

REQUEST FOR LEGAL SERVICES

D a t e: June 29, 2020

F r o m: Michael J. Molina, Chair

Government Ethics and Transparency Committee

TRANSMITTAL

Memo to: DEPARTMENT OF THE CORPORATION COUNSEL
Attention: Gary Murai, Esq.

Subject: PROPOSED CHARTER AMENDMENT (CHANGING THE DEPARTMENT OF HOUSING AND HUMAN CONCERNS TO THE DEPARTMENT OF HOUSING, AND ESTABLISHING A DEPARTMENT OF HUMAN CONCERNS)) (GET-10(4))

Background Data: Please revise the resolution as indicated on the markup of the resolution and the attached summary to ensure consistency with the Charter amendment proposed by Resolution 20-60, Draft 1.

Work Requested: ☒ [X] FOR APPROVAL AS TO FORM AND LEGALITY

☐ [] OTHER:

Requestor's signature <u>Michael J. Molina</u> Michael J. Molina	Contact Person <u>Shelly Espeleta</u> (Telephone Extension: <u>7134</u>)
--	---

☐ [] ROUTINE (WITHIN 15 WORKING DAYS)

☐ [] RUSH (WITHIN 5 WORKING DAYS)

☐ [] PRIORITY (WITHIN 10 WORKING DAYS)

☐ [] URGENT (WITHIN 3 WORKING DAYS)

☒ [X] SPECIFY DUE DATE (IF IMPOSED BY SPECIFIC CIRCUMSTANCES): July 1, 2020

REASON: To meet posting deadlines for the July 10, 2020 Council meeting agenda.

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)

Summary of revisions:

- 1) Delete the first clause in its entirety.
- 2) Renumber the second clause as “1.”
- 3) Revise Section 8-10.2 to read as follows:

“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] in the same manner as the director of water supply. 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.”

- 4) Add “or managing director” after “mayor” in Section 8-10.3(8).
- 5) Renumber the third clause as “2.”
- 6) Renumber:

“Chapter 16” as “Chapter 18”;

“Section 8-16.1” as “Section 8-18.1”;

“Section 8-16.2” as “Section 8-18.2”; and

“Section 8-16.1” as “Section 8-18.1”;

- 7) Revise proposed Section 8-18.2 to read as follows:

“Section 8-18.2. Director of Human Concerns. The director of human concerns shall be appointed and may be removed in the same manner as the director of water supply. The director of 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.”

- 8) Delete the fourth clause in its entirety.
- 9) Renumber the fifth clause as “3.”
- 10) Renumber the sixth clause as “4.”
- 11) Renumber the seventh clause as “5.”
- 12) Renumber the eighth clause as “6.”
- 13) Renumber the ninth clause as “7.”
- 14) Renumber the tenth clause as “8.”

Resolution

No. _____

PROPOSING AMENDMENTS TO THE REVISED
CHARTER OF THE COUNTY OF MAUI (1983),
AS AMENDED, CHANGING THE DEPARTMENT
OF HOUSING AND HUMAN CONCERNS TO THE
DEPARTMENT OF HOUSING AND
ESTABLISHING A DEPARTMENT OF HUMAN
CONCERNS

*Delete first clause
in entirety.*

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 6 of the Charter, pertaining to the Executive Branch, be amended as follows:

"ARTICLE 6 EXECUTIVE BRANCH

Section 6-1. Executive Power. The executive power of the county shall be vested in and exercised by the executive branch, which shall be headed by the mayor, except as otherwise provided by this charter.

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 period or upon the appointment of a successor in accordance with this charter, whichever occurs first.

4. The mayor shall have the authority to appoint, on a temporary basis, an administrative head of any department, provided that such department is one where the administrative head is appointed by the mayor.

5. Within sixty (60) days of taking office, or within sixty (60) 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 human concerns, 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 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 period, the appointment shall be deemed to be confirmed."

Renumber second clause as 6.

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, Chapter 10, of the Charter, pertaining to the Department of Housing and Human Concerns, be amended as follows:

**"CHAPTER 10
DEPARTMENT OF HOUSING [AND HUMAN CONCERNS]**

in the same manner as the director of water supply

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

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

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

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

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

[3. Perform such other duties and functions as may be assigned by the mayor.]

3. Initiate the creation of affordable housing units.

4. Develop and implement a comprehensive housing plan for the county.

5. Administer and implement existing housing programs, such as community development block grants, HOME and housing trust fund, the affordable housing fund, and the consolidated annual performance evaluation report.

6. Promote and expand new housing opportunities for homeless and needy families throughout the county.

7. Increase affordable housing stock for homeless and very low to gap group individuals and families.

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

or managing director

2 8. That, pursuant to Section 14-1(1), of the Charter, it hereby proposes that the Charter be amended by adding a new Chapter under

Article 8 to read as follows:

Renumber chapter and sections

"CHAPTER 16 18

DEPARTMENT OF HUMAN CONCERNS

Renumber third clause as 2.

in the same manner as the director of water supply

18 ✓
Section 8-16.1. Organization. There shall be a department of human concerns which shall consist of a director and the necessary staff.

18 ✓
Section 8-16.2. Director of Human Concerns. The director of human concerns shall be appointed ~~by the mayor with the approval of the council~~ and may be removed ~~by the mayor~~. The director of 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.

18 ✓
Section 8-16.3. Powers, Duties and Functions. The director of 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. Develop a comprehensive plan for addressing early childhood programs, grants management, immigrant services, and senior services.

3. Coordinate an office on aging and volunteer services to address community needs.

4. Participate and coordinate with community and social services organizations and agencies to develop programs to assist needy families within the county.

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

6. Perform such other duties and functions as may be assigned by the mayor."

Delete fourth clause in entirety.

4. That, pursuant to Section 14-1(1) of the Charter, it hereby proposes that Chapters 16, and 17 of Article 8 of the Charter, pertaining to the Maui County Emergency Management Agency, and Salary Commission, respectively, be renumbered and amended as follows:

**"CHAPTER [16] 17
MAUI COUNTY EMERGENCY MANAGEMENT AGENCY**

Section [8-16.1] 8-17.1. Organization and Functions. There shall be a Maui County emergency management agency whose powers, duties, functions and organization shall be as provided by law. The fire and public safety commission, as established in Section 8-7.2 herein, shall review the operations of the agency and make

recommendations for changes which may be desirable to improve the performance of emergency functions and the provision of public safety services. The commission shall receive and investigate any complaints brought forth by the public against the conduct of the agency or any of its members and submit a written report of its findings and recommendations to the Maui County emergency management administrator for the administrator's disposition.

CHAPTER [17] 18
SALARY COMMISSION

Section [8-17.1] 8-18.1. Organization and Functions. There shall be a salary commission, which shall consist of nine members appointed by the mayor with the approval of the council. The members of this commission shall have five-year terms, and can be reappointed once to a second five-year term. Two members shall be appointed or reappointed each year, except that only one member shall be appointed or reappointed every fifth year. The commission shall determine the compensation of elected officials and appointed directors and deputy directors of all departments of the county provided, however, in establishing the compensation of appointed department heads and their deputies, the salary commission shall consult with those boards and commissions which have appointing authority for department heads." *Renumber remaining clauses as indicated*

3 ~~8~~. That it does hereby propose that the following question be placed on the 2020 General Election ballot:

"Should the Department of Housing and Human Concerns be divided to form two separate departments, a Department of Housing and a Department of Human Concerns, and should the provisions of the Charter be modified by non-substantive 'housekeeping' measures related to this amendment?"

4 ~~8~~. That material to be repealed is bracketed. New material is underscored; and

5. 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

6. That the County Clerk prepare the necessary ballot for presentation to the voters at the 2020 General Election; and

7. That, upon approval by the majority of the voters as indicated by the number of votes cast and upon official certification of such result, the amendment proposed herein take effect on December 30, 2021; and

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

APPROVED AS TO FORM AND
LEGALITY:



2020.06.04 14:13:15
-10'00'

Department of the Corporation Counsel
County of Maui
2019-1368
2019-08-23 Resolution