

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

July 24, 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 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, TO ALLOW ATTORNEYS WITHIN THE OFFICE OF COUNCIL SERVICES TO SERVE AS LEGAL REPRESENTATIVES OF THE COUNCIL AND ITS MEMBERS.”

The purpose of the proposed resolution is to place on the next General Election ballot the question of whether Section 3-6 of the Charter should be amended, effective January 2, 2021, to allow attorneys within the Office of Council Services (“OCS”) to serve as legal representatives of the Council and its members.

By correspondence dated January 10, 2020, Councilmember Kelly Takaya King transmitted a proposed resolution entitled “PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983), AS AMENDED, TO ALLOW ATTORNEYS WITHIN THE OFFICE OF COUNCIL SERVICES TO SERVE AS LEGAL REPRESENTATIVES OF THE COUNCIL AND ITS MEMBERS.”

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The purpose of the proposed resolution is to place on the next General Election ballot the question of whether Section 3-6 of the Charter should be amended, effective January 2, 2021, to allow attorneys within OCS to serve as legal representatives of the Council and its members.

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.

Because the two Charter proposals are identical, your Committee agreed to consider one of the two proposals. Your Committee further agreed to file the correspondence dated January 10, 2020, transmitting a proposed resolution.

Your Committee discussed the intent of the proposal submitted by the Council Vice-Chair. The proposal adds to a prior Charter amendment voted on by the electorate in 2016 that designates attorneys within OCS to serve as legal advisors and, if designated as special counsel by resolution adopted by a two-thirds vote, as legal representatives for the Council and Councilmembers. Your Committee noted that a special counsel resolution would not be necessary to have OCS attorneys serve as legal representatives under the proposed Charter amendment.

The Director of Council Services addressed concerns with the proposal citing the possible need to hire additional attorneys. She said attorneys would be required to possess a skill set comprised of both litigation and legislative experience, with the ability to meet competing deadlines. She pointed to the Department of the Corporation Counsel, which has set up two separate divisions, one for litigation and another for counseling and drafting.

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Your Committee agreed the Charter proposal is worthy of consideration but requires further discussion and should be considered by the 2021-2022 Charter Commission.

Your Committee voted 5-4 to recommend referral of the proposed resolution attached to correspondence dated December 30, 2019, to the Charter Commission. Committee Chair Molina, Vice-Chair Rawlins-Fernandez, and members King, Paltin, and Sinenci voted "aye." Committee members Hokama, Kama, Lee, and Sugimura voted "no."

Your Committee voted 9-0 to recommend filing of correspondence dated January 10, 2020. Committee Chair Molina, Vice-Chair Rawlins-Fernandez, and members Hokama, Kama, King, Lee, Paltin, Sinenci, and Sugimura voted "aye."

Your Governance, Ethics, and Transparency Committee **RECOMMENDS** the following:

1. That the attached proposed resolution, entitled "PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983), AS AMENDED, TO ALLOW ATTORNEYS WITHIN THE OFFICE OF COUNCIL SERVICES TO SERVE AS LEGAL REPRESENTATIVES OF THE COUNCIL AND ITS MEMBERS," be REFERRED to the Council Chair for the next Council term, for transmittal to the next Charter Commission; and
2. That the attached correspondence dated January 10, 2020, from Councilmember Kelly Takaya King, be FILED.

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**Committee
Report No.** _____

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

A handwritten signature in black ink, appearing to read "Michael J. Molina", is written over a horizontal line.

MICHAEL J. MOLINA, Chair

get:cr:20010(10)aa:ske

Resolution

No. _____

PROPOSING AN AMENDMENT TO THE
REVISED CHARTER OF THE COUNTY OF MAUI
(1983), AS AMENDED, TO ALLOW ATTORNEYS
WITHIN THE OFFICE OF COUNCIL SERVICES
TO SERVE AS LEGAL REPRESENTATIVES OF
THE COUNCIL AND ITS MEMBERS

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 3-6 of the Charter, pertaining to powers of the council, be amended to read as follows:

"Section 3-6. Powers of Council. The council [shall be] is the legislative body of the county. Without limitation of the foregoing grant or of other powers given it by this charter, the council [shall have the power] is authorized to:

1. [To legislate] Legislate taxes, rates, fees, assessments and special assessments and to borrow money, subject to the limitations provided by law and this charter.
2. [To legislate] Legislate appropriations for county purposes subject to the limitations provided by this charter.
3. [To conduct] Conduct investigations of (a) the operation of any department or function of the county and (b) any subject upon which the council may legislate.
4. [To fix] Fix the salaries of such employees and officers as may be necessary.
5. [To require] Require periodic and special reports from all county departments concerning their

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functions and operations. Such reports [shall] must be requested and submitted by and through the mayor.

6. [To retain] Retain, employ, or designate, by a vote of two-thirds of its entire membership, special counsel as legal representative for any special matter presenting a real necessity for such employment. Any such employment [shall] must specify the compensation, if any, to be paid for said services.
7. [To designate] Designate attorneys within the office of council services to serve as legal advisors to and representatives of the council and its members. [(Amended 2016)]; and

2. That in accordance with Section 14-1 of the Charter, it proposes that Subsection 2 of Section 3-7 of the Charter, pertaining to attorneys within the office of council services, be amended to read as follows:

“The attorneys within the office of council services, in addition to the attorneys within the department of the corporation counsel, may serve as legal advisors to and representatives of the council and its members.”; and

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

4. That, in accordance with Subsection 14-2(1) of the Charter, this Resolution be submitted to the voters of the County of Maui at the next General Election; and

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

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

Resolution No. _____

“Shall the Charter be amended to allow attorneys within the Office of Council Services to serve, effective January 2, 2021, as legal representatives of the Council and its members?”; and

7. That, in accordance with Subsection 14-2(2) of the Charter, the County Clerk publish this proposed amendment in a newspaper of general circulation; and

8. That, upon approval by the majority of the voters voting on the proposed amendment and upon official certification of the result, the amendment proposed in this Resolution will take effect as of January 2, 2021; and

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

APPROVED AS TO FORM AND LEGALITY

Department of the Corporation Counsel
County of Maui

paf:rem:19-388a

RECEIVED

January 10, 2020

2020 JAN 16 PM 2:04

OFFICE OF THE
COUNTY COUNCIL

MEMO TO: GET-10 File

F R O M: Kelly Takaya King, Councilmember

Kelly T. King

SUBJECT: **TRANSMITTAL OF LEGISLATIVE PROPOSAL RELATING TO A CHARTER AMENDMENT TO ALLOW LEGISLATIVE ATTORNEYS TO REPRESENT THE COUNCIL** (PAF 19-356)

The attached legislative proposal pertains to Item 10 on the Committee's agenda.

paf:jbf:19-356b

Attachment

Resolution

No. _____

PROPOSING AN AMENDMENT TO THE
REVISED CHARTER OF THE COUNTY OF MAUI
(1983), AS AMENDED, TO ALLOW ATTORNEYS
WITHIN THE OFFICE OF COUNCIL SERVICES
TO SERVE AS LEGAL REPRESENTATIVES OF
THE COUNCIL AND ITS MEMBERS

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 3-6 of the Charter, pertaining to powers of the council, be amended to read as follows:

"Section 3-6. Powers of Council. The council [shall be] is the legislative body of the county. Without limitation of the foregoing grant or of other powers given it by this charter, the council [shall have the power] is authorized to:

1. [To legislate] Legislate taxes, rates, fees, assessments and special assessments and to borrow money, subject to the limitations provided by law and this charter.
2. [To legislate] Legislate appropriations for county purposes subject to the limitations provided by this charter.
3. [To conduct] Conduct investigations of (a) the operation of any department or function of the county and (b) any subject upon which the council may legislate.
4. [To fix] Fix the salaries of such employees and officers as may be necessary.
5. [To require] Require periodic and special reports from all county departments concerning their

Resolution No. _____

functions and operations. Such reports [shall] must be requested and submitted by and through the mayor.

6. [To retain] Retain, employ, or designate, by a vote of two-thirds of its entire membership, special counsel as legal representative for any special matter presenting a real necessity for such employment. Any such employment [shall] must specify the compensation, if any, to be paid for said services.
7. [To designate] Designate attorneys within the office of council services to serve as legal advisors to and representatives of the council and its members. [(Amended 2016)]"; and

2. That in accordance with Section 14-1 of the Charter, it proposes that Subsection 2 of Section 3-7 of the Charter, pertaining to attorneys within the office of council services, be amended to read as follows:

"The attorneys within the office of council services, in addition to the attorneys within the department of the corporation counsel, may serve as legal advisors to and representatives of the council and its members."; and

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

4. That, in accordance with Subsection 14-2(1) of the Charter, this Resolution be submitted to the voters of the County of Maui at the next General Election; and

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

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

Resolution No. _____

“Shall the Charter be amended to allow attorneys within the Office of Council Services to serve, effective January 2, 2021, as legal representatives of the Council and its members?”; and

7. That, in accordance with Subsection 14-2(2) of the Charter, the County Clerk publish this proposed amendment in a newspaper of general circulation; and

8. That, upon approval by the majority of the voters voting on the proposed amendment and upon official certification of the result, the amendment proposed in this Resolution will take effect as of January 2, 2021; and

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

APPROVED AS TO FORM AND LEGALITY

Department of the Corporation Counsel
County of Maui

paf:jbf:19-356c