COUNCIL OF THE COUNTY OF MAUI

POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE

December 4, 2015

Committee Report No. 15-171

Honorable Chair and Members
of the County Council
County of Maui
Wailuku, Maui, Hawaii

Chair and Members:

Your Policy and Intergovernmental Affairs Committee, having met on November 2, 2015, and reconvened on November 4, 2015, makes reference to County Communication 15-247, from Council Chair Mike White, transmitting a proposed resolution entitled "ESTABLISHING A SPECIAL COMMITTEE ON COUNTY GOVERNANCE."

The purpose of the proposed resolution is to form a nine-member Special Committee, with members selected by the Council Chair, for a term of 180 days, to consider the merits of a County Manager form of governance for the County of Maui, and if warranted, make recommendations to the Council on how the form should be structured.

By correspondence dated October 22, 2015, the Chair of your Committee transmitted a revised proposed resolution to form an 11-member Special Committee for a term of 365 days to consider the merits of a County Manager form of governance for the County, and, if warranted, make recommendations to the Council as to whether the Revised Charter of the County of Maui (1983), as amended, should be amended.

Your Committee notes under Article VIII, Section 2, of the Hawaii Constitution, and Section 46-1.5, Hawaii Revised Statutes, each county is authorized to determine its own form of self-governance. Since 1969, Maui County has had a Council-Mayor form of government, vesting legislative power in the Council and executive power in the Mayor.

Your Committee notes changing from a Council-Mayor form of government to a County Manager form of government would require a

Charter amendment. Charter Section 14-1(1) provides that Charter amendments may be initiated by resolution of the Council adopted after two readings and passed by a vote of six or more Councilmembers.

Your Committee noted the 2011-2012 Maui County Charter Commission Revised Final Report to the County Clerk, dated June 25, 2012, included a recommendation that "a task force be established to thoroughly review the structure of the County of Maui government, research other models of county governments and prepare a report." No Charter Commission has proposed a County Manager form of government since 1969.

Following discussion of the need for a review of the structure of County governance, your Committee concluded the County would benefit from the formation of a Special Committee to perform a thoughtful, thorough, and broad review of options for County governance and to determine whether a Charter amendment would be warranted.

Your Committee recognized the need for the Special Committee to make its recommendations by a date that would allow the Council to timely submit any proposed Charter amendment to the County Clerk for placement on the 2016 General Election ballot. Your Committee was informed the last date for transmission to the County Clerk of a proposed Charter amendment for inclusion on the 2016 General Election ballot is August 12, 2016. The County Clerk advised it would be preferable to receive any proposed Charter amendment by July 2016. Accordingly, your Committee opted to further revise the revised proposed resolution by establishing a 180-day term for the Special Committee.

Your Committee discussed the need for geographic diversity in the Special Committee's membership. Accordingly, your Committee further revised the revised proposed resolution to specify that the Special Committee shall have one member from each of the nine Council residency areas and two at-large members.

Your Committee also determined the Special Committee should not include any Councilmembers.

The First Deputy Corporation Counsel observed the Rules of the Council do not expressly authorize the creation of a special committee or any advisory body composed exclusively of members of the public.

Your Committee, however, noted the following:

- Rule 16 of the Rules of the Council provides that "Robert's Rules of Order Newly Revised, 11th Edition (2013), shall govern the procedure for Council and committee meetings in all cases in which they are not inconsistent with law or the Rules of the Council."

- Sections 13 and 50 of Robert's Rules of Order provide for the formation of a special committee including one or more members who are not members of the body establishing the special committee.

Moreover, your Committee recognized the Council previously established the Special Committee on Land Acquisition (Criteria) on May 19, 1998, and, by Budget and Finance Committee Report 98-151, approved its membership consisting solely of non-Councilmembers.

Your Committee further revised the revised proposed resolution to establish that the Special Committee shall retain a non-voting facilitator to provide neutral assistance, guidance, and supervision to aid the Special Committee in achieving its objectives.

Your Committee voted 9-0 to recommend adoption of the revised proposed resolution and filing of the communication. Committee Chair Victorino, Vice-Chair Couch, and members Baisa, Carroll, Cochran, Crivello, Guzman, Hokama, and White voted "aye."

Your Committee is in receipt of a revised proposed resolution incorporating your Committee's recommended revisions and nonsubstantive revisions.

Your Policy and Intergovernmental Affairs Committee RECOMMENDS the following:

1. That Resolution _____, as revised herein and attached hereto, entitled "ESTABLISHING A SPECIAL COMMITTEE ON COUNTY GOVERNANCE," be ADOPTED; and

2. That County Communication 15-247 be FILED.

This report is submitted in accordance with Rule 8 of the Rules of the Council.

Michael P Victorino

MICHAEL P. VICTORINO, Chair

pia:cr:15054aa:scb

Resolution

No. _____

ESTABLISHING A SPECIAL COMMITTEE ON
COUNTY GOVERNANCE

WHEREAS, the residents of the County of Maui expect their elected officials to strive to operate the County government at the highest level of efficiency and professionalism, and as stated in the Preamble to the County's governing document, the Revised Charter of the County of Maui (1983), as amended ("Charter"), the people of the County of Maui wish to "secure the benefits of the best possible form of county government"; and

WHEREAS, Charter Section 3-9 states:

> It is declared to be the policy of the county to promote economy, efficiency and improved service in the transaction of the public business in the legislative and executive branches of the county by:
>
> 1. Limiting expenditures to the lowest amount consistent with the efficient performance of essential services, activities, and functions.
> 2. Eliminating duplication and overlapping of services, activities, and functions.
> 3. Consolidating services, activities, and functions of a similar nature.
> 4. Abolishing services, activities, and functions not necessary to the efficient conduct of government; and

WHEREAS, the Maui County General Plan emphasizes the importance of striving for good governance; and

WHEREAS, the Countywide Policy Plan, at page 78, establishes the goal for government services to be "transparent, effective, efficient, and responsive to the needs of residents," with the objective to "strengthen governmental planning, coordination, consensus building, and decision making"; and

Resolution No. _____

WHEREAS, an implementing action associated with the good governance goals in the Countywide Policy Plan is to "evaluate and, if necessary, recommend modifications to the County Charter that could result in a possible change to the form of governance for Maui County"; and

WHEREAS, since 1969, Maui County has had a council-mayor form of government, and no Charter Commission has since proposed a county manager form of government; and

WHEREAS, as used in this resolution, "county manager form of government" refers to any form of governance in which a professional manager is appointed to oversee a municipality's administrative operations and implement policies established by the municipality's elected legislative body (including forms of governance sometimes known as council-manager and city manager); and

WHEREAS, changing from a council-mayor form of government to a county manager form of government would require amendments to the Charter; and

WHEREAS, Charter Section 14-1(1) provides that Charter amendments may be initiated by resolution of the Council adopted after two readings and passed by a vote of six or more Councilmembers; and

WHEREAS, the "2011-2012 Maui County Charter Commission Revised Final Report to the County Clerk (June 25, 2012)," at page 39, stated:

> The Commission recommends that a task force be established to thoroughly review the structure of the County of Maui government, research other models of county governments and prepare a report; and

WHEREAS, the Council would benefit from the guidance of a similar task force or committee, in the nature of a blue-ribbon body composed of esteemed community leaders, on the questions of: (a) whether the Council should initiate a Charter amendment to establish a county manager form of government; and (b) if so, how the Charter amendment should be structured; now, therefore,

Resolution No. _____

BE IT RESOLVED by the Council of the County of Maui:

1. That the Special Committee on County Governance is established to:
   a. Consider whether establishing a county manager form of government for the County of Maui would improve management and operation of County government;
   b. Make written recommendations to the Council on whether the Charter should be amended to establish a county manager form of government and, if so, how the form should be structured; and
   c. If a county manager form of government is the Special Committee's recommendation, prepare a proposed Charter amendment;

2. That the Special Committee must finish its meetings and provide its written recommendations to the Council within 180 days following the date this resolution is adopted, provided that the Council may extend that time by resolution;

3. That the Special Committee will remain constituted only until the Council proposes a county governance Charter amendment to be placed on the 2016 general election ballot, or until September 30, 2016, whichever comes first;

4. That, for procedural and logistical purposes, but not for membership or other purposes, the Special Committee shall generally function as if it were a standing committee of the Council, subject to the Rules of the Council;

5. That the Special Committee shall regularly meet at public locations throughout the County;

6. That each Special Committee meeting shall be cablecast, and when practicable, the recording shall be made available to the public within two days of the meeting;

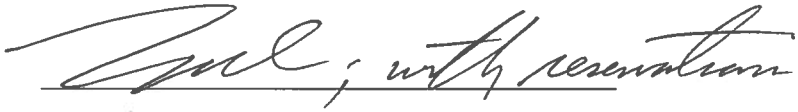
7. That the Special Committee shall be composed of 11 voting members who are Maui County residents, with membership seats allotted from each voting district and two at-large members as follows:

   a) East Maui – Jonathan Starr;
   b) Kahului – Renee Kehau Filimoe`atu;
   c) Lanai – Linda Kay Okamoto (a.k.a. Kay Okamoto);
   d) Makawao-Haiku-Paia – James J. C. Haynes III (a.k.a. Kimo Haynes);
   e) Molokai – Paula Friel;
   f) South Maui – Ray Phillips;
   g) Upcountry – Doreen Pua Canto (a.k.a. Pua Canto);
   h) Wailuku-Waihee-Waikapu – Anthony Takitani (a.k.a. Tony Takitani);
   i) West Maui – Tamara Paltin;
   j) At-large – Madge Schaefer; and
   k) At-large – David DeLeon (a.k.a. Dave DeLeon);

8. That the Special Committee shall retain a non-voting facilitator to provide assistance, guidance, and supervision to aid the Committee in performing its functions; and

9. That certified copies of this resolution be transmitted to the Mayor, the Council Chair, the Corporation Counsel, the County Clerk, and the Director of Council Services.

APPROVED AS TO FORM AND LEGALITY:



EDWARD S. KUSHI, JR.
Department of the Corporation Counsel
County of Maui

pia:misc:054areso03:scb