

REQUEST FOR LEGAL SERVICES

Date: August 27, 2019

From: Shane M. Sinenci, Chair

Environmental, Agricultural, and Cultural Preservation Committee

TRANSMITTAL


Memo to: DEPARTMENT OF THE CORPORATION COUNSEL
Attention: Richelle Thomson, Esq.

Subject: ESTABLISHING AN AGENCY TO ADDRESS CLIMATE CHANGE, SUSTAINABILITY, AND RESILIENCY (EACP-26)

Background Data: Please review the attached proposed alternative resolutions, and if appropriate, approve the resolutions as to form and legality. Hard copies of the proposed resolutions are requested with your response.

Work Requested: ☒ FOR APPROVAL AS TO FORM AND LEGALITY

☐ OTHER:

| | |
|---|---|
| Requestor's signature:  Shane M. Sinenci | Contact Person Kasie Apo Takayama (Telephone Extension: 7665) |
|---|---|

☐ ROUTINE (WITHIN 15 WORKING DAYS)

☐ RUSH (WITHIN 5 WORKING DAYS)

☐ PRIORITY (WITHIN 10 WORKING DAYS)

☐ URGENT (WITHIN 3 WORKING DAYS)

☒ SPECIFY DUE DATE (IF IMPOSED BY SPECIFIC CIRCUMSTANCES): September 3, 2019 at 9:00am

REASON: For reference at the September 3rd EACP Committee Meeting

FOR CORPORATION COUNSEL'S RESPONSE

| | | |
|--------------|----------------|-----|
| ASSIGNED TO: | ASSIGNMENT NO. | BY: |
|--------------|----------------|-----|

TO REQUESTOR: ☐ APPROVED ☐ DISAPPROVED ☐ OTHER (SEE COMMENTS BELOW)

☐ RETURNING--PLEASE EXPAND AND PROVIDE DETAILS REGARDING ITEMS AS NOTED

COMMENTS (NOTE - THIS SECTION NOT TO BE USED FOR LEGAL ADVICE): _____

DEPARTMENT OF THE CORPORATION COUNSEL

Date _____

By _____

(Rev. 7/03)

eacp:ltr:026acc01:kmatt

Attachments

Resolution

No. _____

PROPOSING AN AMENDMENT TO THE
REVISED CHARTER OF THE COUNTY OF MAUI
(1983), AS AMENDED, RELATING TO
ESTABLISHING A DEPARTMENT OF CLIMATE
CHANGE, SUSTAINABILITY, AND RESILIENCY

WHEREAS, Maui County is experiencing and is vulnerable to the impacts of climate change and sea-level rise; and

WHEREAS, creating a Department of Climate Change, Sustainability, and Resiliency with defined responsibilities will promote stewardship of natural resources, increase community preparedness through coordinated policies and actions, and strengthen resiliency of communities and coastal areas; now, therefore,

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

1. That, pursuant to Section 14-1(1), Revised Charter of the County of Maui (1983), as amended ("Charter"), it hereby proposes that Article 8, of the Charter, be amended by adding a new chapter to read as follows:

"CHAPTER 18
DEPARTMENT OF CLIMATE CHANGE, SUSTAINABILITY, AND
RESILIENCY

Section 8-18.1. Organization. There shall be a department of climate change, sustainability, and resiliency consisting of a director and necessary staff.

Section 8-18.2. Director of Climate Change, Sustainability, and Resiliency. The director of climate change, sustainability, and resiliency shall be appointed by the mayor with the approval of the council and may be removed by the mayor. The director of climate change, sustainability, and resiliency shall have a minimum of five years of experience in an administrative capacity, either in public service or private business, or both.

Section 8-18.3. Powers, Duties, and Functions.

The director of climate change, sustainability, and resiliency shall:

1. Seek local information from scientists and track climate change science and potential impacts on county infrastructure and resources.
2. Coordinate actions and policies of county departments to:
 - a. Increase community preparedness.
 - b. Protect economic and social prosperity.
 - c. Protect the coastal areas and beaches.
 - d. Develop resilient infrastructure in response to climate change.
3. Develop and coordinate county policies and programs that will improve environmental performance of county operations and advance environmental priorities.
4. Integrate sustainable and environmental values into county plans, programs, and policies.
5. Promote resiliency of communities and coastal areas.
6. Report to the mayor and council regarding the county's overall performance in meeting sustainability and environmental targets and objectives.
7. Coordinate with federal and state agencies regarding climate change, sustainability, and the environment.

Section 8-18.3. Climate Change, Sustainability, and Resiliency Commission. The climate change, sustainability, and resiliency commission shall consist of five members, appointed by the mayor with the approval of the council.

The climate change, sustainability, and resiliency commission shall:

1. Meet no less than six times annually.
2. Gather the latest science and information on climate change effects in the county
3. Advise the mayor, council, and executive departments of the county on issues concerning climate change, sustainability, and resiliency law and policy.
4. Annually review and evaluate the performance of the director of climate change, sustainability, and resiliency and submit a report to the mayor and the council.

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

2. That material to be repealed is bracketed and new material is underscored; and

3. That, pursuant to Section 14-2(1) of the Charter, this resolution be submitted to the voters of the County of Maui at the next general election; and

4. That the County Clerk prepare the necessary ballot for presentation to the voters at the next general election; and

5. That, pursuant to Section 14-1(1) of the Charter, it hereby proposes that the following question be placed on the next general election ballot:

“Shall the Charter be amended, effective July 1, 2021, to establish Department of Climate Change, Sustainability, and Resiliency to promote stewardship of the County’s natural resources and strengthen resiliency of communities and coastal areas?”and

6. That, pursuant to Section 14-2(2) of the Charter, the County Clerk shall publish the proposed amendment as set forth in this resolution in its entirety in a newspaper of general circulation; and

7. That, upon approval by the majority of the voters voting on the proposed amendment, the amendment proposed herein shall take effect as of July 1, 2021; and

8. That certified copies of this resolution be transmitted to the Mayor and the Corporation Counsel.

APPROVED AS TO FORM AND LEGALITY

Richelle Thomson
Department of the Corporation Counsel
County of Maui

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Resolution

No. _____

PROPOSING AN AMENDMENT TO THE
REVISED CHARTER OF THE COUNTY OF MAUI
(1983), AS AMENDED, RELATING TO
ESTABLISHING AN OFFICE OF COUNTY
SUSTAINABILITY

WHEREAS, Maui County is vulnerable to and is experiencing the impacts of climate change and sea-level rise; and

WHEREAS, creating an Office of County Sustainability with defined responsibilities and regulatory authority would promote stewardship of natural resources, increase community preparedness through coordinated policies and actions, and strengthen resiliency of communities and coastal areas; now, therefore,

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

1. That, pursuant to Section 14-1(1), Revised Charter of the County of Maui (1983), as amended (“Charter”), it hereby proposes that Section 3-9.4 of the Charter be amended to read as follows:

“Section 3-9.4. [Definitions. For the purpose of this section, the following definitions shall apply:

“Agency or operation of the county” includes any executive agency, semi-autonomous agency, council office, and other establishment of county government supported, in whole or in part, by county or public funds

“Council office” includes the council itself, the office of a council member and the council member’s immediate staff, the office of the county clerk, and the office of council services. This definition shall not be construed as excluding the office of the county auditor from the legislative branch.

“Record” includes any account, book, paper, and document, and any financial affair, notwithstanding whether any of the preceding is stored on paper or electronically.]

Office of County Sustainability.

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1. There is established an office of county sustainability, consisting of a director of county sustainability and the necessary staff. The director shall be appointed by the county council, by a majority vote of its membership, and shall serve for a term of six years. The council may re-appoint the director or appoint a successor for a term of six years. The director may hold over until a successor is appointed. The salary commission shall determine the salary of the director. The council, by two-thirds vote of its membership, may remove the director from office at any time for cause. The director shall be exempt from civil service.

2. The director shall have a minimum of five years of experience in an administrative capacity, either in public service or private business, or both. The director shall have a bachelor's degree in sustainability or a related field.

3. Except for exercising the right to vote, neither the director nor any staff member of the office of county sustainability shall support, advocate, or aid in the election or defeat of any candidate for county public office.

4. The director shall appoint the necessary staff as shall be authorized by law. Staff shall be exempt from civil service and shall serve at the pleasure of the director.

5. The office of county sustainability shall have the duty and power to:

a. Seek local information from scientists and track climate change science and potential impacts on county infrastructure.

b. Coordinate actions and policies of county departments to increase community preparedness; maximize economic, social, and environmental sustainability; and develop resilient infrastructure in response to the effects from climate change.

c. Develop and coordinate county policies and programs that will improve environmental performance of county operations and advance environmental priorities.

d. Integrate sustainable and environmental values into county plans, programs, and policies.

e. Promote resiliency of communities and coastal areas.

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f. Report to the council regarding overall performance in meeting sustainability and environmental targets and objectives.

g. Coordinate with federal and state agencies regarding climate change, sustainability, and the environment.

6. For the purpose of this section, the following definitions shall apply:

“Agency or operation of the county” includes any executive agency, semi-autonomous agency, council office, and other establishment of county government supported, in whole or in part, by county or other public funds.

“Council office” includes the council itself, the office of a councilmember and the councilmember’s immediate staff, the office of the county clerk, and the office of council services. This definition shall not be construed as excluding the office of the county auditor from the legislative branch.

“Record” includes any account, book, paper, and document, and any financial affair, notwithstanding whether any of the preceding is stored on paper or electronically.”;
and

2. That material to be repealed is bracketed and new material is underscored; and

3. That, pursuant to Section 14-2(1) of the Charter, this resolution be submitted to the voters of the County of Maui at the next general election; and

4. That the County Clerk prepare the necessary ballot for presentation to the voters at the next general election; and

5. That, pursuant to Section 14-1(1) of the Charter, it hereby proposes that the following question be placed on the next general election ballot:

“Shall the Charter be amended, effective July 1, 2021, to establish an Office of County Sustainability promote stewardship of the County’s natural resources and strengthen resiliency of communities and coastal areas?”;
and

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6. That, pursuant to Section 14-2(2) of the Charter, the County Clerk shall publish the proposed amendment as set forth in this resolution in its entirety in a newspaper of general circulation; and

7. That, upon approval by the majority of the voters voting on the proposed amendment, the amendment proposed herein shall take effect as of July 1, 2021; and

8. That certified copies of this resolution be transmitted to the Mayor and the Corporation Counsel.

APPROVED AS TO FORM AND LEGALITY

Richelle Thomson
Department of the Corporation Counsel
County of Maui

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