

COUNCIL OF THE COUNTY OF MAUI

**GOVERNMENT RELATIONS, ETHICS,
AND TRANSPARENCY COMMITTEE**

March 18, 2022

**Committee
Report No. _____**

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

Chair and Members:

Your Government Relations, Ethics, and Transparency Committee, having met on February 28, 2022, and reconvened on March 1, 2022, and March 2, 2022, makes reference to the following:

1. Resolution 22-25, entitled “PROPOSING ALTERNATIVE AMENDMENTS TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983), AS AMENDED, RELATING TO THE 2021-2022 MAUI COUNTY CHARTER COMMISSION FINAL REPORT.”

Resolution 22-25’s purpose is to provide comments and propose alternative amendments to the Revised Charter of the County of Maui (1983), as amended (“Charter”), relating to the 2021-2022 Maui County Charter Commission Final Report.

2. Correspondence dated February 18, 2022, from the Department of the Corporation Counsel, transmitting correspondence dated February 18, 2022, from Grant Chun, Chair of the Maui County Charter Commission, transmitting the Final Report of the 2021-2022 Maui County Charter Commission, dated February 18, 2022, transmitting 13 proposed Charter amendments as follows:
 - a) 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: Molokaʻi, Lānaʻi, East Maui, North Maui, South Maui,

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West Maui, Kahului, Wailuku, and Upcountry; create a Reapportionment Commission.

- b) Second Proposal: Clarify that Council and board and 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.
- c) Third Proposal: Require the County Auditor to assess the fiscal impacts of proposed Charter amendments.
- d) Fourth Proposal: Add additional duties to the powers of the County Clerk, and prohibit the Clerk and employees from participating in certain political activities.
- e) Fifth Proposal: Alter the powers of the Mayor to appoint and retain administrative department heads.
- f) 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 Molokaʻi Planning Commission upon State action; clarify the order of community plan development; and set a 10-year deadline for review of all community plans.
- g) Seventh Proposal: Separate the Department of Housing and 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.
- h) Eighth Proposal: Create the Department of ʻŌiwi Resources, effective July 1, 2024, and affirm that the

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County will operate as a bilingual government by implementing opportunities to include the Hawaiian language.

- i) Ninth Proposal: Add additional requirements to the Code of Ethics regarding the financial interests of County officers.
 - j) 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.
 - k) 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.
 - l) Twelfth Proposal: Remove the cap on penalties for violations of law so that they may be set by Council by ordinance.
 - m) Thirteenth Proposal: Require that the Chief of Police submit a written report when the Chief disagrees with the findings of the Police Commission.
3. Correspondence dated February 18, 2022, from the Department of the Corporation Counsel, relating to protocol for Council Alternatives to Charter Amendments Proposed by the 2021-2022 Maui County Charter Commission.

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Your Committee notes that Section 50-8, Hawai'i Revised Statutes ("HRS"), requires the Charter Commission to submit its report to the Council together with a draft of the proposed Charter within one year of its appointment.

At its meeting of February 19, 2021, the Council appointed nine members to the Charter Commission (Resolution 21-27). At the same meeting, the Mayor notified the Council of his two appointments to the Charter Commission (County Communication 21-101). Therefore, the deadline for the Charter Commission to submit its report together with a draft of the proposed Charter was February 18, 2022.

In accordance with Section 50-8, HRS, the Council has 30 days from its receipt of the Final Report to propose alternatives to the Charter Commission's proposals. Accordingly, the Council's deadline to propose alternatives is March 21, 2022.

Section 14-1(1) of the Charter provides for the initiation of Charter amendments by resolution of the Council adopted after two readings on separate days and passed by a vote of six or more members of the Council. According to an opinion dated May 22, 2012, from the Department of the Corporation Counsel, Section 14-1(1) does not apply to the procedure by which the Council may propose alternatives to the Charter Commission's proposed amendments. Therefore, the two-reading requirement under Section 14-1(1) need not be met for proposed Council alternatives to Charter Commission amendments.

According to Section 50-9, HRS, the Charter Commission has 30 days after receiving any alternatives from the Council to either: (1) accept the Council's alternatives and incorporate them into the Charter Commission's proposals; or (2) reject the Council's alternatives.

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Any rejected Council alternative will be placed on the General Election ballot on November 8, 2022, in competition with the corresponding Charter Commission proposal, unless the Council recalls or retracts the alternative within 10 days of being notified of the Charter Commission's rejection.

Your Committee appreciates the members and staff of the Charter Commission for their many months of dedicated work on behalf of the residents of the County. Your Committee offers this report with respect and admiration for the Charter Commission's diligence and its efforts to engage the public.

Your Committee carefully considered the need and relative merits of the Charter Commission's proposals and thoroughly debated its own proposed alternatives with the assistance and guidance of the Department of the Corporation Counsel.

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.

Your Committee's recommended alternative is to eliminate the proposed Charter amendment.

The current system of at-large voting and at-large representation ensures all Maui County voters can cast votes for all nine Council seats and all Maui County residents are represented by all nine members of the Council, promoting unity instead of geographic rivalries, on the Council and in the community. Your Committee agrees with the statement in the 1991-1992 Charter Commission Report that "the advantages of an at-large system combined with residency requirements provides the best

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opportunity for effective representative government within the County.” The Charter Commission Report accurately asserted that “the advantages of the at-large system with mandatory residency requirements include the fact that council members would have a county-wide perspective of issues” while allowing the County to “avoid illogical canoe districts” and “ensure that there is a resident of each community or area” in Maui County elected to the Council.

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.

Your Committee’s recommended alternative incorporates the following revisions:

- Removing the Charter’s requirement for the Council to “meet in the council room at the county building” . . . “at two o’clock p.m.” for the organizational meeting at the start of a new term.
- Deleting proposed language from the Charter Commission referencing meetings conducted “in accordance with state law.”

Your Committee noted the potential challenges of always having the Council’s organizational meeting in the “council room at the county building,” known as the Council Chamber, citing the experiences recently faced with the COVID-19 pandemic.

Your Committee also noted that it is unnecessary and undesirable to have the Charter reference what is minimally required by State law.

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

Your Committee's recommended alternative is to eliminate the proposed Charter amendment.

Your Committee notes it is incumbent upon any entity proposing a Charter amendment to fully analyze fiscal and all other impacts of the proposal well before it gets placed on the General Election ballot. As needed, the County Auditor or other in-house or outside experts can be called upon to provide the analysis.

Your Committees also notes requiring the County Auditor to analyze ballot questions shortly before a General Election would directly involve the County Auditor in electoral politics.

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

Your Committee's recommended alternative incorporates the following revisions:

- Replacing "all persons employed by the office of the clerk" with "deputy county clerk" in the list of persons subject to restrictions on political activity.
- Including political contributions for any Federal, State, or County elective office in the list of prohibited actions by the County Clerk and Deputy County Clerk.

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Your Committee concluded employees of the Office of the County Clerk, who work under the civil-service system and a collective-bargaining agreement, should not be restricted from political management or campaigns. Your Committee recognizes employees' right to engage in political conducts. Your Committee also acknowledges high-ranking officials with significant discretionary authority—such as the County Clerk and Deputy County Clerk, who are charged with overseeing elections in Maui County—may have some of their expressive activity restricted because of the government's compelling interest in the integrity of County elections.

The County Clerk was supportive of your Committee's proposed amendments because they help to ensure the Clerk and Deputy Clerk remain as neutral as possible when handling elections.

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

Your Committee's recommended alternative incorporates the following revisions:

- Requiring that, if the Council denies an appointee, the individual must vacate the office immediately and serve no further time in the position.
- Allowing 60 days to find, appoint, and confirm or deny an administrative head, rather than 30 days.
- Prohibiting the requirement of a letter of resignation from a director as a condition of hiring.

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Your Committee emphasized the need to provide clear guidance on the process of appointing administrative department heads, including the process if an appointee is denied.

Your Committee also noted the potential impacts of finding willing applicants as administrative heads if a signed letter of resignation is required as a condition of appointment.

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 a 10-year deadline for review of all community plans.

Your Committee's recommended alternative incorporates the following revisions:

- Requiring that, of the nine members of the Maui Planning Commission, at least one and no more than two, may reside in each Council residency area on the Island of Maui, except that when there are two members from a Council residency area, at least one of the members must reside in the Special Management Area.
- Renaming the "citizen advisory committee" to the "community plan advisory committee."
- Requiring that community plans must be reviewed and updated as set by ordinance.

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- Clarifying that the Molokai Planning Commission has authority over the island to the extent the County has jurisdiction under State law and revising Section 1-2 of the Charter to also clarify the County's geographic limits accordingly.

Your Committee highlighted the importance of decisions made in Special Management Areas and mitigating the impacts of climate change and sea-level rise. Your Committee discussed the proposed alternative to ensure a greater number of Planning Commission members who are directly impacted by sea-level rise have a seat on the Maui Planning Commission.

Your Committee discussed the importance of clarifying the process for reviewing and updating community plans. Your Committee suggested each plan be updated every 10 years, but acknowledged that those requirements could be set by ordinance after receiving community input.

Seventh Proposal: Separate the Department of Housing and 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.

Your Committee's recommended alternative incorporates the following revisions:

- Deleting the qualifications listed for the Director of Housing.
- Changing "director of housing development" to "director of housing."
- Including under the "Powers, Duties, and Functions" of the Director of Housing, the requirement to perform other duties and functions as may be assigned by the Mayor.

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Your Committee discussed the merits and potential impacts of bifurcating the Department of Housing and Human Concerns and decided that the bifurcation would allow for more time and ability by the Department to focus on addressing the housing crisis.

Your Committee recommended removing the qualifications for the Director of Housing because those specific requirements can be provided in the Maui County Code, which are easier to modify as necessary.

Your Committee's other proposed revisions were to clean up inconsistent language throughout the proposal.

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.

Your Committee's recommended alternative incorporates the following revisions:

- Deleting the qualifications listed for the Director of 'Ōiwi Resources.
- Deleting the English translation of the State motto.
- Adding the Director of 'Ōiwi Resources to Section 6-2 of the Charter, which provides the appointment and confirmation process for County directors.

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Your Committee recommended removing the qualifications for the Director of ‘Ōiwi Resources because those specific requirements can be provided in the Maui County Code, which are easier to modify as necessary.

Your Committee also recommended removing the English translation of the State motto because it does not accurately portray the meaning or depth of “Ua mau ke ea o ka ‘āina i ka pono.”

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

Your Committee’s recommended alternative requires filing financial disclosure statements before taking office and removing the 15-day grace period in order to provide more clarity on the process and enhance transparency.

Your Committee concluded this alternative would more effectively promote clarity and transparency.

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.

Your Committee’s recommended alternative incorporates the following revisions:

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- Proposing that the Independent Nomination Board consist of 11 members, including one from each Council residency area be appointed by the Council, and two appointed by the Mayor. The terms of the 11 members would be staggered to ensure board members would not term out in large groups or in the middle of terms.
- Requiring that all applications for members of the Independent Nomination Board be made public.
- Removing the Office of the County Auditor, County Auditor, and County Clerk from the proposal.

Your Committee's proposed alternative is intended to increase transparency, accountability, fairness, and inclusion throughout the Board.

Your Committee supported the views of the County Auditor and County Clerk by removing them from the proposal.

Your Committee contrasted the positions of the Prosecuting Attorney and Corporation Counsel, who represent the government, with those of the County Clerk and County Auditor, who serve the general public.

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.

Your Committee's recommended alternative incorporates the following revisions:

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- Prohibiting the term of office for the Corporation Counsel and Prosecuting Attorney from exceeding six months into the next mayoral term after their appointment.
- Allowing the Mayor, with the approval of the Council, to remove the Corporation Counsel or Prosecuting Attorney from office at any time for misfeasance, malfeasance, or nonfeasance.
- Providing the following additional process for the removal of the Corporation Counsel or Prosecuting Attorney:
 - The Council may remove the Corporation Counsel or Prosecuting Attorney, for cause, by resolution.
 - If the Mayor disapproves of the removal, the Mayor must return the resolution to the County Clerk within 10 days after receiving it.
 - If the Mayor does not return the resolution with a disapproval within 10 days, the resolution will take effect.
 - The Council may, within 10 days after the resolution has been returned, reconsider the vote upon the resolution and override the Mayor's veto by a two-thirds vote.
 - The Corporation Counsel or Prosecuting Attorney must vacate the office within 30 days of removal if such action takes place.

Your Committee expressed appreciation to the Charter Commission for the shared position of encouraging equal representation by the Corporation Counsel and Prosecuting Attorney, who both reside under the Administration but are tasked with serving both the Executive and Legislative branches of County government.

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Your Committee recommended prohibiting the term of office for the Corporation Counsel and Prosecuting Attorney from exceeding six months into the next mayoral term so that, regardless of when a new individual comes into office, the reappointment process would occur at six months.

Your Committee recommended its proposed alternative to address the Prosecuting Attorney's concern that the State Office of Disciplinary Counsel—given a prominent role in the Charter Commission's proposal—does not typically handle this type of work or make these types of recommendations.

Your Committee also included the requirement of a two-thirds vote after a Mayor's veto, allowing for more checks and balances in the process.

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

Your Committee did not propose an alternative.

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

Your Committee's recommended alternative incorporates the following revisions:

- Requiring the Police Commission review the Department's request for an annual appropriation for the operation of the Department before submission to the Mayor.

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- Requiring that, if the Chief of Police disagrees with the findings of the Police Commission, the Chief must inform the Police Commission and submit the reasons in writing upon its request.
- Requiring that a summary of the charges filed and their disposition be included in an annual report of the Commission.
- Requiring the report provided to the Mayor and Council relating to an annual review and evaluation of the performance of the Chief of Police be made public.

Your Committee discussed the current process by which the Chief of Police notifies the Police Commission about a disagreement.

The Chief of Police said your Committee's recommended alternative could address the concern with lack of notification while also mitigating unnecessary paperwork for potentially frivolous matters that may not need a long explanation and report.

Your Committee also amended Resolution 22-25 to include suggested ballot questions for the proposed alternatives, except for the alternatives to the first and third proposals, for which the recommended action is not a proposed Charter amendment.

Your Committee voted 7-2 to recommend adoption of Resolution 22-25, as amended to incorporate your Committee's alternatives. Committee Chair Molina, Vice-Chair Rawlins-Fernandez, and members Johnson, Kama, King, Paltin, and Sinenci voted "aye." Committee members Lee and Sugimura voted "no."

Your Committee is in receipt of Resolution 22-25, CD1, approved as to form and legality by the Department of the Corporation Counsel, incorporating your Committee's recommended revisions and nonsubstantive revisions.

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Your Government Relations, Ethics, and Transparency Committee RECOMMENDS that Resolution 22-25, CD1, as revised herein and attached hereto, entitled "PROPOSING ALTERNATIVE AMENDMENTS TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983), AS AMENDED, RELATING TO THE 2021-2022 MAUI COUNTY CHARTER COMMISSION FINAL REPORT," be ADOPTED.

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



MICHAEL J. MOLINA, Chair

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Resolution

No. 22-25, CD1

PROPOSING ALTERNATIVE AMENDMENTS TO THE
REVISED CHARTER OF THE COUNTY OF MAUI
(1983), AS AMENDED, RELATING TO THE 2021-2022
MAUI COUNTY CHARTER COMMISSION FINAL
REPORT

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

1. That the Charter Commission consists of nine members appointed by the Council, and two members appointed by the Mayor for a 16-month term from March 1, 2021, to July 1, 2022;
2. That in accordance with Section 14-3 of the Revised Charter of the County of Maui (1983), as amended, “the commission may propose amendments to the charter or draft a new charter, which must be submitted to the county clerk within sixteen months after the commission has been appointed, after earlier review by the council, if required by state law”;
3. That in response to the “2021-2022 Maui County Charter Commission Final Report to the Maui County Council,” it proposes alternative amendments, as stated in Exhibit “A”; and
4. That certified copies of this Resolution be transmitted to the Charter Commission, the County Clerk, and the Corporation Counsel.

APPROVED AS TO FORM
AND LEGALITY:



KEOLA R. WHITTAKER
Deputy Corporation Counsel
County of Maui

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Resolution No. 22-25, CD1

Exhibit “A”

ALTERNATIVE TO FIRST PROPOSAL: The Council’s alternative is to eliminate the proposed Charter amendment.

Resolution No. 22-25, CD1

ALTERNATIVE TO SECOND PROPOSAL: The Council's alternative Charter amendment is as follows:

1. Amend Section 3-5 of the Charter to read as follows with new material underscored and deleted material bracketed:

“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 council shall provide interactive remote communications access for the residents of

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[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. *Amend Section 13-9 of the Charter to read as follows with new material underscored and deleted material bracketed:*

“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.

Resolution No. 22-25, CD1

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

3. *The ballot question should read as follows:*

“Shall the Charter of the County of Maui be amended to improve public access to Council meetings and County records by amending Sections 3-5 and 13-9 to :

1. provide discretion in determining the day, time, and venue of the County Council’s organizational meeting;
 2. require remote communications during County Council meetings between the Council and members of the 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?”
-

Resolution No. 22-25, CD1

ALTERNATIVE TO THIRD PROPOSAL: The Council's alternative is to eliminate the proposed Charter amendment.

Resolution No. 22-25, CD1

ALTERNATIVE TO FOURTH PROPOSAL: The Council's alternative Charter amendment is as follows:

1. Amend Section 5-3 of the Charter to read as follows with new material underscored and deleted material bracketed:

“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.”

Resolution No. 22-25, CD1

2. *The ballot question should read as follows:*

“Shall Section 5-3 of the Charter of the County of Maui be amended to:

1. authorize the County Clerk to update the Charter in compliance with law and;
 2. prohibit the County Clerk and Deputy County Clerk from actively participating in political management or campaigns for Federal, State, or County elective office?”
-

Resolution No. 22-25, CD1

ALTERNATIVE TO FIFTH PROPOSAL: The Council's alternative Charter amendment is as follows:

1. Amend Section 6-2 of the Charter to read as follows with new material underscored and deleted material bracketed:

“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

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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] 60-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."

2. *The ballot question should read as follows:*

"Shall the Charter of the County of Maui be amended to improve the appointment process for administrative heads by amending Section 6-2 to

1. require an administrative head nominated by the Mayor to immediately vacate office if denied appointment by the Council; and
 2. prohibit a letter of resignation as a condition of appointment for an administrative head?"
-

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ALTERNATIVE TO SIXTH PROPOSAL: The Council's alternative Charter amendment is as follows:

1. Amend Section 8-8.4 of the Charter to read as follows with new material underscored and deleted material bracketed:

“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; except that when there are two members from a council residency area, at least one of the members must reside in the special management area.

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.

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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. Amend Section 8-8.5 of the Charter to read as follows with new material underscored and deleted material bracketed:

“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.

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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 are part of the general plan[.] and shall be reviewed and updated as set by ordinance."

3. *Amend Section 1-2 of the Charter to read as follows with new material underscored and deleted material bracketed:*

"Section 1-2. Geographic Limits. The 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 Kalupapa, Kalwao 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."

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4. *The ballot question should read as follows:*

“Shall the Charter of the County of Maui be amended to improve the County’s long-range planning by amending Sections 1-2, 8-8.4, and 8-8.5 to:

1. require that the Maui Planning Commission have members from all council residency areas on the island;
 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?”
-

Resolution No. 22-25, CD1

ALTERNATIVE TO SEVENTH PROPOSAL: The Council's alternative Charter amendment is as follows:

1. *Amend Chapter 10, Article 8 of the Charter to read as follows with new material underscored and deleted material bracketed:*

“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. *Amend Article 8 of the Charter to add 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.

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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 with new material underscored and deleted material bracketed:*

"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]~~ 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]~~ 60-day period, the appointment shall be deemed to be confirmed."

4. *The ballot question should read as follows:*

"Shall Articles 6 and 8 of the Charter of the County of Maui be amended, effective July 1, 2024, to:

1. separate the Department of Housing and Human Concerns into two departments;

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2. create the Housing Development 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?”
-

Resolution No. 22-25, CD1

ALTERNATIVE TO EIGHTH PROPOSAL: The Council's alternative Charter amendment is as follows:

1. *Amend Article 8 of the Charter to add Chapter 20 to read as follows:*

**“CHAPTER 20
DEPARTMENT OF ‘ŌIWI RESOURCES**

Section 8-20.1. Organization. There shall be a department of ‘ōiwi resources consisting of a director of ‘ōiwi resources and the necessary staff.

Section 8-20.2. 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.

Section 8-20.3. 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.”

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2. *Amend Section 8-8.3 of the Charter to read as follows with new material underscored and deleted material bracketed:*

“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. *Amend Section 8-8.4 of the Charter to read as follows with new material underscored and deleted material bracketed:*

“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 of the department] directors of ‘ōiwi resources, public works, [and] environmental management,

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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.

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.

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."

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4. *Amend Subsection (5) of Section 6-2 of the Charter to read as follows with new material underscored and deleted material bracketed:*

“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, director of agriculture, and director of ‘ōiwi resources, with written notice of the appointment to the council. The council shall confirm or deny the appointment within [(60)] sixty 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.”

5. *Amend the Preamble of the Charter as follows with new material underscored and deleted material bracketed:*

“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.”)]].”

6. *Amend Article 13 of the Charter to add Section 13-17 to read as follows with new material underscored:*

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“Section 13-17. 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.”

7. *The ballot question should read as follows:*

“Shall the Charter of the County of Maui be amended to protect and promote native Hawaiian cultural resources by amending Articles 6, 8, and 13 to:

1. establish a bilingual County government, with official writings in both Hawaiian and English; and
 2. create a Department of ‘Oiwī Resources to manage native Hawaiian cultural resources.”
-

Resolution No. 22-25, CD1

ALTERNATIVE TO NINTH PROPOSAL: The Council's alternative Charter amendment is as follows:

1. Amend Section 10-3 of the Charter to read as follows with new material underscored and deleted material bracketed:

“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

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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. *Amend Subsection (1) of Section 10-4 of the Charter to read as follows with new material underscored and deleted material bracketed:*

“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.

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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. *Amend Article 15 of the Charter to add Section 15-6 to read as follows with new material underscored:*

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

4. *The ballot question should read as follows:*

"Shall the Charter of the County of Maui be amended to promote ethics in government by amending Articles 10 and 15 to:

1. to require the filing of a financial disclosure statement by appointive officers and employees prior to taking office and by members of boards or commissions prior to participating in any official capacity

2. establish that officers or employees are prohibited from taking official actions in which the officer or employee has a direct or indirect financial interest;

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3. establish that officers or employees are prohibited from using or attempting to their use their position for unwarranted advantage to themselves or others; and
 4. require the Board of Ethics to adopt administrative rules to effectuate amendments to the Code of Ethics?”
-

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ALTERNATIVE TO TENTH PROPOSAL: The Council's alternative Charter amendment is as follows:

1. Amend Section 13-2 of the Charter to read as follows with new material underscored and deleted material bracketed:

**"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 shall serve for a term of three (3) years and two 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

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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.

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[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

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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.

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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. Amend Section 8-2.2 of the Charter to read as follows with new material underscored:

“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. Amend Section 8-32.2 of the Charter to read as follows with new material underscored:

“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-

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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.”

4. *The ballot question should read as follows:*

“Shall the Charter of the County of Maui be amended to promote professionalism in government by amending Sections 8-2.2, 8-3.2, and 13-2 by :

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

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

3. Allowing for board and commission members to be compensated; and

4. Allowing for board and commission members serving for an initial term of less than 3 years to be reappointed to a full term on the same board?”

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ALTERNATIVE TO ELEVENTH PROPOSAL: The Council's alternative Charter amendment is as follows:

1. *Amend Section 8-2.2 of the Charter to read as follows with new material underscored and deleted material bracketed:*

“Section 8-2.2. Corporation Counsel. The corporation counsel 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 corporation counsel shall not exceed six months into the next mayoral term.

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, for cause, may remove the corporation counsel by resolution. If the mayor disapproves of the removal, the mayor shall return the resolution to the county clerk within ten days after receiving it. If the mayor does not return it with a disapproval within that time, it shall take effect. The council may, within ten days after the resolution has been so returned, reconsider the vote upon the resolution and override the mayor's veto by a two-thirds vote. The corporation counsel must vacate the office within thirty days of removal.”

2. *Amend Section 8-32.2 of the Charter to read as follows with new material underscored and deleted material bracketed:*

“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.

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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, for cause, may remove the prosecuting attorney by resolution. If the mayor disapproves of the removal, the mayor shall return resolution to the county clerk within ten days after receiving it. If the mayor does not return it with a disapproval within that time, it shall take effect. The council may, within ten days after the resolution has been so returned, reconsider the vote upon the resolution and override the mayor's veto by two-thirds vote. The prosecuting attorney must vacate the office within thirty days of removal."

3. *The ballot question should read as follows:*

"Shall the Charter of the County of Maui be amended to improve legal services in government by amending Sections 8-2.2 and 8-3.2 by allowing either the Mayor or the Council to remove from office the Corporation Counsel and Prosecuting Attorney when warranted?"

Resolution No. 22-25, CD1

ALTERNATIVE TO THIRTEENTH PROPOSAL: The Council's alternative Charter amendment is as follows:

1. *Amend Section 8-12.2 of the Charter to read as follows with new material underscored:*

"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."

2. *The ballot question should read as follows:*

"Shall the Charter of the County of Maui be amended to promote transparency in law enforcement by amending Section 8-12.2 to require the Chief of Police inform the Police Commission and provide a written report upon request when the Chief disagrees with the Commission's findings related to the conduct of the police department or its members?"

INTRODUCED BY:

A handwritten signature in cursive script, appearing to read "Chris Lee", is written over a horizontal line.

Upon the request of the Mayor.