposed capital improvements projects contemplated by the county and recommend the order of their priority to the mayor[-], in collaboration with the director of ‘ōiwi resources.

8. Perform such other duties and functions as shall be required by law or as shall be assigned by the mayor.”

3. Section 8-8.4 of the Charter be amended to read as follows:

“Section 8-8.4. Planning Commissions. Each planning commission shall consist of nine members appointed by the mayor with the approval of the council. The members of each planning commission shall be residents of the island of the planning commission on which the member serves. The [director] directors of the departments of ‘ōiwi resources, [the department of] public works, [and] environmental management, and [the director of the department of] water supply shall be non-voting ex-officio members of each commission.”

4. The Preamble of the Charter be amended to read as follows:

“WE, THE PEOPLE OF THE COUNTY OF MAUI, mindful of our Hawaiian history, heritage and culture and our uniqueness as a four island county, dedicate our efforts to fulfill the ~~[philosophy decreed by the Hawaii]~~ Hawai`i State motto, “Ua mau ke ea o ka [aina] ‘āina i ka pono,” (“The life of the land is perpetuated in righteousness.”)”

5. Article 13 of the Charter be amended to add a new section to be appropriately designated and to read as follows:

Section 13- . Bilingual Government. The county shall operate as a bilingual government and shall implement opportunities to promote inclusion of the Hawaiian language. Official writings of the county shall be prepared and made available in both official state languages, English and Hawaiian, as determined by ordinance. The county shall provide appropriate oral language services to any resident who orally communicates with its officers or employees in the Hawaiian language.”

The ballot question would be as follows:

Shall the Preamble and Article 13 of the Charter of the County of Maui be amended to affirm that the County will operate as a bilingual government by implementing opportunities to include the Hawaiian language; and, effective July 1, 2024, shall Article 8 of the Charter of the County of Maui be amended by adding a new chapter to establish a Department of ‘Ōiwi Resources and by amending Sections 8-8.3 and 8-8.4 to:

1. Ensure proper management of ‘Ōiwi (native) cultural resources throughout the County, including cultural sites, iwi and burials, and the variety of natural resources used in cultural practices;

2. Design and implement programs to care for and/or develop ‘Ōiwi (native) resources, including the Hawaiian language, cultural practices, place names, historical and archival materials, cultural sites, iwi and burials, and the variety of natural resources used in cultural practices; and

3. Collaborate with the Planning Director on revisions to the general plan and long-range planning programs, and include the Director of ‘Ōiwi Resources as an ex-officio, non-voting member of the planning commissions?

NINTH PROPOSAL

Add additional requirements to the Code of Ethics regarding the financial interests of County officers.

The Commission recommends that:

1. Section 10-3 of the Charter be amended to read as follows:

“Section 10-3. Financial Disclosure.

1. All elected county officers, all candidates for elective county office, and such appointed officers or other employees as the council shall designate by ordinance shall file with the board of ethics and the county clerk financial disclosure statements in a form or forms to be prescribed by the board of ethics. Such financial disclosure statements shall be open to public inspection.

2. All members of boards and commissions established under this charter, and such appointed officers or other employees as shall be designated by the council by ordinance as having significant discretionary or fiscal powers shall file with the board of ethics confidential financial disclosure statements in a form or forms to be prescribed by the board of ethics, which financial disclosure statements shall not be open to public inspection, provided that the names of all persons required to file confidential financial disclosure statements, the dates by which the financial disclosure statements are required to be filed, and the dates on which the financial disclosure statements are actually filed, shall be open to public inspection. No member of a board or commission who has failed to file a complete required financial disclosure statement may participate or vote in any official board or commission business until the statement is acknowledged as received by the board of ethics.

3. All persons required herein to make financial disclosure statements, other than candidates for elective county office, shall file such financial disclosure statements within fifteen ~~[(15)]~~ days of taking office or the date of the resolution approving their appointment to the board or commission, whichever is earlier, and shall file annual updates of their financial disclosure statements by February 15 of each year that the person continues in office. A candidate for elective county office shall file a financial disclosure statement concurrently with the filing of nomination papers[.] and shall file annual updates of their financial disclosure statements by February 15 of each year of their elected term. The financial disclosure statement shall be sworn to under oath and shall include

sources and amount of income, business ownership, officer and director positions, ownership of or interest in real property, debts, creditor interests in insolvent businesses, the names of persons represented before government agencies, and such other information as shall be prescribed by the board of ethics.”

2. Subsection 1 of Section 10-4 of the Charter be amended to read as follows:

“Section 10-4. Prohibitions.

1. No officer or employee of the county shall:
 - a. Solicit, accept or receive any gift; directly or indirectly, whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or in any other form, under circumstances in which it can reasonably be inferred that the gift is intended to influence the officer or employee in the performance of the officer’s or employee’s official duties or is intended as a reward for any official action on the officer's or employee's part.
 - b. Disclose information which, by law or practice, is not available to the public and which the officer or employee acquires in the course of the officer’s or employee’s official duties or use such information for the officer’s or employee’s personal gain or for the benefit of anyone.
 - c. Engage in any business transaction or activity or have a financial interest, direct or indirect, which is incompatible with the proper discharge of the officer’s or employee’s official duties or which may tend to impair the officer's or employee's independence of judgment in the performance of the officer’s or employee’s official duties[.], or take any official action in which the officer or employee has a direct or indirect substantial financial interest, including participating in deliberations.
 - d. Use county property or personnel for other than public activity or purpose.
 - e. Fail to disclose a financial interest in any matter which may be affected by an action of a county agency or vote on any matter affected by such interest.
 - f. Receive compensation for any service rendered in behalf of any private interest after termination of service to or employment with the county in relation to any case, proceeding, or application with respect to which the officer or employee was directly concerned, or which was under his or her active consideration, or with respect to which knowledge or information not generally available to the public was made

available to him or her during the period of service to or employment with the county.

g. Use or attempt to use the officer's or employee's official position to secure or grant unwarranted consideration, privileges, exemptions, advantages, contracts, or treatment, for oneself or others beyond that which is available to every other person."

The **ballot question** would be as follows:

Shall Section 10-3 of the Charter of the County of Maui be amended to require the filing of a financial disclosure statement by members of boards or commissions prior to participating in any official capacity; and shall Subsection 10-4.1 be amended to clarify that county officers or employees are prohibited from taking official actions in which the officer or employee has a direct or indirect substantial financial interest and from using or attempting to use the officer's or employee's official position to secure or grant unwarranted consideration, privileges, exemptions, advantages, contracts, or treatment, for oneself or others?

TENTH PROPOSAL

Effective July 1, 2023, create an Independent Nomination Board to recruit, evaluate, and nominate individuals for county boards, commissions, and the positions of County Clerk, Auditor, Corporation Counsel, and Prosecuting Attorney; and modify the qualifications to serve on boards and commissions.

The Commission recommends that:

1. Section 13-2 of the Charter be amended to read as follows:

“Section 13-2. Boards and Commissions[.]; Nomination of Certain Officers.

1. Unless otherwise provided, the members of all boards or commissions shall serve for staggered terms of five ~~[(5)]~~ years beginning on April 1 and ending on March 31, five ~~[(5)]~~ years thereafter. ~~[All members of boards and commissions recognized by this charter who hold office upon the effective date of this amendment shall continue in office for the balance of the term for which they were originally appointed and ninety (90) days thereafter to the following March 31.]~~

Each new board or commission established by this charter shall have nine members. Of the nine members initially appointed, ~~[three shall serve for a term of five (5) years, two shall serve for a term of four (4) years, two]~~ five shall serve for a term of three ~~[(3)]~~ years and ~~[two]~~ four shall serve for a term of two ~~[(2)]~~ years.

~~[2.— Not more than a bare majority of the members of any board or commission shall belong to the same political party.]~~

~~[3.]~~ 2. In making appointments to all boards and commissions, the mayor shall give due consideration to balanced geographic representation.

~~[4.]~~ 3. Any vacancy occurring on any board or commission shall be filled for the unexpired term as provided for herein.

~~[5.]~~ 4. The members of boards and commissions appointed by the mayor, with approval of the council, may be removed for cause upon recommendation of such removal by the mayor and the approval of two-thirds of the entire membership of the council.

~~[6.]~~ 5. No member of any board or commission shall be eligible for a second appointment to the same board or commission prior to the expiration of two ~~[(2)]~~ years, provided that members of any board or commission initially appointed for a term not exceeding ~~[two (2)]~~ three years shall be eligible to succeed themselves for an additional term. No member of any board or commission shall serve beyond

the time when his or her term expires unless the member is specifically reappointed. A vacancy shall be automatically created upon the expiration of a member's term which vacancy shall be filled as provided for herein.

~~[7.]~~ 6. Employees and officers of the State or county shall be eligible to serve on boards and commissions, provided that such service does not result in a conflict of interest.

~~[8.]~~ 7. A majority of the entire membership of a board or commission shall constitute a quorum to do business, and the affirmative vote of a majority of the entire membership of a board or commission shall be necessary to take any action.

~~[9.]~~ 8. Each board or commission shall select a chair from its membership annually.

~~[10.]~~ 9. All boards and commissions shall have the power to subpoena witnesses and administer oaths to witnesses as to all matters within the authority of such boards or commissions.

~~[11.]~~ 10. All boards and commissions shall hold public hearings whenever required or deemed necessary and shall provide due notice to the public by publication in a newspaper of general circulation in the county.

~~[12.]~~ 11. ~~[The]~~ Except as otherwise provided in this charter, the deputies of the administrative head of any department shall be appointed by the administrative head without the necessity of confirmation by any commission or board.

~~[13.]~~ 12. The members of boards and commissions ~~[shall receive no compensation but]~~ shall be entitled to be paid for necessary expenses incurred by them in the performance of their duties. Necessary expenses may be paid in advance as per diem allowances as may be established by ordinance.

~~[14.]~~ 13. Except for purposes of inquiry and as otherwise provided by this charter or by law, no board or commission nor its membership shall interfere in any way with the administrative affairs of the department.

~~[15.]~~ 14. Each board and commission shall have power to establish its own rules of procedures necessary for the conduct of its business, except as otherwise provided in this charter.

~~[16.]~~ 15. There shall be an independent nomination board that shall consist of nine members, one from each of the council residency areas, who shall be appointed by the mayor and approved by the council. Upon establishment, the board shall determine the staggering of their terms. A regular term shall be five years. No member shall run for or hold any other elected office under the United States, the State or its political subdivisions. No member shall take an active part in political management or in political campaigns. No member shall be eligible for appointment to any

office for which the commission makes nominations so long as a member of the commission and for a period of three years after the end of the entire term so appointed except that a member may be eligible for appointment to an unpaid position on a board or commission after the expiration of their entire term.

~~[17.]~~ 16. The independent nomination board shall recruit, evaluate, and nominate individuals to serve on boards and commissions established by this charter and by ordinance, and such other offices as shall be specified in this charter. The procedures for submitting applications and the form of applications shall be established by the independent nomination board based on the requirements of each office, commission, or board. To the extent permitted by law, information related to the consideration of any applicant for nomination shall not be public.

~~[16.]~~ 17. A vacancy on a commission, ~~[or]~~ board, or of such office requiring nominees to be presented to the appointing authority by the independent nomination board due to the expiration of a member's or officer's term shall be filled as follows:

Not less than ninety days before a vacancy occurs, the independent nomination board shall submit a list of nominees to the mayor. Not more than seventy ~~[(70)]~~ days nor less than sixty ~~[(60)]~~ days before the vacancy is to occur the mayor shall submit to the council the name of the mayor's nominee to fill the vacancy. Within ~~[sixty (60)]~~ thirty days thereafter the council shall act to approve or disapprove the nominee. If the council disapproves the nominee, it shall immediately so notify the mayor and the independent nomination board of its action. The mayor shall then submit the name of a second nominee from the list to the council within ten ~~[(10)]~~ days and the council shall act thereon within ~~[sixty (60)]~~ thirty days. The process shall continue until the vacancy is filled. If no nominee remains on the list submitted to the mayor, the independent nomination board shall have seventy-five days to submit a new list of nominees to the mayor, and the timelines shall be set in accordance with those applicable to the original list of nominees. In the event that the council fails to approve or disapprove a nominee within the time periods provided for herein, the nominee shall be deemed appointed to fill the vacancy upon its occurrence. If the mayor fails to submit the name of a nominee within the times provided for herein, the council may within ~~[sixty (60)]~~ thirty days nominate and approve the appointment of an individual to fill the vacancy~~[-]~~ from the list of nominees presented to the mayor.

~~[17.]~~ 18. A vacancy on a commission or board due to death, resignation, or removal shall be filled as follows:

Within sixty days of the occurrence of a vacancy, the independent nomination board shall submit to the mayor a list of nominees to fill the vacancy. Within thirty [(30)] days [of the occurrence of a vacancy] thereafter, the mayor shall submit to the council the name of the mayor's nominee to fill the vacancy. Within [sixty (60)] thirty days thereafter, the council shall act to approve or disapprove the nominee. If the council disapproves the nominee, it shall immediately so notify the mayor and the independent nomination board of its action. The mayor shall then submit the name of a second nominee from the list to the council within ten [(10)] days, and the council shall act thereon within [sixty (60)] thirty days. This process shall continue until the vacancy is filled. If no nominee remains on the list submitted to the mayor, the independent nomination board shall have sixty days to submit a new list of nominees to the mayor, and the timelines shall be set in accordance with those applicable to the original list of nominees. In the event that the council fails to approve or disapprove a nominee within the time periods provided for herein, that nominee shall be deemed appointed to fill the vacancy upon its occurrence. If the mayor fails to submit the name of a nominee within the times provided for herein, the council may within [sixty (60)] thirty days nominate and approve the appointment of an individual to fill the vacancy[-] from the list of nominees presented to the mayor.

19. If the independent nomination board fails to provide a list of nominees within the prescribed time limits, the appointing authority may make its own appointment within thirty days therefrom without consulting with the independent nomination board. The council shall approve or disapprove a mayoral nominee and shall immediately so notify the mayor of its action. The mayor shall then submit the name of a second nominee to the council within ten days and the council shall act thereon within thirty days. This process shall continue until the vacancy is filled.

20. If the mayor, for mayoral appointments, or council, for council appointments, rejects all nominees presented by the independent nomination board, the appointing authority shall notify the independent nomination board of such rejection within thirty days of submission of the nominee list. The board shall present a new list of nominees within seventy-five days of such notice. The timelines shall be set in accordance with those applicable to the original list of nominees.”

2. Subsection 1 of Section 3-9.1 of the Charter be amended to read as follows:

“Section 3-9.1. Office of the County Auditor and County Auditor.

1. There is established an office of the county auditor, to be headed by a county auditor who shall be appointed by the ~~[county] council~~, ~~by a majority vote of its membership, and~~ from a list of nominees presented to the council by the independent nomination board. The auditor shall serve for a term of six years. The county auditor may be re-appointed ~~[, or a successor appointed,]~~ by the council for subsequent terms of six years. The county auditor may hold over until a successor is appointed. The salary of the county auditor shall be determined by the salary commission. The council~~[, by a two thirds vote of its membership,]~~ may remove the county auditor from office at any time for cause. The county auditor shall be exempt from civil service.”

3. Section 5-2 of the Charter be amended to read as follows:

“Section 5-2. County Clerk. The county clerk shall be appointed ~~[and may be removed]~~ by the council~~[-]~~ from a list of nominees presented to the council by the independent nomination board. The county clerk shall serve for a term of six years. The county clerk may be re-appointed by the council for subsequent terms of six years. The county clerk may hold over until a successor is appointed. The salary of the county clerk and deputy county clerk shall be set by the salary commission. The council may remove the county clerk from office at any time for misfeasance, malfeasance, or nonfeasance.”

4. Section 8-2.2 of the Charter be amended to read as follows:

“Section 8-2.2. Corporation Counsel. The corporation counsel shall be appointed by the mayor from a list of nominees presented to the mayor by the independent nomination board, and as further provided for in section 13-2 with the approval of the council and may be removed by the mayor with the approval of council.

The corporation counsel shall be an attorney licensed to practice and in good standing before the Supreme Court of the State and shall have engaged in the practice of law for at least five years.”

5. Section 8-3.2 of the Charter be amended to read as follows:

“Section 8-3.2. Prosecuting Attorney. The prosecuting attorney shall be appointed by the mayor from a list of nominees presented to the mayor by the independent nomination board, and as further provided for in section 13-2 with the approval of the council and may be removed by the mayor with the approval of council.

The prosecuting attorney shall be an attorney licensed to practice and in good standing before the Supreme Court of the State and shall have engaged in the practice of law for at least five years.”

The **ballot question** would be as follows:

Effective July 1, 2023, shall Sections 3-9.1, 5-2, 8-2.2, 8-3.2, and 13-2 of the Charter of the County of Maui be amended to:

1. Create an Independent Nomination Board to recruit, evaluate, and nominate individuals for county boards, commissions, and the positions of the County Clerk, Auditor, Corporation Counsel, and Prosecuting Attorney;

2. Set the County Clerk’s term at 5 years and provide that the County Clerk may be reappointed by the Council for successive terms and may hold over in office until a successor is appointed;

3. Eliminate the requirement that no more than a bare majority of a board or commission may belong to the same political party;

4. Allow for board and commission members to be compensated;

5. Five members would serve 3-year terms and four members would serve 2-year terms on new boards created in the charter; and

6. Board and commission members serving for an initial term of less than 3 years may be reappointed to a full term on the same board.

ELEVENTH PROPOSAL

Set the term of the Prosecuting Attorney and Corporation Counsel at five years, not to exceed six months into the term of a new Mayor; provide that the Prosecuting Attorney may not run for County elected office immediately following the end of the Prosecutor's term in office; and modify the removal provisions for these officers.

The Commission recommends that:

1. Section 8-2.2 of the Charter be amended to read as follows:

“Section 8-2.2. Corporation Counsel. The corporation counsel shall be appointed by the mayor with the approval of the council.

The term of office for corporation counsel shall be five years from the date of commission, not to exceed six months into the term of a new mayor.

The corporation counsel shall be an attorney licensed to practice and in good standing before the Supreme Court of the State and shall have engaged in the practice of law for at least five years immediately preceding nomination.

The mayor with the approval of council may remove the corporation counsel from office at any time for misfeasance, malfeasance, or nonfeasance. At any time, the council may petition the State Office of Disciplinary Counsel to make a determination if there is cause for removing the corporation counsel. Upon receipt of a determination that there is cause, then the council may remove the corporation counsel by a two-thirds vote.”

2. Section 8-3.2 of the Charter be amended to read as follows:

“Section 8-3.2. Prosecuting Attorney. The prosecuting attorney shall be appointed by the mayor with the approval of the council [~~and may be removed by the mayor with the approval of council~~].

The term of office for the prosecuting attorney shall be five years from the date of commission, not to exceed six months into the term of a new mayor.

The prosecuting attorney shall be an attorney licensed to practice and in good standing before the Supreme Court of the State and shall have engaged in the practice of law for at least five years immediately preceding nomination. A person who serves as prosecuting attorney may not run for any other elected office within the county at the next election following the end of their term.

The mayor with the approval of council may remove the prosecuting attorney from office at any time for misfeasance, malfeasance, or nonfeasance. At any time, the council may petition the State Office of Disciplinary Counsel to make a determination if there is cause for removing the prosecuting attorney. Upon receipt of a determination that there is cause, then the council may remove the prosecuting attorney by a two-thirds vote.”

The **ballot question** would be as follows:

Shall Sections 8-2.2 and 8-2.3 of the Charter of the County of Maui be amended to:

1. Set the term of the Corporation Counsel and Prosecuting Attorney at five years, not to exceed six months into the term of a new Mayor;
2. Provide that the Prosecuting Attorney may not run for County elected office at the next election following the end of the Prosecutor’s term in office; and
3. Change the removal provisions for the Corporation Counsel and Prosecuting Attorney to allow the Council to remove the Corporation Counsel or Prosecuting Attorney by a two-thirds vote of the Council upon a finding of just cause by the State Office of Disciplinary Counsel?

TWELFTH PROPOSAL

Remove the cap on penalties for violations of law so that they may be set by Council by ordinance.

The Commission recommends that Section 13-10 of the Charter be amended to read as follows:

“Section 13-10. Penalties. The council shall, by ordinance, provide for the punishment of violations of any provisions of this charter and may provide for punishment of violations of ordinances and rules having the force and effect of law.], ~~but no penalty shall exceed the amount of \$1,000.00 per day for each day the violation persists or one (1) year's imprisonment, or both; except that the penalty for the operation of a transient accommodation without a necessary permit shall not exceed a civil fine of \$20,000 plus \$10,000 per day for each day the unlawful operation persists, unless a higher fine is authorized by State law. For purposes of this section, "transient accommodation" includes transient vacation rentals, bed and breakfast homes, short term rental homes, and other categories of transient accommodation established by ordinance.]”~~

The **ballot question** would be as follows:

Shall Section 13-10 of the Charter of the County of Maui be amended to remove the cap on penalties for violations of the law so that they will be set by Council by ordinance?

THIRTEENTH PROPOSAL

Require that the Chief of Police submit a written report when the Chief disagrees with the findings of the Police Commission.

The Commission recommends that Section 8-12.2 of the Charter be amended to read as follows:

“Section 8-12.2. Police Commission. The police commission shall consist of nine members appointed by the mayor with the approval of the council.

The police commission shall:

1. Adopt such rules as it may consider necessary for the conduct of its business and regulation of the matters committed to its charge by law.

2. Review ~~[and submit to the mayor]~~ the department’s request for an annual appropriation for the operation of the department before submission to the mayor. 3.

Receive, ~~[review]~~ consider, and investigate ~~[any]~~ charges brought ~~[forth]~~ by the public against the conduct of the department or any of its members and submit a written report of its findings ~~[and recommendations]~~ to the chief of police ~~[for the chief’s disposition]~~. If the chief of police disagrees with the findings of the police commission, the chief shall submit the reasons in writing to the police commission. A summary of the charges filed and their disposition shall be included in an annual report of the commission.

4. Annually review and evaluate the performance of the chief of police and submit a public report to the mayor and the council.

5. Have such other powers and duties as may be provided by law.”

The ballot question would be as follows:

Shall Section 8-12.2 of the Charter of the County of Maui be amended to require that the Chief of Police provide a written report to the Police Commission when the Chief disagrees with the Commission’s findings related to the conduct of the department or its members?