



**2021-2022**

**Maui County  
Charter Commission  
Final Report to the  
Maui County Clerk**

**June 7, 2022**

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# **2021-2022 MAUI COUNTY CHARTER COMMISSION** **FINAL REPORT TO THE MAUI COUNTY CLERK**

## **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)  
Paul C. Deslauriers (Kihei)  
Karey K. Kapoi (Wailuku)  
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 Commission's 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](http://www.mauicounty.gov) and an email address at [charter.commission@co.maui.hi.us](mailto: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 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 voted to put 13 proposed amendments through to the ballot and approved its initial report for transmission to the Maui County Council and the Mayor. On February 18, 2022, the Commission fulfilled its statutory duty to submit its initial report to the Council within one year after its appointment as required

by Section 50-8, HRS. The Council had 30 days to review the Commission's report and return back to the Commission any proposed alternative Charter amendments.

On March 21, 2022, the County Clerk transmitted to the Commission a certified copy of Resolution No. 22-25, CD1, FD1 and Committee Report No. 22-26, setting forth the Council's proposed alternative Charter amendments in accordance with Section 50-8, Hawaii Revised Statutes, and Section 14-3 of the Charter. The Council recommended eliminating two Commission proposed amendments, provided no alternative to one proposal, and proposed alternative amendments to ten of the Commission's proposed amendments.

The Commission met on March 31, 2022, to review, discuss, and take action on the Council's proposed alternative amendments. The Commission was advised by legal counsel that at this point in the process, the Commission was foreclosed from making any additional substantive changes (other than withdrawal of a proposal) whether based on the Council's alternatives or not. The Commission had only four possible actions in response to Council's alternatives:

1. Accept Council's alternative and withdraw the Commission proposal;
2. Reject Council's alternative and keep the Commission proposal;
3. Reject Council's alternative and withdraw the Commission proposal; or
4. Withdraw the Commission proposal where no Council alternative was made.

The statutory scheme does not allow the Commission to accept in part or reject in part one of Council's alternatives. The Commission was advised that it may, however, make housekeeping changes so long as a change does not affect the intent of the initial proposal submitted to Council by the Commission. Housekeeping changes include minor grammatical changes and changes to sentence structure. The Commission made the following decisions related to Council's proposed alternative amendments:

**Proposal 1**<sup>1</sup>

Accepted Council's alternative to eliminate the proposal. This proposal will not appear on the ballot.

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<sup>1</sup> Note that the proposal numbers in this section refer to the Commission's proposals in its February 18, 2022, Maui County Charter Commission Report to the Maui County Council, and the Council's corresponding alternatives in Resolution 22-25, CD1, FD1.

### **Proposal 3**

Rejected Council's alternative to eliminate this proposal. Proposal 3 will appear on the ballot.

### **Proposals 2, 4, 5, 6, 7, 9**

Accepted Council's alternatives, which alternatives have been incorporated into the Commission's final report to the County Clerk and will appear on the ballot.

### **Proposals 8, 10, 13**

Rejected Council's alternatives.

### **Proposal 11**

Removed this proposal from the ballot. It will not appear on the ballot.

### **Proposal 12**

Council offered no alternative. This proposal will appear on the ballot.

On April 13, 2022, the Commission transmitted its decisions regarding the Council's alternative Charter amendment proposals. On April 22, 2022, the Council considered the alternative amendments that were rejected by the Commission and voted to recall its proposed alternative to the Commission's Proposal 8. The Council's alternative proposals to Proposal 10 and 13 will appear on the ballot in addition to the Commission's original proposal. Thereafter, the County Clerk transmitted a certified copy of Resolution 22-94 to the Commission. The Commission met on May 19 and again on June 7, 2022, to take action on this 2021-2022 Maui County Charter Commission Final Report to the County Clerk, and on the digest as required by Section 50-9, HRS, and Section 14-3 of the Charter. The proposals have been renumbered in this report to reflect that the Commission has approved a total of eleven proposals and Council has added two alternative proposals.

## **CHARTER COMMISSION FINAL REPORT**

The report that follows presents the final proposed amendments to the Revised Charter of the County of Maui (1983), as amended, resulting from the deliberations of the 2021-2022 Maui County Charter Commission. The report is set out in Ramseyer format. A short guide to Ramseyer format is provided below:

- NOT CHANGED: Text that currently exists in the Charter and that will not change or move is printed in standard type.
- DELETED: Sections of the existing Charter that would be **deleted** by the amendments and would no longer be part of the Charter are indicated with brackets. Example: The this [word] is deleted.
- ADDED: Text that will be **added** to the Charter is underlined.

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## Proposal 1

**Create a separate Housing Department dedicated to affordable housing; include an advisory board and Hawaiian Home Lands Liaison.**

**The Commission recommends that:**

- 1. Chapter 10 of Article 8 of the Charter 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, deputy 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]. Qualifications for director and deputy director may be prescribed by ordinance.

**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. 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. Implement programs and services for senior citizens, youth, the economically challenged, and homeless.

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

- [3.] 5. Perform such other duties and functions as may be assigned by the mayor or as prescribed by ordinance.”

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 deputy director, a housing advisory board, a liaison to the Department of Hawaiian Home Lands, 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. Qualifications for director and deputy director may be prescribed by ordinance.

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

1. Support comprehensive efforts to create housing that residents can afford and attain.

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 and attain.

5. Perform such other duties and functions as may be assigned by the mayor or prescribed by ordinance.

**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.”

**3. Amend Subsection 5 of Section 6-2 of the Charter to read as follows:**

“5. [Within] Unless otherwise provided in this charter, within sixty [(60)] days of taking office, or within sixty [(60)] days after a vacancy is created, 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], director of human concerns, director of water supply, director of transportation, [and] director of environmental management, and director of agriculture, with written notice of the appointment to the council. The council shall confirm or deny the appointment within sixty [(60)] days after receiving notice of the appointment by the mayor. If the council does not act within the [60-day] sixty-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)] days of the council’s denial, and the council shall confirm or deny within sixty [(60)] days after receiving notice of the new appointment by the mayor. If the council does not act within the [60-day] sixty-day period, the appointment shall be deemed to be confirmed.”

The ballot question is as follows:

**MAUI Proposal 1: Create a separate Housing Department dedicated to affordable housing; include an advisory board and Hawaiian Home Lands Liaison**

Shall the Charter be amended, effective July 1, 2024, to:

1. Divide the Department of Housing and Human Concerns into two departments;
2. Create the Housing Advisory Board to advise the Director of Housing; and
3. Require a liaison with the Department of Hawaiian Home Lands within the Department of Housing?

## Proposal 2

**Create a Department of ‘Ōiwi Resources and affirm that the County will operate as a bilingual government.**

**The Commission recommends that:**

1. **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** is as follows:

**MAUI Proposal 2: Department of ‘Ōiwi Resources**

Shall the Charter be amended to affirm that the County will operate as a bilingual government; and, effective July 1, 2024, to establish a Department of ‘Ōiwi Resources to implement programs to ensure proper management of ‘Ōiwi (native) cultural resources, including the Hawaiian language, place names, historical and archival materials, cultural sites, iwi and burials, and the variety of natural resources used in cultural practices; and collaborate with the Planning Director on revisions to the general plan and long-range planning programs?

## Proposal 3

### **Expand requirements in 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] prior to 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:**

“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 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.”

**3. Article 15 of the Charter be amended to add a new section to read as follows:**

“Section 15-6. The board of ethics must adopt administrative rules by May 6, 2023, to effectuate the 2022 amendments to Article 10.”

The **ballot question** is as follows:

**MAUI Proposal 3: Ethics and financial disclosures**

Shall the Charter be amended to:

1. Require the filing of a financial disclosure statement by appointive officers and employees prior to taking office or participating in any official capacity;
2. Prohibit officers and employees from taking official actions in which the officer or employee has a direct or indirect financial interest; and
3. Prohibit officers and employees from using or attempting to use their position for unwarranted advantage to themselves or others?

## Proposal 4

**The Maui Planning Commission must have one member from each Maui Island council residency area; Moloka`i Planning Commission to be given jurisdiction over Kalaupapa; community plan update process to be set by ordinance.**

**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 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. The nine members must include at least one and no more than two members who reside in each council residency area on the island of Maui.

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.] of Moloka‘i excluded from the county’s jurisdiction by state law.

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.

The appropriate planning commission shall:

1. Advise the mayor, the council, and the planning director in matters concerning planning programs.

2. Review the general plan and revisions thereof prepared by the planning director or at the request of the council. The commission shall hold public hearings on such plans and revisions thereof and shall transmit them, with its findings and recommendations, to the council for

consideration no later than one hundred eighty [(180)] days after the final public hearing.

3. Review other proposed land use ordinances and amendments thereto prepared by the director or the council and, after public hearings, transmit such ordinances with its findings and recommendations thereon to the council for consideration and action no later than one hundred twenty [(120)] days after the final public hearing.

4. Act as the authority in all matters relating to the Coastal Zone Management law.

5. Adopt rules pursuant to land use ordinances or law.

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

**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] community plan advisory committee for each community plan area. Each [citizen] community plan advisory committee shall consist of thirteen members, with nine appointed by the council and four appointed by the mayor. Each [citizen] community plan advisory committee is charged with reviewing and recommending revisions to the community plan for its community plan area. Each [citizen] community plan 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, council, and mayor] are part of the general plan[.] and shall be reviewed and updated as set by ordinance.”

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

**“Section 1-2. Geographic Limits.** The [Islands] islands of Maui, Moloka‘i, Lāna‘i, and Kaho‘olawe and all other islands lying within three nautical miles off the shores thereof and the waters adjacent thereto[, except that portion of the Island of Moloka‘i known as Kalaupapa, Kalawao and Waikolu, and commonly known and designated as the Kalaupapa Settlement,] shall constitute the county[.], except that portion of the island of Moloka‘i excluded from the county’s jurisdiction by state law.”

The ballot question is as follows:

**MAUI Proposal 4: Planning Commissions and Community Plan Updates**

Shall the Charter be amended to:

1. Require that the Maui Planning Commission have members from all council residency areas on the island of Maui;
2. Allow for Kalaupapa, Moloka‘i, to be included within the County of Maui and the jurisdiction of the Moloka‘i Planning Commission upon State action; and
3. Allow for the community plan update process to be set by ordinance?

## Proposal 5

**(1) Require interactive remote communications with the public during Council meetings; (2) allow access to County records; and (3) remove time and place requirements for Council's organizational meeting.**

**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 may meet 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. 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[.] 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 or forum that is accessible to the public.

3. When a person requests access to records, employees must, 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** is as follows:

**MAUI Proposal 5: Council organizational meeting, remote access, government records**

Shall the Charter be amended to:

1. Require remote communications during County Council meetings between the Council and members of the public located in Hāna, Lāna`i, Moloka`i, and other geographic areas, in accordance with State law;
2. Require County employees to facilitate access to County records and minimize fees and charges; and
3. Provide discretion in determining the day, time, and venue of the County Council’s organizational meeting?

## **Proposal 6**

**Remove the cap on penalties for violations of law so that they may be set 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](#) is as follows:

### **MAUI Proposal 6: Fines and penalties**

Shall the Charter be amended to remove the cap on penalties for violations of the law so that they will be set by ordinance?

## Proposal 7

### **Limit the powers of the Mayor to appoint 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[.] unless the appointee was nominated for and denied the office by the council under subsection 5.

5. [Within] Unless otherwise provided in this charter, within sixty [(60)] days of taking office, or within sixty [(60)] days after a vacancy is created, 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, and director of agriculture, with written notice of the appointment to the council. The council shall confirm or deny the appointment within sixty [(60)] days after receiving notice of the appointment by the mayor. If the council does not act within the [60-day] 60-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)] days of the council’s denial, and the council shall confirm or deny within sixty [(60)]

days after receiving notice of the new appointment by the mayor. If the council does not act within the [60-day] sixty-day period, the appointment shall be deemed to be confirmed.

6. Requiring a letter of resignation by an appointee for an administrative head as a condition of appointment is prohibited.”

The **ballot question** is as follows:

**MAUI Proposal 7: Administrative department heads**

Shall the Charter be amended to require an administrative head nominated by the Mayor to immediately vacate office if denied appointment by the Council, and to prohibit a letter of resignation as a condition of appointment for an administrative head?

## Proposal 8

**(1) Authorize the County Clerk to update the Charter and (2) prohibit the County Clerk and Deputy County Clerk from actively participating in political campaigns.**

**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.
3. Have custody of the county seal~~].~~ which must 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 is authorized 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. The county clerk and deputy county clerk must not take an active part in political management or in political campaigns, including contributions to political campaigns for any federal, state, or county elective office.
8. Perform such other functions as may be prescribed by the council rules or law.”

The **ballot question** is as follows:

**MAUI Proposal 8: County Clerk**

Shall the Charter be amended to authorize the County Clerk to update the Charter in compliance with law, clarify the County Clerk's other duties, and to prohibit the County Clerk and Deputy County Clerk from actively participating in political management or campaigns for Federal, State, or County elective office?

## Proposal 9

### **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 is as follows:

#### **MAUI Proposal 9: Police Chief**

Shall the Charter 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?

## Council's Alternative 9A to Proposal 9

**Require that the Chief of Police submit a written report when the Chief disagrees with the findings of the Police Commission, upon the Police Commission's request.**

**The Council recommends, as Alternative 9A to the Commission's Proposal 9, 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 inform the commission and shall submit the reasons in writing to the police commission upon its request. 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 is as follows:

### **MAUI Proposal 9A: Council's Alternative to Proposal 9; Police Chief**

Shall the Charter be amended with Council's Alternative 9A to require that the Chief of Police inform the Police Commission when the Chief disagrees with the Commission's findings related to the conduct of the police department or its members, and upon the Commission's request, provide a written report?

## Proposal 10

### **Create an Independent Nomination Board to recruit, evaluate, and recommend individuals for County boards, commissions, and the positions of County Clerk, Auditor, Corporation Counsel, and Prosecuting Attorney.**

**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** is as follows:

**MAUI Proposal 10: Independent Nomination Board**

Shall the Charter be amended, effective July 1, 2023, to:

1. Create a 9-member Independent Nomination Board, with its membership appointed by the Mayor and approved by Council, to recruit, evaluate, and nominate individuals for County boards, commissions, and the positions of the County Clerk, Auditor, Corporation Counsel, and Prosecuting Attorney;
2. Eliminate the prohibition on paying board and commission members;
3. Set the County Clerk's term at 6 years;
4. Eliminate the requirement that no more than a bare majority of a board or commission may belong to the same political party; and
5. Stagger the membership of new boards so that five members would serve 3-year terms and four members would serve 2-year terms and provide that board members serving for an initial term of less than 3 years may be reappointed to a full term on the same board?

## **Council's Alternative 10A to Proposal 10**

**Create an Independent Nomination Board of 11 members, 2 appointed by the Mayor without Council approval and 9 appointed by the Council without Mayoral approval, to recruit, evaluate, and nominate individuals for County boards, commissions, and the positions of Corporation Counsel and Prosecuting Attorney.**

**The Council recommends, as Alternative 10A to the Commission's Proposal 10, 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 eleven members, one from each of the council residency areas, who shall be appointed by the council, and two appointed by the mayor. All nominations for the independent nomination board shall be made public. 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. 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.”

**3. 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 is as follows:

**MAUI Proposal 10A: Council’s Alternative to Proposal 10; makeup of Independent Nomination Board**

Shall the Charter be amended with alternative No. 10A to:

1. Create an 11-member Independent Nomination Board, with 2 members appointed by the Mayor without Council approval and 9 members appointed by Council without Mayoral approval and, to recruit, evaluate, and nominate individuals for the positions of the Corporation Counsel and Prosecuting Attorney and County boards and commissions;
2. Eliminate the requirement that no more than a bare majority of a board or commission may belong to the same political party;
3. Remove the prohibition on paying board and commission members; and
4. Stagger the membership of new boards and commissions so that five members would serve 3-year terms and four members would serve 2-year terms and provide that board members serving for an initial term of less than 3 years may be reappointed to a full term on the same board or commission?

## **Proposal 11**

### **Require the County Auditor to assess the impacts of proposed charter amendments on County taxation and spending.**

**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** is as follows:

#### **MAUI Proposal 11: Impacts of Charter amendments on County taxation and spending**

Shall the Charter be amended to require that the County Auditor assess the impacts of proposed charter amendments on County taxation and spending?