

COUNCIL OF THE COUNTY OF MAUI
GOVERNANCE, ETHICS, AND
TRANSPARENCY COMMITTEE

July 10, 2020

Committee
Report No. _____

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

Chair and Members:

Your Governance, Ethics, and Transparency Committee, having met on February 25, 2020, March 10, 2020, June 23, 2020, and June 30, 2020 (reconvene), makes reference to County Communication 19-28, from Council Chair Kelly T. King, relating to proposed amendments to the Revised Charter of the County of Maui (1983), as amended ("Charter").

By correspondence dated December 30, 2019, Council Vice-Chair Keani N.W. Rawlins-Fernandez transmitted a proposed resolution entitled "PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983), AS AMENDED, RELATING TO CHARTER COMMISSION."

The purpose of the proposed resolution is to place on the next General Election ballot the question of whether Section 14-3 of the Charter should be amended, effective January 2, 2021, to authorize the Council to appoint nine members, and the Mayor to appoint two members, of the 11-member Charter Commission, which is required to study and review the operation of County government.

Your Committee notes Article 14 of the Charter sets procedures related to amending the Charter. The Council, by resolution adopted after two readings on separate days and passed by a vote of six or more members, may place a Charter amendment question on the ballot at the next General Election.

Your Committee discussed the intent of the proposal was to partly follow the process used to select the 13 members for the community plan advisory committees under Section 2.80B.080, Maui County Code. In that process, nine of the members are selected by the Council, and the remaining four members are selected by the Mayor.

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Your Committee further discussed its intent for both the Council and the Mayor to strive for diversity and balance of age, gender, background, profession, heritage, experience, and ideology on the Charter Commission to promote a broad representation of the community.

Your Committee revised the resolution to clarify that of the nine members appointed by the Council, each Councilmember may nominate one Charter Commission member. Your Committee notes Councilmembers represent everyone in the County, regardless of residency, but the provision allowing each Councilmember to nominate a Charter Commission member is partly intended to promote geographical diversity. The provision is also intended to ensure all Councilmembers have an equal opportunity to influence the Charter Commission's composition. The Council may act by ordinance or resolution, and it is your Committee's intent that the Council's appointments to the Charter Commission will be effectuated by resolution.

Your Committee noted application, nomination, and other procedures relating to the Council's appointment of Charter Commission members may be determined at a later date, through ordinance, resolution, directives of the Council Chair or relevant committee chair, or general consensus among Councilmembers.

A Deputy Corporation Counsel confirmed your Committee's understanding that the authority to appoint Charter Commission members includes the authority to remove them as well.

Your Committee also noted the Charter Commission needs to be formed by March 1, 2021, which will be less than two months after the 2021-2023 Council takes office. So, it will be imperative for the Council to prioritize work on Charter Commission appointments shortly after the General Election, if the Charter amendment proposed by the resolution is approved by the electorate.

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Some members of your Committee expressed the view that diminishing the Mayor's authority to appoint Charter Commission members, as proposed, would transfer too much authority to the Council.

Your Committee, however, concluded that as the County's policy-making body, the Council should have a stronger role in the appointment of Charter Commission members. Your Committee noted the Charter Commission is a powerful entity that has unilateral authority to propose Charter amendments, or an entirely new Charter, for the electorate's consideration.

Your Committee voted 6-3 to recommend passage of the revised proposed resolution on first reading. Committee Chair Molina, Vice-Chair Rawlins-Fernandez, and members King, Lee, Paltin, and Sinenci voted "aye." Committee members Hokama, Kama, and Sugimura voted "no."

Your Committee is in receipt of a revised proposed resolution, approved as to form and legality by the Department of the Corporation Counsel, incorporating your Committee's recommended revisions and nonsubstantive revisions.

Your Governance, Ethics, and Transparency Committee **RECOMMENDS** that Resolution _____, attached hereto, entitled "PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983), AS AMENDED, RELATING TO CHARTER COMMISSION," be **PASSED ON FIRST READING** and be **ORDERED TO PRINT**.


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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. _____

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

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

1. That, in accordance with Section 14-1, Revised Charter of the County of Maui (1983), as amended ("Charter"), it proposes that Section 14-3 of the Charter, pertaining to the Charter Commission, be amended to read as follows:

"Section 14-3. Mandatory Review. Not later than the first day of March[, 2001] 2021, [the mayor, with the approval of the council, shall appoint] a charter commission composed of eleven members must be appointed, with two appointed by the mayor, and nine appointed by the council, with each councilmember nominating one of the nine members, to study and review the operation of the government of the county under this charter.

The commission may propose amendments to the charter or draft a new charter, which [shall] must be submitted to the county clerk within sixteen [(16)] months after [such] the commission has been appointed, after earlier review by the council, if required by state law. Upon receipt of the amendments or new charter, the county clerk [shall] must provide for the submission of [such] the amendments or new charter to the voters of the county at any general or special election as may be deemed by the commission. Any special election [shall] must be held not less than forty-five [(45)] days and no more than seventy-five [(75)] days after the receipt of the amendments or the new charter by the county clerk.

The commission [shall] must publish not less than forty-five [(45)] days before any election[,] at least once in the newspaper of general circulation within the county[,] a brief digest of the amendments or new charter and notice to the voters that copies of the amendments or new charter are available at the office of the county clerk.

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Following any special or general election on any proposed charter, or revision or amendment ~~[thereto]~~ to the charter, at intervals of ten ~~[(10)]~~ years, ~~[the mayor, with the approval of the council, shall appoint]~~ a charter commission composed of eleven members must be appointed, with two appointed by the mayor, and nine appointed by the council, with each councilmember nominating one of the nine members, to study and review the operation of the government of the county under ~~[such]~~ the amendments or new charter and to propose amendments or to draft a new charter in the manner ~~[hereinabove]~~ set forth in this article.”

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

3. That, in accordance with Subsection 1 of Section 14-2 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, in accordance with Section 14-1 of the Charter, it hereby proposes that the following question be placed on the next General Election ballot:

“Shall the Charter be amended, effective January 2, 2021, to authorize the Council to appoint nine members and the Mayor to appoint two members of the 11-member Charter Commission, which is required to study and review the operation of the County government?”; and

6. That, in accordance with Subsection 2 of Section 14-2 of the Charter, the County Clerk publish the proposed amendment as set forth in this Resolution in its entirety in a newspaper of general circulation; and

7. That, if approved by the majority of the voters voting on the proposed amendment, the amendment proposed by this Resolution will take effect on January 2, 2021; and

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

APPROVED AS TO FORM AND LEGALITY



Digitally signed by Gary Murai
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ou=C & D,
email=gary.murai@co.maui.hi.us, c=US
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Department of the Corporation Counsel
County of Maui

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