

Michael Williams
Chair



COST OF GOVERNMENT COMMISSION

COUNTY OF MAUI
2145 WELLS STREET, SUITE 303
WAILUKU, MAUI, HAWAII 96793

June 22, 2021

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COUNTY CLERK

Honorable Alice L. Lee, Chair
and Members of the Maui County Council
200 South High Street
Wailuku, Hawaii 96793

Dear Chair Lee and Members:

SUBJECT: COST OF GOVERNMENT COMMISSION — ANNUAL REPORT FOR COMMISSION TERM 2020 – 2021

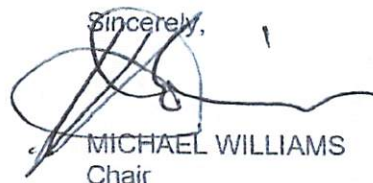
Pursuant to its mandate in Section 3-9 of the County Charter, the Cost of Government Commission ("Commission") is transmitting for your review its Annual Report for Commission Term 2020 – 2021.

In its Annual Report, the Commission highlights three of the reports it issued over the past year:

1. "Report on Financing of the Wailuku Parking Structure" (November 2020);
2. "Report on Strengthening the County of Maui's Technological Infrastructure" (May 2021); and
3. "Proposed Charter Amendments and Recommendations Concerning the Cost of Government Commission and Other Boards and Commissions" (May 2021).

A recap of the Commission's recommendations for each of these investigative topics is also included. In addition, the report describes some of the Commission's ongoing investigations and timelines for completion. Finally, the report provides brief narratives of each of the Commission's meetings.

To further improve the Commission's effectiveness, we welcome your feedback on the report and would be happy to meet with you. Should you have any questions or comments, feel free to email the Commission at costofgov@mauicounty.us, or contact Michael Williams, Chair of the Commission, at (808) 264-4884, or Shelley Pellegrino, Technical Writer for the Commission, at (808) 344-3348. Thank you for your consideration.

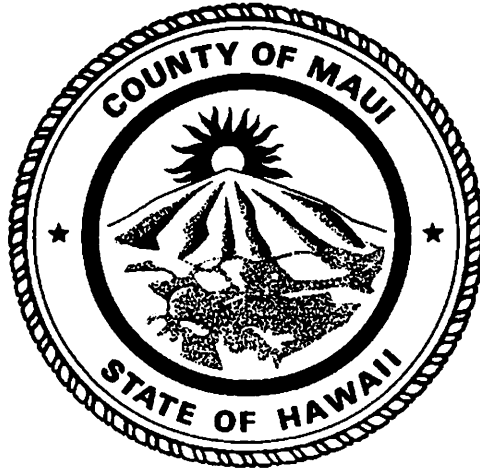
Sincerely,

MICHAEL WILLIAMS
Chair

Attachment

cc: Keola Whittaker, Deputy Corporation Counsel

COUNTY COMMUNICATION NO. 21-350

COUNTY OF MAUI



COST OF GOVERNMENT COMMISSION

ANNUAL REPORT

2020 – 2021

COST OF GOVERNMENT COMMISSION COUNTY OF MAUI

ANNUAL REPORT 2020 – 2021

*The Commission shall have the power and duty to:
Study and investigate the organizations and methods of operations of all departments,
commissions, boards, offices, and other instrumentality of all branches of the county government
and determine what changes, if any, may be desirable to accomplish the policy set forth herein.¹*

COMMISSIONERS²

Michael Williams, Chair
Noemi Barbadillo, Vice Chair
Paula Heiskell, Member
Lu Ann Lankford-Faborito, Member
Patrick O'Neil, Member
Susan Pu, Member
Sarah Simmons, Member

¹ Charter, County of Maui, Section 3-9.3 (2019)

² The Commission is comprised of nine members. There are currently seven members serving on the Commission and two vacancies due to the resignations of Commissioner Hannah Werth in April 2021, and Commissioner Michelle Del Rosario in May 2021. Both commissioners served for the complete 2020 – 2021 term, but resigned before the Annual Report was approved.

COST OF GOVERNMENT COMMISSION 2020 – 2021 ANNUAL REPORT

I. INTRODUCTION

The Cost of Government Commission (“COGC” or “Commission”) was created in 1976, when voters approved the recommendation of the Charter Commission. In its final report dated February 19, 1976, the Charter Commission stated, “The Cost of Government Commission would provide a cyclical review of cost and efficiency of both the legislative and executive branches of County government. The [Charter] Commission believes that this Commission [COGC], if adopted, will be one of the first of its kind in local government.”¹

According to the County Charter, the purpose of the Commission is to “[s]tudy and investigate the organizations and methods of operations of all departments, commissions, boards, offices, and other instrumentality of all branches of the county government and determine what changes, if any, may be desirable to accomplish the policy set forth herein.”² These responsibilities correspond to the County’s policy “to promote economy, efficiency and improved service in the transaction of the public business in the legislative and executive branches of the county.”³

The Charter also requires that the Commission present an annual report of its findings and recommendations to the Mayor, County Council, and County Auditor. For the prior Commission term (April 1, 2019 – March 31, 2020), the Commission issued its annual report on June 12, 2020. This Annual Report covers the activities from its Commission term (April 1, 2020 – March 31, 2021), as well as the months of April and May 2021.⁴

II. COMMISSION COMPOSITION

The Commission is comprised of nine (9) volunteers with various educational and employment backgrounds. The cumulative wisdom and experience of its members are notable and, collectively, the commissioners have dedicated their time and knowledge to improving Maui County. The Commission believes its investigations and recommendations should be a catalyst for more in-depth discussions and a foundation for the development of legislation and improved processes and/or policies on the subject investigated.

¹ Report of the Maui County Charter Commission, p. 5 (1976), located at http://mauicharterarchive.org/pdf/COM_76_760219_REP_Final_Report.pdf (accessed on April 1, 2021).

² Revised Charter of the County of Maui (2019 ed.) Section 3-9.3(1), located at [CHARTER \(mauicounty.gov\)](http://mauicounty.gov/CHARTER) (accessed on April 1, 2021).

³ *Id.*, Section 3-9.

⁴ One of the reasons for this decision is to include a recently-issued Commission “Report on Strengthening the County of Maui’s Technological Infrastructure” and its letter to the Charter Commission proposing Charter recommendations relating to the Cost of Government Commission specifically and boards and commissions in general.

The following individuals served the Commission during some or all of the period from April 1, 2020 to May 31, 2021:

- Paula Heiskell (appointed April 2017; reappointed April 2019)
- Barbara Mattson (appointed July 2017; resigned May 2020)
- Noemi Barbadillo (appointed June 2018)
- Hannah Werth (appointed December 2018; resigned April 2021)
- Michelle Del Rosario (appointed March 2019; Vice Chair from April 2020 until her resignation in May 2021).
- Sarah Simmons (appointed March 2019; Vice Chair from December 2019 – March 2020)
- Michael Williams (appointed May 2019; Chair from December 2019 – present)
- Patrick O'Neil (appointed September 2019)
- Lu Ann Lankford-Faborito (appointed February 2020)
- Susan Pu (appointed July 2020)

III. COMPLETED INVESTIGATIONS AND REPORTS

The Commission has continued its active role in investigating a broad range of issues affecting the economy and efficiency of Maui County. The Commission issued four reports over a 14-month period. Each of them is discussed briefly below.

A. Report on the County of Maui's Grant to the Maui Visitors Bureau

Following a 2½ year investigation, the Commission issued its "Report on the County of Maui's Grant to the Maui Visitors Bureau" in April 2020. The report was discussed in and attached to the Commission's 2019–2020 Annual Report because the Commission extended its 2019–2020 term to April due to the pandemic's interference with normal business and the Commission's inability to conduct its March 2020 meeting.

The Commission recommended that the County reduce its grant to MVB to \$0 for Fiscal Year 2021. The Commission also recommended that future County grants to MVB be limited to between \$0 and \$500,000.

Notably, the County Council has referred to the Commission's report during its budget deliberations regarding the MVB grant. For Fiscal Year 2021, the County Council reduced the Mayor's proposed MVB grant from \$4 million to \$1.5 million. More recently, the County Council reduced MVB's grant to \$0 for Fiscal Year 2022, and instead appropriated \$500,000 to be used for grants to organizations with ideas on how to manage tourism.

B. Report on Financing of the Wailuku Parking Structure

In November 2020, the Commission issued a report following a nine-month investigation into the financing of the County-owned Wailuku Parking Structure. The Commission reviewed the Federal Opportunity Zones program, which encourages private investors to start new businesses in economically depressed areas of the

country. Wailuku is one of the federally-designated Opportunity Zones. The Commission opined that the County could save \$5-6 million if it were to lease the land to an investor or qualified investment fund, transfer the construction contract to that investor, and have that investor own and operate the garage for at least ten years.

In its report, the Commission recommended that the County solicit bids for private financing, ownership, and management of the Wailuku Parking Structure. Specifically, the Commission recommended that the County issue a Request for Proposals to determine whether there is any investor or investor group interested in constructing and operating the Wailuku Parking Structure for ten or more years as an Opportunity Zone investment. A copy of the "Report on Financing of the Wailuku Parking Structure" is attached as Appendix A.

C. Report on Strengthening the County of Maui's Technological Infrastructure

In August 2019, the Commission decided to review the County of Maui's information technology practices. The initial goals of the investigation were to evaluate opportunities to upgrade the technology used to provide County services, and to explore ways to improve internal County processes. Just a few months later, the COVID-19 pandemic changed the technological landscape. With offices closed and the potential loss of public participation in government, the County was forced to pivot quickly to accommodate the technological needs of both its employees and constituents.

The Commission's investigation pivoted as well, and its "Report on Strengthening the County of Maui's Technological Infrastructure," issued in May 2021, examined County's exploration of technology to assist with its response to the COVID-19 pandemic and whether that same technology could make County processes more efficient. The report also reviewed some of the changes and challenges to upgrading the County's technological infrastructure and made the following recommendations:

1. That the County establish a work from home policy that departments can implement on a case-by-case basis as appropriate for the work performed by its employees;
2. That the County continue to explore software applications to assist the County with its internal workflows as well as to enhance the services it provides to the public;
3. That a separate Department of Information Technology be created and that the Maui County Charter Commission evaluate the issue further;
4. That the Administration engage in detailed union negotiations to seek solutions to the compensation roadblock for Information Technology Division personnel;
5. That beginning in Fiscal Year 2023, the Mayor and County Council give serious consideration to increasing the Information Technology Division budget both to better compensate IT personnel and to fund the capital needs for technology modernization programs that will make all County operations more efficient.

A copy of the Commission's report is attached as Appendix B.

D. Letter to the Charter Commission Proposing Amendments Concerning the Cost of Government Commission and Other Boards and Commissions

The Cost of Government Commission has gone through various iterations under the County Charter over the last 45 years. Notably, in 2012, the Commission terms increased from two-year terms to staggered five-year terms. Following the 2012 Charter amendment, commissioner terms were adjusted to meet the five-year requirement, but they remained “unstaggered.” Over the next eight years, no one noticed the administrative error, in part because there were 12 resignations. In 2020, the number of resignations declined significantly (in large part due to meetings being held remotely via BlueJeans),⁵ and the Commission took notice when there was no scheduled turnover of commissioners following the 2020 – 2021 term, and the next scheduled appointments of new commissioners were not until 2023 and 2024. The Commission is concerned with the loss of “institutional memory” that will accompany losing all commissioners in the course of a year.

A second issue of direct concern to the Commission involved its preferred practice of issuing stand-alone reports. In 2017, the Commission decided to start issuing separate reports for the following reasons: (1) to permit investigations to run until completion instead of being bound by the budgetary calendar or annual Commission term; and (2) to allow commissioners additional time to work within their voluntary status and improve the quality and breadth of current investigations. After issuing a number of these reports over the years, the Commission was advised in late 2020 that because there is no explicit authority in the Charter to issue stand-alone reports (there is only reference to an Annual Report), these reports might be challenged.

The Commission addressed these and two additional issues involving board and commission terms and party affiliation requirements, and transmitted a letter to the Charter Commission with its recommendations set forth below.

1. Modify COGC commissioner terms so that they are staggered as required by Charter Section 13-2. To accomplish this, the Commission recommends that the initial staggered terms be based on chronological order of appointment.
2. Review all board and commission terms and reconcile them with their respective enabling legislation and Charter Section 13.2.
3. Repeal Charter Section 13-2.2 related to party affiliation.

⁵ One reason for the high turnover of commissioners in the past was the burden of travel time for members living in Hāna, or on Lana'i or Moloka'i, or even in West Maui. Another reason was the need to attend meetings at the County Building in person during weekdays. Since April 2020, the Commission has met using BlueJeans and attendance has been consistently high. Frankly, except for occasional face-to-face meetings, the COGC prefers to continue meeting remotely even after the pandemic restrictions are relaxed.

4. Amend Charter Section 3-9.3 to grant the COGC the authority to issue stand-alone reports to the Mayor, County Council, and Auditor, in addition to the COGC's duty to produce an annual report.

A copy of the Commission's letter and accompanying exhibits is attached as Appendix C.

IV. CONTINUING INVESTIGATIONS

The Commission continued three investigations and initiated four additional investigations during the 2020 – 2021 term.

A. Wildfire Costs and Responsibility of Private Landowners

Following Maui's unprecedented wildfire season in 2019, where more than 20,000 acres were burned and resources seemingly stretched thin, the Cost of Government Commission decided to examine the County's wildfire prevention and response practices and costs. The Commission has completed its investigation, which examined wildfire fighting operations budgets, firefighter risk and liability, and future County wildfire fighting costs. In addition, the Commission evaluated statutes and regulations that affect firefighting prevention and cost recovery for private and commercial property owners, and estimated the impact of any costs to landowners associated with new regulations. An integral part of the investigation involved the analysis of current and recommended changes to Maui land management practices that impact frequency and magnitude of wildfires. The Commission anticipates finalizing its report by July 2021.

B. Visitor Accommodations — Policy Options for Management

This investigation began in August 2019 with a look at the enforcement of the rules about operating *permitted* short-term rentals (STRs) in the County. Planning Director Michele McLean appeared before the Commission in July 2021 to discuss short-term rental enforcement. In February 2021, the Temporary Investigative Group expanded its scope to include policy options for managing visitor accommodations. The Commission hopes to complete its report during the 2021–2022 term.

C. Capital Improvement Project Budgets of Department of Water Supply and Department of Environmental Management

The investigation into how the Department of Water Supply (DWS) manages its capital expenditures began in August 2019. Initial TIG objectives included identifying projects specified and funded by the County Council, but not implemented by the DWS; and evaluating the DWS Countywide five-year capital improvement plan.

In February 2021, the TIG expanded its scope to include the following:

1. review of capital budget plans for recycled wastewater as well as for potable water;

2. evaluation of capital necessary to acquire the Wailuku Water Company diversions and aqueduct system, as proposed by Mayor Victorino;
3. evaluation of capital required to implement the recent recommendation of the Board of Water Supply that the county consider acquiring the East Maui Irrigation Company watersheds, diversions and aqueducts currently being acquired by Mahi Pono;
4. evaluation of capital required if the Upcountry water meter list project is to be completed; and
5. evaluation whether current DWS and Department of Environmental Management CIP plans include expanded capacity of potable water and wastewater treatment for future housing developments.

D. Homelessness Issues in Maui County

In June 2020, the Commission began evaluating whether there is an attainable set of policies that would reduce or eliminate homelessness in Maui County. The investigation is continuing, with commissioners working with County and non-governmental organization representatives. In January 2021, the Commission also heard from Maui Police Department (MPD) Sergeant Jan Pontanilla, who presented information regarding MPD's C.O.R.E. (Critical Outreach and Response through Education) Unit, which works with the homeless, as well as those who have mental health and substance abuse issues. The Commission plans to complete its work and issue its report of findings and recommendations during the 2021–2022 Commission term.

E. Access to Public Documents Filed in County Litigation

In June 2020, the Commission decided to investigate whether the County can provide public access to civil litigation documents where the County is a party. Corporation Counsel Moana Lutey appeared before the Commission at its September 2020 meeting to explain some of the administrative and financial challenges to setting up a publicly-accessible database of all civil litigation documents. Ms. Lutey and First Deputy Corporation Counsel Richelle Thompson appeared before the Commission at its March 2021 meeting, at which time they reiterated the Department's administrative, personnel, and financial concerns, but also notified the Commission that it had started to post a list of its open litigation matters on its webpage to assist the public with finding documents. The Department also committed to updating the list twice per year.

The Commission has continued searching for ways to make all civil litigation documents accessible to the public and requested a budget increase of \$10,000 in Fiscal Year 2022 to host the database and hire a paralegal to upload the documents. The Commission has also discussed working with the Department of Corporation Counsel to determine which litigation matters are significant so that the Commission can use the public access databases through the court systems to pull the documents and make them available to the public.

F. County Real Property Tax Policies Regarding Agricultural Lands

In June 2020, the Commission authorized an investigation into real property tax policies regarding agricultural lands. Marcy Martin, Real Property Tax (RPT) Administrator, and Kari Stockwell, Real Property Technical Officer, appeared before the Commission in August 2020 to present information on the RPT's Agriculture Use Value Program. Bobbie Patnode, Sydney Smith, and Kyle Caires from the Ag Working Group also appeared before the Commission to discuss some of the work the AWG has done with the County's Real Property Tax (RPT) Division over the past six years.

Over the course of the Commission's investigation, it became apparent that any significant reform to one property class of the County's RPT system could affect and have repercussions on other classes. Accordingly, in May 2021, the Commission authorized the expansion of the investigation's scope to include potential improvements to the entire set of RPT policies, not just those applying directly to land zoned or used for agriculture. The Commission hopes to complete its investigation and issue a report in September 2021.

G. County Road Safety

In December 2020, the Commission authorized an investigation into road safety issues in Maui County, especially as it relates to roads in and around Hana. Some of the issues being evaluated include whether the County is using best practices in prioritizing its assessment of road safety maintenance, whether the County is maximizing its cooperation with the State Department of Transportation and Federal Highway Administration Local and Rural Road Safety Program, and whether there is adequate signage in areas where there are known dangers that might not be obvious to drivers. This investigation is still in its infancy and the Commission has not set out a timeline for release of its report.

H. Other Topics

The Commission also reviewed the following additional issues over the course of its term.

1. Residential Trash Service in Maui County

A constituent transmitted a letter requesting that the Commission review trash service billing for residential properties, but the Commission deferred any inquiry into the issue because the County Council planned to take up the matter.

2. Proposed Charter Amendment to Establish an Office of the Managing Director

The Commission considered reviewing the proposed Charter amendment to establish an Office of the Managing Director, similar to its 2016 review of a proposed Charter amendment to establish a Council-Manager system of government, but determined that there was insufficient time to complete a thorough review.

3. County of Maui COVID-19 Vaccination Plan

The Commission briefly reviewed the distribution of COVID-19 vaccines throughout the County. Dr. Lorrin Pang, Maui District Health Officer for the State Department of Health, appeared before the Commission in March 2021 to present information on “Health Economic Principles” and answer questions about the vaccination efforts in the County. Once vaccine availability was assured, the Commission ended its review.

4. Purchase of The Maui News property

In February 2021, a constituent raised concerns about the Mayor’s proposal to purchase property at 100 Mahalani Street (The Maui News property) and Councilmember Kelly King appeared before the Commission to request that the Commission transmit any information it received about the proposed purchase. The Commission decided to open an investigation into the proposed purchase, but closed it the following month after the purchase had been approved.

V. COMMISSION MEETING SUMMARIES

Until the COVID-19 pandemic, the Commission met on the second Thursday of each month from 10:15 a.m. to 12:15 p.m. in the Mayor’s conference room on the ninth floor of the Kalana O Maui Building. When COVID-19 closed government buildings, the Commission transitioned quickly, becoming the first Maui County board or commission to use the BlueJeans remote meeting application. The Commission has met virtually since April 2020 and attendance has been consistently high. The Commission receives support from the County Auditor, the Office of the Corporation Counsel, the Office of the Mayor who designates an Ex-Officio Member, and the Commission’s Technical Writer.

A general summary of each meetings, including attendance, is provided below.

April 9, 2020 Meeting

Eight commissioners were present, with Commissioner Werth excused. Commissioner Barbadillo was excused after 12:05 p.m., while public testimony was continuing. A quorum of seven was present throughout.

There was extensive written and live (remote) public testimony on the proposed Commission report recommending that County funding of the Maui Visitors Bureau be eliminated.

The County Auditor advised that he was unsure the Commission was authorized to meet virtually. After a discussion with Deputy Corporation Counsel Stephanie Chen, the Commission decided to continue the meeting.

Commissioner Mattson moved to approve the report on the Maui Visitors Bureau, seconded by Commissioner Heiskell. An extensive deliberative conversation ensued, which is summarized in the minutes.

Commissioner O'Neil moved to amend the second sentence of the last paragraph on page four under the "Questions to Consider" section to read as follows: "There is no correlation between what Maui County grants to MVB and the number of visitors or spending by them." Commissioner Del Rosario seconded the motion. The motion to amend was approved unanimously (7-0).

The Commission approved the report as amended 5-2, with Commissioners O'Neil and Simmons opposed. Two commissioners were excused.

The Commission briefly discussed its active investigations. No new topics for investigation were proposed or discussed.

The Commission unanimously (7-0) elected Michael Williams as Chair and Michelle Del Rosario as Vice Chair for the Commission's new term. Two commissioners were excused.

May 14, 2020 Meeting

All nine commissioners were present.

There was public testimony from Madge Schaefer, who had transmitted a letter requesting that the Commission review trash service billing for residential properties. She suggested the Commission defer any inquiry into the issue because the County Council was taking up the matter.

The Commission voted unanimously to approve the draft Annual Report for 2019–2020, to be finalized at the next meeting.

The Commission reviewed draft Guidelines for COGC Investigations. The Commission unanimously approved amending the guidelines to authorize the Chair to send a formal letter on COGC letterhead seeking information regarding any investigation when necessary. After a lengthy discussion of the use of Temporary Investigation Groups (TIG), the Commission deferred approval of the draft Guidelines to a future meeting.

The Commission also discussed its record retention processes but deferred any action on them.

The Commission unanimously approved the proposed parameters and scope of investigation into wildfire costs being conducted by the TIG consisting of Commissioners O'Neal and Heiskell.

New Investigation Topics

The Commission approved the following new investigation topics:

1. Homelessness. The COGC will consider forming a TIG at its next meeting.
2. The COGC voted 7-0 (with Commissioner Faborito abstaining, and Vice-Chair Del Rosario excused) to authorize Chair Williams to explore whether the Commission should review the proposed Charter amendment to create a Professional Manager.

June 12, 2020 Meeting

Seven members were present. Commissioner Simmons was absent. There was one vacancy following Commissioner Mattson's resignation. There was no public testimony.

The Commission voted unanimously to approve the Annual Report for 2019–2020.

As part of the Commission's investigation of the Capital Improvement Projects for the Department of Environmental Management, the Commission received a presentation from Travis Liggett, President, Reef Power LLC, Regarding Biological Treatment of Wastewater.

As part of the investigation of the Capital Improvement Projects for the Department of Water Supply, the Commission received a presentation by Sherman Dudley DePonte.

The Commission approved the Cost of Government Investigation Guidelines (7-0).

The Commission approved (7-0) the formation, scope and parameters of a Temporary Investigative Group to investigate homelessness issues in Maui County. The TIG members are Commissioners Werth and Faborito, and Chair Williams.

New Investigation Topics

The Commission also unanimously authorized Chair Williams to open two new investigations: (1) providing public access to civil litigation documents filed in court where the County is a party; (2) evaluating how agricultural land is valued for Real Property Tax.

July 23, 2020 Meeting

Six members were present, with Commissioners Barbadillo and Werth excused, and still one vacancy. There was no public testimony.

The Commission received a presentation from Planning Director Michele Mclean on the transient vacation rental situation, including enforcement of laws against illegal operations of short-term rentals. Further details are available in the meeting minutes.

The Commission approved (6-0) a motion to buy a dedicated computer for storing Commission-related documents.

The Commission decided by consensus to abandon any effort to research and report on the Charter amendment that would create a professional manager for the County.

The Commission briefly discussed its active investigations. No new topics for investigation were proposed or discussed.

August 13, 2020 Meeting

Eight members were present, including newly appointed Commissioner Susan Pu. Commissioner Werth was excused. There was no public testimony.

The Commission received a presentation from Marcy Martin, Real Property Tax Administrator, on real property taxation of agricultural lands. Details are available in the meeting minutes.

At about 10:30 a.m., the Commissioners learned that the meeting could not be accessed by members of the public through the BlueJeans link. The meeting was recessed at 10:31 a.m. to assess the issue. The meeting reconvened at 10:40 a.m., at which time Chair Williams explained that because members of the public missed a portion of the presentation on real property tax assessments, he would recess the Commission meeting and reconvene at a future date. Ms. Martin agreed to return and restart her presentation.

August 27, 2020 Meeting (reconvened)

The August 13, 2020 meeting was reconvened. All nine commissioners were present. There was no public testimony.

Kari Stockwell, Real Property Technical Officer, attended in place of Ms. Martin, who could not attend the meeting. Ms. Stockwell reviewed and discussed the PowerPoint presentation entitled, "Real Property Assessment Division, Department of Finance, Agriculture Use Value Program." Gery Madriaga, Assistant Real Property Tax Administrator, provided additional information. Details are available in the minutes.

The Commission briefly discussed its active investigations. No new topics for investigation were proposed or discussed.

September 10, 2020 Meeting

All nine members were present. There was no public testimony.

At the invitation of the Commission, Corporation Counsel Moana Lutey appeared with Richelle Thomson, First Deputy Corporation Counsel, Lisa Kahuhu, Office Manager, and Cory-Lynn Vicens, Private Secretary, to discuss the question of how the public could access court filings in civil litigation where the County was a party.

Ms. Lutey explained that the Department currently handles all requests for travel-related exemptions during the COVID-19 pandemic and had processed approximately 9,000 requests over the previous 2–3 weeks. The Department is operating seven days per week and is unable to take on more work.

Vice-Chair Del Rosario asked whether Mayor Victorino had allocated CARES Act funding to the Department to hire additional staff to process travel-related exemptions. Ms. Lutey responded that he had not, though he was aware of the situation.

The Commission voted unanimously to send a letter to Mayor Victorino requesting immediate funding for the Department of the Corporation Counsel to hire staff to process travel exemptions.

Bobbie Patnode, Sydney Smith, and Kyle Caires from the Ag Working Group (AWG), which is comprised of active farmers or ranchers, as well as members of the State Department of Agriculture, County of Maui, and State Department of Land and Natural

Resources, appeared before the Commission. The AWG representatives shared a PowerPoint presentation regarding the AWG and its work with the County's Real Property Tax (RPT) Division over the past six years.

The Commission briefly discussed its active investigations. No new topics for investigation were proposed or discussed.

October 8, 2020 Meeting

A quorum of six was present, with Commissioner Simmons excused. Commissioners Barbadillo and Vice-Chair Del Rosario were absent. There was no public testimony.

The Commission reviewed the letter Chair Williams had sent to Mayor Victorino on September 11, 2021 about helping the over-burdened Department of Corporation Counsel with CARES Act funds. The Mayor had not responded.

The Commission briefly discussed its active investigations. No new topics for investigation were proposed or discussed.

November 12, 2020 Meeting

All nine members were present, but at 10:15 a.m. Commissioner Werth lost her remote connection and was excused for the remainder of the meeting. There was no public testimony.

The Commission discussed its needs for the Fiscal Year 2021 budget. Chair Williams reported that Council Chair Alice Lee had suggested the Commission seek an increase in its budget for the Technical Writer by \$10,000, and another \$10,000 to fund a pilot program to make County civil litigation court filings publicly accessible. The Commission voted 7-1 to approve the increased budget request, boosting its annual budget from \$30,000 to \$50,000. Commissioner Simmons voted no, and Commissioner Werth was excused.

The Commission reviewed the proposed report recommending that the County explore using Opportunity Zone financing for the Wailuku Parking Structure. Erin Wade, Redevelopment Program Manager with the Department of Management, provided comments on the proposed report. She stated that the Department of Management appreciated the Commission identifying opportunity zones as a potential funding mechanism within the Wailuku Town neighborhood, and agreed that opportunity zones are something that should be evaluated. Ms. Wade explained that for the Wailuku Parking Structure project, there are pitfalls to pivoting the funding strategy to opportunity zones at this time. She stated that the Wailuku Structure funding and bond authorization was approved by the County Council in Fiscal Year 2019, and the Department has moved forward in securing the construction contract as well as the bond issuance package in September 2020.

Ms. Wade explained that there are three issues that warrant further study. First, State procurement law dictates how the County contracts and cancels contracts. She noted that the Commission's report discussed transferring contracts, but the Department had not transferred contracts before and County attorneys indicated additional research would need

to be done to determine how to do this. Second, dropping a project from the County's authorized bond portfolio could have consequences to the County's bond rating. Third, the County's project is of critical importance to the Wailuku business community, as is the project timing and schedule. Any change to private sector funding would need to be evaluated to determine whether it would cause delays and negatively impact these businesses.

Ms. Wade concluded by agreeing that opportunity zones have potential in Wailuku, but that the Department had concerns about using opportunity zones for this particular project and the timing of making a change.

Chair Williams stated that it is the intent of the Commission to encourage the Administration to evaluate the potential to save money on the project. Ms. Wade agreed that the Administration will need to do some additional research.

Corporation Counsel Gary Murai opined that the Commission was not authorized to issue any report other than a single Annual Report, and that, while he was not trying to limit what the Commission did, he was simply pointing out what the Charter says. He stated that the Commission can produce whatever reports it wishes, but that the Auditor's Office, the County Council, and the Mayor are only obligated to consider the Annual Report.

The Commission nevertheless voted to approve and issue the report on financing of the Wailuku Parking Structure. The motion was approved 8-0, with Commissioner Werth excused.

The Commission briefly discussed its active investigations. No new topics for investigation were proposed or discussed.

December 10, 2020 Meeting

All nine members were present. There was no public testimony.

The Commission resumed its discussion of its authority to issue periodic single-topic reports as it finished them. Corporation Counsel Murai said he thought such reports could be subject to challenges and recommended that they be bundled with the Annual Report.

The Commission briefly discussed its active investigations.

New Investigation Topics

The Commission approved the formation, scope and parameters of a Temporary Investigative Group to investigate County Road Safety. Commissioners Pu and Heiskell will serve on the TIG.

The Commission briefly discussed its active investigations. No new topics for investigation were proposed or discussed.

January 14, 2021 Meeting

Eight members were present, with Commissioner Simmons excused. There was no public testimony.

Auditor Lance Taguchi reported that his office had acquired a new laptop for the Commission and delivered it to the Technical Writer.

Chair Williams proposed expanding the scope of the Commission's investigation of short-term rentals to include all visitor accommodations. The Commission voted unanimously (8-0) to approve that expansion.

Maui Police Department (MPD) Sergeant Jan Pontanilla presented information regarding MPD's C.O.R.E. (Critical Outreach and Response through Education) Unit, which works with the homeless, as well as those who have mental health and substance abuse issues.

The Commission reviewed and discussed Charter language pertaining to the COGC specifically and to boards and commissions in general. The Commission discussed the staggering of commission terms, political party affiliation, and the annual report requirement. The Commission agreed to continue reviewing the issues and possibly send a letter to the Charter Commission with its recommendations.

The Commission briefly discussed its active investigations. No new topics for investigation were proposed or discussed.

February 11, 2021 Meeting

Eight commissioners were present, with Commissioner Pu was excused. Deputy Corporation Counsel Keola Whittaker was now the attorney assigned to the COGC.

Councilmember Kelly King offered testimony related to the proposed purchase of The Maui News property, which she saw noted on the Commission's agenda. She stated that the Council had been asked to make the decision about the purchase in three days, but had requested more information. She asked the Commission to provide additional information it might have to the Budget, Finance, and Economic Development Committee. Chair Williams noted that the Commission received an email from a constituent stating his opposition to the proposed purchase and invited him to the meeting, but he was not present. The Commission voted (8-0) to transmit the email to the County Council.

New Investigation Topics

Commissioner O'Neal sought authorization to investigate the County's COVID-19 vaccination plan and to invite a representative to speak to the Commission at its March meeting. A motion to approve the investigation passed 6-1, with Commissioner Werth opposed and Commissioner Pu excused.

Vice-Chair Del Rosario volunteered to investigate the proposed purchase of The Maui News property. The Commission voted 7-0 to approve opening the investigation. Commissioner Pu was excused.

March 11, 2021 Meeting

Eight members were present, with Commissioner Heiskell excused.

During public testimony, both Corporation Counsel Moana Lutey and First Deputy Corporation Counsel Richelle Thompson offered comments on the Commission's continuing quest to create a publicly-accessible database of the court filings in the county's civil litigation. Ms. Lutey stated that to assist members of the public in finding documents in active County litigation, the Department had posted a list of its open litigation matters on its webpage and that the Department will update it a minimum of twice per year.

Ms. Lutey explained that if the Department were tasked with duplicating what already exists in other forums, the Department would require a minimum of two additional full-time clerical staff. In addition, the Information Technology (IT) Division would need to create a searchable database, which could take more than a year to complete.

First Deputy Corporation Counsel Richelle Thompson stated that at any given time, there are approximately 400-500 active civil litigation cases in State and Federal courts, as well as administrative litigation such as contested cases before County boards and commissions. She suggested that perhaps some pleadings could be provided for some of the higher profile cases.

The Commission also heard a presentation by Dr. Lorrin Pang, Maui District Health Officer for the State Department of Health, concerning the vaccine program in Maui County. He shared a PowerPoint presentation entitled "Health Economic Principles."

Chair Williams stated that he presented the Commission's report on private financing of the Wailuku Parking Structure via Opportunity Zones to the Maui Redevelopment Agency. The MRA voted to explore the issue further. Chair Williams also indicated that he would present the information to the Budget, Finance, and Economic Development Committee after the Fiscal Year 2022 budget review process was completed.

With respect to its investigation of the proposed purchase of The Maui News property, Vice-Chair Del Rosario stated that the County Council approved the purchase of the property, and that there was nothing further for the Commission to do.

The Commission briefly discussed its active investigations. No new topics for investigation were proposed or discussed.

The commission voted 8-0 to re-elect Michael Williams as Commission Chair and Michelle Del Rosario as Vice Chair. Commissioner Heiskell was excused.

April 8, 2021 Meeting

Seven members were present, with Commissioner Barbadillo excused, and one vacancy following the resignation of Commissioner Werth. There was no public testimony.

Chair Williams stated that he provided testimony before the Budget, Finance, and Economic Development (BFED) Committee on Monday, April 5 regarding the Commission's proposed budget.

Chair Williams shared a draft update of his investigation on managing tourism by managing visitor accommodations. Vice-Chair Del Rosario noted that Councilmember King planned to refer a bill to create a moratorium on new visitor accommodations being constructed in Maui County until the visitor ratio reaches the County Plan numbers of 33%.

The Commission ended its investigation into the County's COVID vaccination plan, noting that everyone who is eligible now has access to a vaccine.

The Commission briefly discussed its active investigations. No new topics for investigation were proposed or discussed.

May 13, 2021 Meeting

Six members were present, with Commissioner Barbadillo excused, and two vacancies following the resignations of Commissioners Werth and Del Rosario. There was no public testimony.

The Commission unanimously (6-0) elected Noemi Barbadillo as Vice Chair for the remainder of the Commission term.

The Commission unanimously (6-0) approved its "Report on Strengthening the County of Maui's Technology Infrastructure." The report would be transmitted to the Mayor, County Council, County Auditor, and Charter Commission.

The Commission unanimously approved the letter to the Charter Commission requesting that the Charter Commission review issues related both to the Cost of Government Commission (i.e., staggered terms) and boards and commissions. The Commission voted (6-0) to expand the scope of the investigation of County real property tax policies to include all RPT issues, rather than just agricultural lands.

VI. FINAL COMMENTS

The Commission continues to welcome suggestions from the Mayor, County Council, and general public on issues of County economy and efficiency that the Commission might consider reviewing. The Commission encourages the Mayor and the Maui County Council to implement policies that will continue to give taxpayers the best value for their money. Best management practices are strongly recommended to increase systemic efficiencies while reducing uneconomical or wasteful expenditures. The Mayor and the Maui County Council should collaborate to improve government processes, increase efficient implementation of these processes and policies, and balance spending against the efficiency of the provided service.

VII. ACKNOWLEDGMENTS

The Commission would like to thank Mayor Michael Victorino, as well as the members of the Maui County Council, who have continued to support and consider the Commission's work.

The Commission also thanks Department of the Corporation Counsel attorneys Gary Murai, Stephanie Chen, and Keola Whittaker for their guidance, advice, and assistance in ensuring that the Commission is adhering to all legal matters correctly and efficiently.

The Commission would like to thank Ipo Mossman, Community Liaison for the Office of the Mayor and the Ex-Officio Member of the Commission. His time, attention, and assistance in communicating our concerns and questions to the Mayor are greatly appreciated.

The Commission would also like to thank Darlene Endrina, Community Liaison, Office of the Mayor, who attends most meetings as an additional observer for the Mayor.

Finally, the Commission would like to thank the Office of the County Auditor and Shelley Pellegrino, Technical Writer to the Commission, for their professionalism and support.

Respectfully Submitted:



MICHAEL WILLIAMS, CHAIR

6/29/21

DATE

**COST OF GOVERNMENT COMMISSION
2020–2022 ANNUAL REPORT**

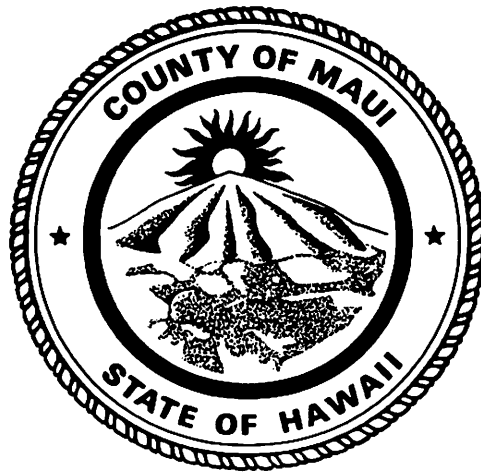
LIST OF APPENDICES

- Appendix A Cost of Government Commission, "Report on Financing of the Wailuku Parking Structure" (November 2020)
- Appendix B Cost of Government Commission, "Report on Strengthening the County of Maui's Technological Infrastructure" (May 2021)
- Appendix C Cost of Government Commission, May 21, 2021 Letter to Maui County Charter Commission Regarding "Proposed Charter Amendments and Recommendations Concerning the Cost of Government Commission and Other Boards and Commissions"

Appendix A

Cost of Government Commission,
“Report on Financing of the Wailuku Parking Structure”
(November 2020)

COUNTY OF MAUI



COST OF GOVERNMENT COMMISSION

REPORT ON FINANCING OF THE WAILUKU PARKING STRUCTURE

November 2020

COST OF GOVERNMENT COMMISSION COUNTY OF MAUI

Report on Financing of the Wailuku Parking Structure

November 2020

*The Commission shall have the power and duty to:
Study and investigate the organizations and methods of operations of all departments,
commissions, boards, offices, and other instrumentality of all branches of the county government
and determine what changes, if any, may be desirable to accomplish the policy set forth herein.¹*

COMMISSIONERS

Michael Williams, Chair
Michelle Del Rosario, Vice Chair
Noemi Barbadillo, Member
Paula Heiskell, Member
Lu Ann Lankford-Faborito, Member
Patrick O'Neil, Member
Susan Pu, Member
Sarah Simmons, Member
Hannah Werth, Member

¹ Charter, County of Maui, Section 3-9.3 (2019)

COST OF GOVERNMENT COMMISSION

Report on Financing of the Wailuku Parking Structure

INTRODUCTION

At its regular meeting of February 20, 2020, the Cost of Government Commission authorized an investigation into the financing of the Wailuku Parking Structure, which is currently being financed as a County-owned project. Based on its investigation and analysis, the Commission recommends that the County solicit private financing, ownership, and management of the Wailuku Parking Structure. Specifically, the County should issue a Request for Proposals to determine whether there is any investor or investor group interested in constructing and operating the Wailuku Parking Structure for ten or more years as an Opportunity Zone investment.

WAILUKU PARKING STRUCTURE HISTORY

Construction of the Wailuku Parking Structure on the site of the Wailuku Civic Complex has long been a goal of the County Administration.¹ So far as the Commission has been able to discern, the County's plan has always been to finance, construct, and operate the parking garage as a County-owned project. It is an unusual project, because the County rarely owns and operates commercial buildings and businesses.

The County Council approved funding the project as a County-owned and operated commercial parking garage in its Fiscal Year 2019 budget, adopted in June 2018. The financing scheme was to use bond funds to pay for construction, and the fees from parking were expected to cover operating costs.

On December 27, 2019, the County awarded a contract for construction of the garage to Hawaiian Dredging Construction Company Inc., at a cost of \$30.2 million.² The 428-stall structure is part of Phase 1B. Phase 1A, to upgrade the underground utilities and the above-ground sidewalks and driveways, is currently underway.³ Vertical construction of the garage is set to begin in March 2021.⁴

¹ See "Wailuku Civic Complex Frequently Asked Questions" (March 27, 2019), p. 4, located at <https://www.mauicounty.gov/DocumentCenter/View/115203/Frequently-Asked-Questions-32719?bidId> (accessed on October 7, 2020).

² See Contract for Construction: Wailuku Civic Complex, Phase 1B for the Department of Management, (Contract No. C6969) (December 24, 2019), located at <https://www.mauicounty.gov/1766/Current-Awards> (accessed on October 7, 2020).

³ See Wailuku Live Construction Updates, located at <https://www.wailukulive.com/construction-updates> (accessed on October 7, 2020).

⁴ Michael Williams, Chair, Cost of Government Commission, telephone call with Erin Wade, Redevelopment Program Manager, Maui Redevelopment Agency, Department of Management, County of Maui, October 7, 2020.

Once construction of the parking garage is complete, the County plans to charge parking fees like a commercial garage would, sufficient to cover the cost of operating the business and maintaining the building.⁵ The County intends to contract with a private vendor to operate the garage.⁶

At the present time, the County must offer bond buyers a return on their investment of about 2% per year, or about \$600,000 each year in interest payments.

OPPORTUNITY ZONES

Congress passed the Tax Cuts and Jobs Act of 2017, which created a tax incentive program to encourage private investors to start up new businesses in economically depressed areas of the country called “Opportunity Zones.” Downtown Wailuku was designated an official Opportunity Zone by Governor David Ige in December 2018⁷, six months after the Council approved the administration’s financing scheme. The State Department of Business, Economic Development and Tourism (DBEDT), through its Business Development and Support Division, maintains a website and knowledgeable staff to assist counties and investors with taking advantage of this federal program.⁸

The Commission consulted with a professional financial adviser who provided an analysis of the federal tax savings that an investor with large capital gains likely could obtain by building and operating a parking garage business in the Wailuku Opportunity Zone. The Commission also contacted Mark Ritchie, Branch Chief, Business Support Branch, DBEDT. Mr. Ritchie suggested that the Commission contact Brent Parker, CPA, a principal in the Long Beach, California office of Novogradac & Company LLP, a large national investment firm that has significant experience with Opportunity Zone investments.

Mr. Parker confirmed that Governor Ige signed legislation in June 2019 to “conform” the State tax code to the Internal Revenue Code,⁹ a full year after the Council approved using County funds to finance the garage. This legislation “allows opportunity zones incentive investments to qualify for the same state tax benefits as federal benefits, although only

⁵ Department of Management, “4_6_DRAFT Wailuku Financial Modeling Workbook.” See Exhibit A.

⁶ See “Wailuku Civic Complex Frequently Asked Questions,” *supra* note 1, p. 11.

⁷ See “Opportunity Zones, tax incentives could aid redevelopment,” *The Maui News* (December 17, 2018), located at <https://www.mauinews.com/news/local-news/2018/12/opportunity-zones-tax-incentives-could-aid-redevelopment/> (accessed on October 7, 2020). See also Teena Rasmussen, Mayor’s Office of Economic Development, “Maui County Opportunity Zones” (July 2019), located at https://invest.hawaii.gov/oz/wp-content/uploads/sites/2/2019/07/county_of_maui.pdf (accessed on October 7, 2020).

⁸ See Business and Support Division, Hawaii Department of Business, Economic Development, and Tourism, “Hawaii Opportunity Zones,” located at <https://invest.hawaii.gov/oz/> (accessed on October 7, 2020).

⁹ See Novogradac News and Analysis, “Governor Signs Bill Conforming Hawaii Tax Code to IRS” (June 13, 2019), located at <https://www.novoco.com/news/governor-signs-bill-conforming-hawaii-tax-code-irc> (accessed on October 7, 2020).

for OZ investments in Hawaii.”¹⁰ In other words, investors would receive the same benefits for state taxes as they do federal if they invest in or sell a property in a Hawaii Opportunity Zone. Furthermore, investors with capital gains to shelter in 46 of the 50 states can do the same, which means the County need not restrict its search for an Opportunity Zone investor to just this state.

Unfortunately, Novogradac's policies would not allow Mr. Parker to do any further work on this project without a signed engagement letter with the COGC, including a commitment to pay a fee. The COGC has no budget for the retention of experts. The Finance Department can quickly determine if there are Opportunity Zone investors interested in this Maui business prospect, by retaining Novogradac or similar investment advisors.

BENEFITS OF OPPORTUNITY ZONE FINANCING FOR THE WAILUKU PARKING STRUCTURE

The Commission contends that the County could save \$5-6 million if it were to lease the land to an investor or qualified investment fund, transfer the construction contract to that investor, and have that investor own and operate the garage for at least ten years. Here's why:

An Opportunity Zone investor with \$30+ million in capital gains from a recent sale of real estate agrees to build and operate the Wailuku Parking Garage on land leased from Maui County. The Opportunity Zone investor executes a 10-year lease of the land that includes a buy-back of the improvements by Maui County at the end of the lease. The County assigns the construction contract to the investor, and the investor builds and operates the garage for 10 years.

The Opportunity Zone investor has a 23.8% federal capital gains tax liability, or \$7.14 million, on the old gain of \$30 million, plus a state capital gains tax, depending on where he/she/it is domiciled. In Hawaii, this rate is 11%, or \$3.3 million. By investing these funds in an Opportunity Zone project and holding the Opportunity Zone asset for 10 years, a Hawaii-based investor eliminates the \$7.14 million federal capital gains tax liability and the state capital gains tax liability of \$3.3 million in Hawaii. So, the effective purchase cost to the investor is reduced from \$30 million to less than \$20 million.

Most commercial real estate is subject to a 39-year depreciation schedule, so over 10 years, the investor will depreciate the parking structure by \$7.7 million.

If Maui County were to agree to purchase the garage at the end of the lease for \$30 million, the County would benefit financially because it would not have had to expend the \$30 million up front and building a new garage in 10 years could cost \$40 million. The County gets its garage now and pays a fair price for it 10 years later.

The investor also benefits by saving the federal and state capital gains tax on the original \$30 million (\$10.44 million) AND saving the tax on recaptured depreciation. It is not

¹⁰ Id.

possible to estimate this additional tax savings precisely, because it depends on what the federal and state tax rates are ten years from now, but using today's rates, the investor would save 34.8% of the \$7.7 million of recaptured depreciation, or approximately \$2.6 million more. In total, the Hawaii-domiciled Opportunity Zone investor gains \$13 million. In addition, the investor has benefitted by \$770,000/year in depreciation tax shield for 10 years, for a grand total of \$20.7 million, or a 69.1% total return on its \$30 million investment. It is this large potential profit that should lead to bids by investors for this business opportunity.

There is one additional possible tax subsidy for the Opportunity Zone investor. If the investor could find a private buyer for the garage in 2031 who would pay more than \$30 million, the investor would save the additional capital gains tax on any sale price above \$30 million.

There are likely to be multiple investors who would compete for the chance at these gains, which means the County could maximize its benefit by issuing a Request for Proposals to build and operate the garage. It is possible some Opportunity Zone investors would be willing to accept less than the 69% return and agree to a resale price to the County of less than \$30 million.

How much money can the County save if it finds an Opportunity Zone investor to take over the construction, operation, and ownership of the Wailuku Parking Structure? If the County finances the construction contract with bonds, it will pay 2% in interest for the next ten years. On a \$30 million bond sale, the County would pay \$600,000 in the first year, and a slightly declining amount as the bond principal is paid back, just like the amortization on a home mortgage. The County saves the legal and accounting fees to issue the bonds, and it does not diminish its bonding capacity for other capital projects in the next ten years.

The County also saves the cost of having its employees oversee the management of the garage or having to pay a private management company to operate the garage. Over 10 years, that will be several hundred thousand dollars or more in additional savings to the County.

It is likely then that the County could save \$5-6 million or more by recruiting an Opportunity Zone investor to build, own, and operate the garage.¹¹

COUNTY'S INADEQUATE EVALUATION OF THE OPPORTUNITY ZONES OPTION

As far as the Commission has been able to determine, the Administration never considered or presented to the County Council the option of finding a private investor to finance, construct and manage the Wailuku Parking Garage after the Opportunity Zone federal subsidy was created in December 2017, after Wailuku was designated an Opportunity Zone in December 2018, and after the State's tax laws were changed in June 2019.

¹¹ Maybe a better alternative is to leave the garage in private hands indefinitely—the parking will still be available no matter who owns it.

The Commission corresponded with Managing Director Sandy Baz on two separate occasions to gather information about the Wailuku Parking Structure financing.¹² In his June 15, 2020 response, Director Baz recited a history of discussions with private developers about a partnership with the County on the garage, but those meetings were long before the federal and state Opportunity Zone tax subsidies were created, since they occurred before the County started its own design work on the garage.¹³ Mr. Baz stated that any private investor “would have to make enough revenue to cover the cost of construction, plus operations and maintenance, plus a profit. Our expectation is that the revenue generated from the garage will only be enough to cover the management and operations.”¹⁴ This statement misses the point; the profit needed by the private investor comes from the enormous tax subsidies, not garage revenue. These tax subsidies are not available to the County as an owner.

Managing Director Baz’s August 12, 2020 letter offers additional reasons for not seeking bids from private investors.¹⁵ First, he says asking for private bids will prolong the project.¹⁶ The Commission is not suggesting that construction be delayed, but only that ownership be transferred while construction continues.

Second, Mr. Baz says the public ownership model will allow the County to maintain control and flexibility over the use of the garage.¹⁷ The Commission contends, however, that whatever controls and flexibility the County wants can be set forth in the contract with the Opportunity Zone investor.

Finally, Mr. Baz argues that the cost to the County is low because bond interest rates are low. While this may be true, the Commission asserts that the County would pay zero interest if private capital is used—which is the point of Opportunity Zone tax subsidies.

The Commission concludes that the site of the Wailuku Parking Structure is known to be in an Opportunity Zone, and the Administration should carefully assess that option. Parking garages are operated as private businesses all around the world. Maui County should not automatically assume that government ownership and operation of such a business should be the first and/or only option.

¹² See Letter from Michael Williams, Chair, Cost of Government Commission, to Sandy Baz, Managing Director, Regarding “Use of Federal Opportunity Zone Tax Subsidies to Finance Wailuku Parking Structure” (May 12, 2020); Letter from Michael Williams, Chair, Cost of Government Commission, to Sandy Baz, Managing Director, Regarding “Use of Federal Opportunity Zone Tax Subsidies to Finance Wailuku Parking Structure” (August 3, 2020). See Exhibits B and C.

¹³ Letter from Sandy Baz, Managing Director, to Michael Williams, Chair, Cost of Government Commission, Regarding “March 2, 2020 Inquiry Email” (Opportunity Zone Federal Tax Subsidies for Wailuku Parking Garage) (June 20, 2020). See Exhibit D.

¹⁴ Id., p. 2.

¹⁵ Letter from Sandy Baz, Managing Director, to Michael Williams, Chair, Cost of Government Commission, Regarding “Use of Federal Opportunity Zone Tax Subsidies to Finance Wailuku Parking Structure” (August 12, 2020). See Exhibit E.

¹⁶ Id., p. 1.

¹⁷ Id., p. 2.

RECOMMENDATION

The Cost of Government Commission recommends that the County solicit bids for private financing, ownership, and management of the Wailuku Parking Structure. Specifically, the County should issue a Request for Proposals to determine whether there is any investor or investor group interested in constructing and operating the Wailuku Parking Structure for ten or more years as an Opportunity Zone investment.

**COST OF GOVERNMENT COMMISSION
WAILUKU PARKING STRUCTURE FINANCING**

LIST OF EXHIBITS

- | | |
|-----------|--|
| Exhibit A | Department of Management, "4_6_DRAFT Wailuku Financial Modeling Workbook" |
| Exhibit B | Letter from Michael Williams, Chair, Cost of Government Commission, to Sandy Baz, Managing Director, Regarding "Use of Federal Opportunity Zone Tax Subsidies to Finance Wailuku Parking Structure" (May 12, 2020) |
| Exhibit C | Letter from Michael Williams, Chair, Cost of Government Commission, to Sandy Baz, Managing Director, Regarding "Use of Federal Opportunity Zone Tax Subsidies to Finance Wailuku Parking Structure" (August 3, 2020) |
| Exhibit D | Letter from Sandy Baz, Managing Director, to Michael Williams, Chair, Cost of Government Commission, Regarding "March 2, 2020 Inquiry Email" (Opportunity Zone Federal Tax Subsidies for Wailuku Parking Garage) (June 20, 2020) |
| Exhibit E | Letter from Sandy Baz, Managing Director, to Michael Williams, Chair, Cost of Government Commission, Regarding "Use of Federal Opportunity Zone Tax Subsidies to Finance Wailuku Parking Structure" (August 12, 2020) |

Exhibit A

Department of Management,
"4_6_DRAFT Wailuku Financial Modeling Workbook"

DRAFT

Wailuku On-Street Summary of Costs

Equipment	Dual Space Meters*	Single Space Meters	Pay Stations
Quantity of Units**	27	0	22
Cost of Base Unit / Housing / Pole	\$1,350.00	\$1,000.00	\$8,500.00
Meter Warranty (applies Years 2 & 3)	\$100.00	\$50.00	\$450.00
Monthly Meter Software Fees - Per Unit	\$11.50	\$5.75	\$55.00
Monthly CC Processing Fees - Per Transaction	\$0.13	\$0.13	\$0.13
Estimated # of Credit Card Trans Per Unit / Per Day	6	3	17

Projected Cost

	Dual Space Meters	Single Space Meters	Pay Stations
Equipment Cost ***	\$36,450	\$0	\$187,000
Annual Estimated Software Fees	\$3,726	\$0	\$14,520
Annual Estimated Credit Card Transaction Fees	\$5,160	\$0	\$11,912
Annual Estimated Cost of Additional Spares & Misc ****	\$1,823	\$0	\$9,350
Subtotal Annual Operating Cost	\$10,708	\$0	\$35,782
Annual Warranty Cost (Year 2 and Onward)	\$2,700	\$0	\$9,900
Total Estimated Equipment and Operating Cost - Year 1	\$47,158	\$0	\$222,782
Total Estimated Equipment and Operating Cost - Years 1&2	\$60,566	\$0	\$268,464
Total Estimated Equipment and Operating Cost - Years 1,2&3	\$73,975	\$0	\$314,146
Total Estimated Equipment and Operating Cost - Years 1,2,3&4	\$87,383	\$0	\$359,828
Total Estimated Equipment and Operating Cost - Years 1,2,3,4&5	\$100,791	\$0	\$405,510

Combined Total

Annual Cost: Year 1	\$269,940
Years 1 & 2	\$329,030
Years 1, 2 & 3	\$388,120
Years 1, 2, 3 & 4	\$447,210
Years 1, 2, 3, 4 & 5	\$506,301

*Dual space meters have one meter head to serve two parking spaces vs. single space meters which may be dual-mounted on the same pole with a shared yoke.

**Estimated quantities are based on space counts by block. This model assumes dual-space for Market St (between Main and Vineyard) and pay statinos for the remaining paid parking areas.

***Estimated equipment costs may not include freight, etc. All workbook pricing has been estimated. A quote should be obtained from a qualified Vendor for the most accurate and up to date costs.

****In order to account for some of the unforeseen misc. costs we have estimated 5% of the initial equipment expense as part of the annually on-going support costs. You will see this value represented in row 16 above.

Financial Modeling Workbook Instructions

This model is a baseline projection and should be used as a tool to estimate potential revenues and expenditures. The revenue worksheet enables the County to adjust their inputs to project several different scenarios. The model allows the County to set different parking rates and/or operating hours for on-street parking, shared school spaces, as well as off-street hourly and permit parking. Separate worksheets have been included to calculate on-street and off-street equipment and operating costs.

The cells in white are meant to remain relatively consistent, grey cells may require adjustment, and the blue cells should be reviewed and modified.

Equipment Types:

Dual Space Meters: single head meters on one pole with an interface that serves two spaces at a time.

Single Space Meters: single head meters, each meant to serve one space. These may be dual-mounted on the same pole using an additional piece of hardware called a yoke. When dual-mounting, the cost savings from the poles is similar to the added cost of the yoke. Therefore, when forecasting dual-mounted single-space meters, simply double the amount of single-space meters in the workbook.

Pay Stations (Multi-Space Meters): pay stations normally serve 7 to 12 on-street spaces, and a typical surface lot requires 1 to 4 pay stations depending upon the configuration and number of access points.

The variables included and how each of the inputs can be changed is explained below:

Revenue Projection Variables:Hourly Rate

The County can adjust the rate per hour as required. We have included a drop-down arrow which allows for the selection of a rate between \$1.00 - \$5.50 in twenty-five cent increments.

Operating Days Per Year

The Operating Days Per Year represent the number of days in the year when parking rates will be enforced.

Hours of Operation

The model is based on the County enforcing from the hours of 9am-5pm. We have also included a drop-down selection so the County can adjust the enforcement start and end time as required.

Compliance Percentage

The Compliance Percentage value represents the estimated percentage of people who will comply and pay for parking as mandated by the law. The percentage can be adjusted as required.

Average Daily Occupancy

This value represents the average percent of spaces that are occupied throughout the day during the operating hours, which is based on collected occupancy data.

Low-Income Rate

Employees with an annual income below a specified threshold could be eligible for a reduced permit rate.

DRAFT

Wailuku Financial Dashboard

Year 1	On-Street	Off-Street	Total
Projected Revenue	\$209,916.00	\$164,210.62	\$374,126.62
Estimated Equipment and Operating Costs	\$269,940.10	\$256,976.20	\$526,916.30
Net Gain/Loss	-\$60,024.10	-\$92,765.58	-\$152,789.68
Year 2	On-Street	Off-Street	Total
Cumulative Projected Revenue	\$419,832.00	\$328,421.24	\$748,253.24
Cumulative Estimated Equipment and Operating Costs	\$329,030.20	\$260,126.20	\$589,156.40
Cumulative Net Gain/Loss	\$90,801.80	\$68,295.04	\$159,096.84
Year 3	On-Street	Off-Street	Total
Cumulative Projected Revenue	\$629,748.00	\$492,631.86	\$1,122,379.86
Cumulative Estimated Equipment and Operating Costs	\$388,120.30	\$263,276.20	\$651,396.50
Cumulative Net Gain/Loss	\$241,627.70	\$229,355.66	\$470,983.36
Year 4	On-Street	Off-Street	Total
Cumulative Projected Revenue	\$839,664.00	\$656,842.48	\$1,496,506.48
Cumulative Estimated Equipment and Operating Costs	\$447,210.40	\$266,426.20	\$713,636.60
Cumulative Net Gain/Loss	\$392,453.60	\$390,416.28	\$782,869.88
Year 5	On-Street	Off-Street	Total
Cumulative Projected Revenue	\$1,049,580.00	\$821,053.10	\$1,870,633.10
Cumulative Estimated Equipment and Operating Costs	\$506,300.50	\$269,576.20	\$775,876.70
Cumulative Net Gain/Loss	\$543,279.50	\$551,476.90	\$1,094,756.40

DRAFT**Wailuku On-Street Paid Parking Revenue Projections**

Location	On-Street Hourly Spaces		
Hourly Rate	\$1.00		
Spaces*	255		
Annual Operating Days	Year-Round		
	245		
Daily Operating Hours	Hours	Start Time	End Time
	8	9:00 AM	5:00 PM
Compliance Rate	60%		
Average Daily Occupancy**	70%		

On-Street Projected Revenue Summary**On-Street Hourly Spaces**

Annual Revenue: Year 1	\$209,916.00
Years 1 & 2	\$419,832.00
Years 1, 2, & 3	\$629,748.00
Years 1, 2, 3 & 4	\$839,664.00
Years 1, 2, 3, 4 & 5	\$1,049,580.00

**Assuming paid parking at all current time limited locations, with the addition of High Street between Main and Vineyard, Vineyard Street between Market and Central*

***This value is the average daily occupancy for the proposed paid parking zones*

DRAFT

Wailuku Off-Street Street Space Allocations

Location	Civic Hub Garage	Vineyard Street Lot	County Public Lot	Wells Park Lot	Tennis Court Lot	Remote Location
Number of Lot Spaces	428	16	28	14	34	0
Percent Permit Spaces*	25%	0%	0%	0%	0%	0%

Off-Street Hourly Parking Revenue Projections

Location	Civic Hub Garage	Vineyard Street Lot	County Public Lot	Wells Park Lot	Tennis Court Lot	Remote Location
Hourly Rate	\$0.50	\$0.50	\$0.50	\$0.00	\$0.00	\$0.00
Number of Hourly Spaces	253	16	28	14	34	0
Operating Days per Year	245	245	245	245	245	245
Operating Hours	Hours Start Time End Time	Hours Start Time End Time	Hours Start Time End Time	Hours Start Time End Time	Hours Start Time End Time	Hours Start Time End Time
	8 9:00 AM 5:00 PM	8 9:00 AM 5:00 PM	8 9:00 AM 5:00 PM	8 9:00 AM 5:00 PM	8 9:00 AM 5:00 PM	8 9:00 AM 5:00 PM
Compliance Percentage**	95%	60%	60%	60%	60%	60%
Average Daily Occupancy***	34%	69%	57%	63%	13%	0%

Permit Parking Revenue Projections

Location	Civic Hub Garage	Vineyard Street Lot	County Public Lot	Wells Park Lot	Tennis Court Lot	Remote Location
Monthly Rate	\$40.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Low-Income Rate	\$10.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Number of Permit Spaces	175	0	0	0	0	0
Percent Low-Income Permits	25%	25%	25%	25%	25%	25%

Off-Street Revenue Projections

Off-Street Hourly Spaces	Civic Hub Garage	Vineyard Street Lot	County Public Lot	Wells Park Lot	Tennis Court Lot	Remote Location
Annual Revenue Year 1	\$80,084.62	\$6,491.52	\$0,384.48	\$0.00	\$0.00	\$0.00
Years 1 & 2	\$160,169.24	\$12,983.04	\$18,768.96	\$0.00	\$0.00	\$0.00
Years 1, 2, & 3	\$240,253.86	\$19,474.56	\$28,153.44	\$0.00	\$0.00	\$0.00
Years 1, 2, 3 & 4	\$320,338.48	\$25,966.08	\$37,537.92	\$0.00	\$0.00	\$0.00
Years 1, 2, 3, 4 & 5	\$400,423.10	\$32,457.60	\$46,922.40	\$0.00	\$0.00	\$0.00
Off-Street Permit Spaces	Civic Hub Garage	Vineyard Street Lot	County Public Lot	Wells Park Lot	Tennis Court Lot	Remote Location
Annual Revenue Year 1	\$68,250.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Years 1 & 2	\$136,500.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Years 1, 2, & 3	\$204,750.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Years 1, 2, 3 & 4	\$273,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Years 1, 2, 3, 4 & 5	\$341,250.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Combined Total						
Annual Revenue Year 1	\$148,334.62	\$6,491.52	\$0,384.48	\$0.00	\$0.00	\$0.00
Years 1 & 2	\$296,669.24	\$12,983.04	\$19,153.44	\$0.00	\$0.00	\$0.00
Years 1, 2, & 3	\$445,003.86	\$19,474.56	\$29,537.92	\$0.00	\$0.00	\$0.00
Years 1, 2, 3 & 4	\$593,338.48	\$25,966.08	\$39,922.40	\$0.00	\$0.00	\$0.00
Years 1, 2, 3, 4 & 5	\$741,673.10	\$32,457.60	\$50,307.84	\$0.00	\$0.00	\$0.00

*The percent of spaces allocated for permit parking will be dependent on whether the County implements a remote parking location for employee parking

**95% compliance rate assumed for the Civic Hub Garage because it will be gated

***Civic Hub occupancy rate is based on the current occupancy rate with the post construction inventory

DRAFT

Wailuku Off-Street Summary of Costs: Pay Stations

	Civic Hub Garage	Vineyard Street Lot	County Public Lot	Wells Park Lot	Tennis Court Lot	Remote Location
Equipment Type	PARCS (Gated)	Pay Stations	Pay Stations	Pay Stations	Pay Stations	Pay Stations
Access Points (Ingress/Egress) / Qty of Units	4	2	5	0	0	0
Ingress/Egress Equipment Cost / Pay Station Cost	\$27,500	\$8,500	\$8,500	\$8,500	\$8,500	\$8,500
Pay on Foot Equip - Credit Card Only (\$19,000/unit)	3	NA	NA	NA	NA	NA
Pay on Foot Equip with Bill Note Acceptor (\$34,000/unit)	0	NA	NA	NA	NA	NA
Annual Software Fee - Per Access Point / Unit	\$3,077	\$650	\$650	\$650	\$650	\$650
Warranty	NA	\$450	\$450	\$450	\$450	\$450
Monthly Credit Card Processing Fees - Per Transaction	NA	\$0.13	\$0.13	\$0.13	\$0.13	\$0.13
Estimated Number of Credit Card Transactions Per Unit / Per Day	NA	11	10	0	0	0

Projected Cost

	Civic Hub Garage	Vineyard Street Lot	County Public Lot	Wells Park Lot	Tennis Court Lot	Remote Location
Equipment Cost*	\$167,000	\$17,000	\$42,500	\$0	\$0	\$0
Estimated Software Fees - Year 1	\$12,308	\$1,300	\$3,250	\$0	\$0	\$0
Estimated Credit Card Transaction Fees - Year 1	NA	\$701	\$1,693	\$0	\$0	\$0
Estimated Cost of Additional Spares & Misc - Year 1**	\$8,350	\$850	\$2,125	\$0	\$0	\$0
Subtotal Operating Cost	\$20,658	\$2,851	\$6,968	\$0	\$0	\$0
Total	\$187,658	\$19,851	\$49,468	\$0	\$0	\$0
Warranty Cost Per Year	Included	\$900	\$2,250	\$0	\$0	\$0

Combined Total

Combined Total Estimated Equipment and Operating Cost - Year 1	\$256,976
Combined Total Estimated Equipment and Operating Cost - Years 1&2	\$260,126
Combined Total Estimated Equipment and Operating Cost - Years 1,2&3	\$263,276
Combined Total Estimated Equipment and Operating Cost - Years 1,2,3&4	\$266,426
Combined Total Estimated Equipment and Operating Cost - Years 1,2,3,4&5	\$269,576

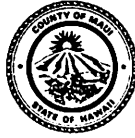
*All workbook pricing has been estimated. A quote should be obtained from a qualified Vendor for the most accurate and up to date costs.

**In order to account for some of the unforeseen misc. costs we have estimated 5% of the initial equipment expense as part of the annually on-going support costs. You will see this value represented in row 19 above.

Exhibit B

Letter from Michael Williams, Chair, Cost of Government Commission,
to Sandy Baz, Managing Director,
Regarding "Use of Federal Opportunity Zone Tax Subsidies to Finance
Wailuku Parking Structure" (May 12, 2020)

Michael Williams, Chair



COST OF GOVERNMENT COMMISSION

COUNTY OF MAUI
2145 WELLS STREET, SUITE 303
WAILUKU, MAUI, HAWAII 96793

May 12, 2020

Sandy K. Baz, Managing Director
County of Maui
200 South High Street
Wailuku, HI 96793

Aloha Mr. Baz:

**SUBJECT: USE OF FEDERAL OPPORTUNITY ZONE TAX SUBSIDIES TO
FINANCE WAILUKU PARKING STRUCTURE**

At its February 20, 2020 meeting, the Cost of Government Commission (COGC) voted 9-0 to authorize me, as Chair, to inquire into this question: Given the creation of Opportunity Zone Federal tax subsidies for private investments in Wailuku by the 2017 Federal Tax Cuts and Jobs Act, wouldn't the County save money by having the garage financed and owned by private investors?

On March 2, I sent an email to you and Director Scott Teruya, with my initial questions and document requests. A copy of that email is attached to this letter. So far as I am aware, the Administration has not responded to that email. On Monday morning, May 11, I left a voicemail at your office asking for a discussion of this inquiry. As far as I am aware, no one has returned that call.

Since sending the March 2 email, I have learned that the County has signed a construction contract for the parking structure with Hawaiian Dredging Construction Co. Inc., and that the first construction for the project is not slated to start until at least December 2020.

On behalf of the Cost of Government Commission, I request a telephone conference, or telemeeting, with the persons in the Administration who can answer these initial questions:

1. Has the County done any analysis of the tax savings that would accrue to a private investor who would finance, own, and operate that parking structure because of the Opportunity Zone tax subsidies? If yes, identify the person who performed that analysis and provide any written documents describing it. If no, please explain why not.
2. What is the expected cost to the County of constructing the structure? Please provide copies of the documents showing this.

3. If the County is planning to finance the construction with bonds, what is the projected amount the County plans to borrow and what is the payoff schedule of principal and interest on the bonds? Please provide the budget documents that reflect these costs.
4. How much will the County pay in legal fees or other costs associated with issuing the bonds?
5. What is the expected cost of operating the structure? Please provide copies of documents analyzing this question.
6. What is the expected revenue stream from the fees charged for parking?
7. What are the expected maintenance costs of the structure over its useful lifetime?
8. Please provide a copy of the construction contract.
9. Please provide a copy of the construction management contract the County has for the structure.
10. What plans does the County have to provide free or reduced-price parking for County employees?
11. To the extent the County wants to provide free or reduced-price parking to its employees, why couldn't it write such conditions into the new Request for Proposals (RFP) for a privately owned garage?
12. What objections or obstacles would prevent the County from issuing an RFP to private investors to take over the construction contract, ownership, and management of the structure for at least ten years?

Mahalo for your attention to these questions and requests for documents.

Sincerely,

MICHAEL WILLIAMS
Chair

Attachment

cc: Scott Teruya, Director of Finance
Lance Taguchi, County Auditor

From: Michael Williams

Sent: Monday, March 2, 2020 1:25 PM

To: Sandy Baz <Sandy.Baz@co.maui.hi.us>; scott.teruya@co.maui.hi.us

Subject: Cost Of Government Commission inquiry: why not build the Wailuku Parking Garage with private capital?

Aloha, Sandy and Scott. This email is an official communication from the Cost of Government Commission. At its February 20 meeting, the COGC voted 9-0 to authorize me, as Chair, to inquire into this question: Given the creation of Opportunity Zone federal tax subsidies for private investments in Wailuku by the 2017 federal Tax Cuts and Jobs Act, wouldn't the county save money by having the garage built by private investors?

Opportunity zones are designed to spur economic development by providing tax benefits to investors. If the investor holds the investment in the Opportunity Fund for at least ten years, the investor is eligible for an increase in basis of the QOF investment equal to its fair market value on the date that the QOF investment is sold or exchanged. If the garage will cost \$20 million to build, and if the investor has \$20 million in capital gains to shelter, then after ten years the investor saves 20% or \$4 million dollars. In effect, the federal government will provide a \$4 million subsidy to the cost of the garage, and the County avoids having to use \$20 million of its bonding capacity.

Here is the basic question for the County: If it will take \$20 million in capital funds to build the garage, isn't it true that a private developer can take advantage of the federal tax subsidy to reduce the effective cost of the structure by the amount of the subsidy, while the County using its own capital cannot?

To the extent the County wants to provide free or reduced-price parking to its employees, why couldn't it write such conditions into the new RFP for a privately owned garage?

I would like to meet with someone in the county administration to discuss these questions, but first, I ask that you provide the Commission with the following documents:

1. The RFP issued by the County for construction firms to bid on the contract to build the garage.
2. The winning proposal.
3. Any contracts signed by the County with the winning contractor concerning the garage construction.
4. Any projections the County has made of the cost of operating the garage for the first ten years.
5. Any projections the county has made of the cost of maintaining the garage in its first ten year of use.
6. Any projection the County has made of the revenues that will be generated by parking fees from garage users.
7. Any plans the County has to provide free or reduced-price parking for County employees.
8. Documents reflecting the likely date when construction of the garage will begin under the current plan.

If it would help to have a phone call to clarify these document requests, please call me anytime at 808-264-4884.

Mahalo for your attention to this inquiry.

Michael Williams, Chair, Cost of Government Commission

Exhibit C

Letter from Michael Williams, Chair, Cost of Government Commission,
to Sandy Baz, Managing Director,
Regarding "Use of Federal Opportunity Zone Tax Subsidies to Finance
Wailuku Parking Structure" (August 3, 2020)



COST OF GOVERNMENT COMMISSION

COUNTY OF MAUI

2145 WELLS STREET, SUITE 303
WAILUKU, MAUI, HAWAII 96793

August 3, 2020

Sandy K. Baz, Managing Director
County of Maui
200 South High Street
Wailuku, HI 96793

Aloha Mr. Baz:

**SUBJECT: USE OF FEDERAL OPPORTUNITY ZONE TAX SUBSIDIES TO
FINANCE WAILUKU PARKING STRUCTURE**

Mahalo for your June 15, 2020 letter, responding to my first inquiry email of March 20, 2020, and then my formal follow-up letter of May 12, 2020, and for compiling and sending the contract documents we requested.

After reviewing your response, I conducted some further investigation.

I consulted a friend, Trip Lynch, who is a professional financial adviser to investors, and who is familiar with the federal tax subsidies available to owners of commercial buildings. He provided me with an analysis of the likely federal tax savings an investor with large capital gains could obtain by building and operating a parking garage business in the Wailuku Opportunity Zone (OZ). However, he was not able to tell me if Hawaii-based investors could avoid state capital gains taxes in addition to the federal OZ tax subsidies.

I spoke with Mark Ritchie, Branch Chief, Business Support Branch, Hawaii Department of Business, Economic Development and Tourism, 808-587-2785, and explained the situation. He suggested I contact Brent Parker, CPA, a principal in the Long Beach, California, office of Novogradac & Company LLP, a large national investment firm that has significant experience with Opportunity Zone investments.

When I called Mr. Parker, he checked their master data base, and confirmed Hawaii changed its capital gains tax rules last year to "conform" them to the federal rules. In fact, investors with capital gains to shelter in 46 of the 50 states can do the same, which means the County need not restrict its search for an OZ investor just in this state.

What follows is a summary of what I have learned.

Based on conversations with financial experts, I believe the County could save \$5–6 million over the next ten years were it to lease the land to an investor or qualified investment fund, transfer the construction contract to that investor, and have that investor own and operate the garage for ten years. Here's why:

An Opportunity Zone investor with \$30+ million in capital gains from a recent sale of real estate agrees to build and operate a parking garage in Wailuku on land leased from Maui County. The OZ investor executes a 10-year lease of the land that includes a buy-back of the improvements by Maui County at the end of the lease. The County assigns the construction contract to the investor, and the investor builds and operates the garage for 10 years.

Our OZ investor has a 23.8% federal capital gains tax liability, or \$7.14 million, on the old gain of \$30 million, plus a state capital gains tax, depending on where he/she/it is domiciled. In Hawaii, this rate is 11%, or \$3.3 million. By investing these funds in an OZ project and holding the OZ asset for 10 years, a Hawaii-based OZ investor eliminates the \$7.14 million federal capital gains tax liability and the state capital gains tax liability of \$3.3 million in Hawaii. So, the effective purchase cost to the investor is reduced from \$30 million to less than \$20 million.

Under the current plan, the County intends to charge a fair market rate for the parking slots. As you state in your letter, "the revenue generated by the garage will be enough to cover management and operations" costs.

There are additional tax advantages to the private owner of the garage business that are not available to a County-owned business: Non-cash expenses, mainly depreciation, are useful to the OZ investor to offset other portfolio income. Most commercial real estate is subject to a 27½-year depreciation schedule, so over 10 years our investor will depreciate the parking structure by \$10.9 million.

Let's say Maui County agrees to purchase the garage at the end of the lease for \$30 million — a great deal for the County, as it did not have to lay out the \$30 million up front, and building a new one in 10 years would cost \$40 million. The County gets its garage now and pays a fair price for it 10 years later.

Our investor saves the federal and state capital gains tax on the original \$30 million (\$10.44 million) AND saves the tax on recaptured depreciation (\$2.6 million). In total, the Hawaii-domiciled OZ investor gains \$13 million. PLUS, the investor has benefitted from over \$1 million per year in depreciation tax shield for 10 years. Grand total: \$24 million, or a 79.8% total return on his \$30 million investment.

There are likely to be multiple investors who would compete for the chance at these gains, which means the County would get the best deal by issuing a Request for Proposals to build and operate the garage.

How much money can the County save if it finds an Opportunity Zone investor to take over the construction, operation, and ownership of the Wailuku Parking Structure? If the County finances the construction contract with bonds, it will pay 2.25% in interest for the next ten years. On a \$30 million dollar bond sale, the County would pay \$675,000 in the first year, and a slightly declining amount as the bond principal is paid back, just like the amortization on a home mortgage. The County saves the legal and accounting fees to issue the bonds, and it does not diminish its bonding capacity for other capital projects in the next ten years.

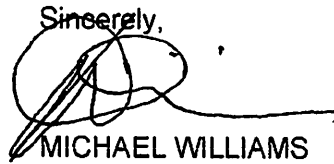
The County also saves the cost of having its employees oversee the management of the garage or having to pay a private management company to operate the garage. Over 10 years, that will be several hundred thousand dollars or more in additional savings to the County.

It is likely then that the County could save \$5–6 million or more by recruiting an Opportunity Zone investor to build, own, and operate the garage.

I respectfully request that you and your financial people take a second look at this. I will wait for your response before asking the Cost of Government Commission to issue a report on this investigation. Our next meeting (via BlueJeans) is on Thursday, August 13. If we could have your response by then, I would appreciate it.

Again, mahalo for your cooperation in this inquiry.

Sincerely,

A handwritten signature in black ink, appearing to be 'Michael Williams', written over a circular stamp or seal.

MICHAEL WILLIAMS
Chair

cc: Scott Teruya, Director of Finance
Gary Murai, Deputy Corporation Counsel
Lance Taguchi, County Auditor

Exhibit D

Letter from Sandy Baz, Managing Director,
to Michael Williams, Chair, Cost of Government Commission,
Regarding "March 2, 2020 Inquiry Email" (Opportunity Zone Federal Tax
Subsidies for Wailuku Parking Garage) (June 20, 2020)

MICHAEL P. VICTORINO
Mayor

SANDY K. BAZ
Managing Director

JOSIAH K. NISHITA
Deputy Managing Director



DEPARTMENT OF MANAGEMENT
COUNTY OF MAUI
200 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793

June 15, 2020

Honorable Michael P. Victorino
Mayor, County of Maui
200 South High Street
Wailuku, Hawaii 96793

For Transmittal to:

APPROVED FOR TRANSMITTAL

Michael Williams, Chair
Cost of Government Commission
Maui County Council
200 South High Street
Wailuku, HI 96793



Mayor Date

Dear Mr. Williams:

SUBJECT: **March 2, 2020 Inquiry Email**

Thank you for your email dated March 2, 2020 requesting information to the following questions:

1. **Given the creation of Opportunity Zone federal tax subsidies for private investments in Wailuku by the 2017 federal Tax Cuts and Jobs Act, wouldn't the county save money by having the garage built by private investors?**

Opportunity Zones have been touted as an investment tool intended to revitalize economically distressed neighborhoods, and for the right types of projects, this is true. It is important to understand at the outset that Opportunity Zones are essentially a tax shelter mechanism for capital gains. Therefore, those investing money into Opportunity Zone projects expect to get that money back without capital gains penalties.. To do this an investor would have to sell their interest when the benefits of the Opportunity Zone expire in 10 years.

Prior to County beginning its own design work on the parking structure, staff meet with multiple companies managing and operating parking facilities throughout the State to determine a public-private partnership where the

County provides the land and the parking company builds, operates and maintains the structure. There was no situation where the capital investment required to build the parking structure could be covered by parking revenue alone. Similarly for an OZ investor wanting to sell their interest in the asset,, the garage would have to make enough revenue to cover the cost of construction, plus operations and maintenance, plus a profit. Our expectation is that the revenue generated from the garage will only be enough to cover the management and operations.

As a result, building the parking structure would not make sense for a private sector developer unless it was a means to getting something else that would be profitable for them, such as a large scale development. However, the lot sizes in the district are too small, the zoning is too low-density, and the property ownership is too diverse for a development of the scale that could off-set the cost of the parking structure. The only party that stands to gain financially from the parking is the County who will benefit from the increased tax base of the collective

Currently buildings cannot be improved, uses cannot change and housing cannot be added to the area because the minimum parking requirements cannot be met. However, once the parking structure is built:

- Historic buildings can be preserved and adaptively reused
- Housing units can be restored above retail shops
- Restaurants can expand seating areas
- Ground floor office can convert to retail use giving more local vendors opportunities to bring products to market
- New, small-scale multi-family projects can be added to the district

Any of the projects listed above would be good candidates for OZ funding.

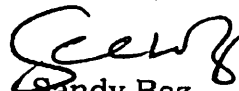
2. Request for documents:

- 1. The RFP issued by the County for construction firms to bid on the contract to build the garage.** Please find on included CD.
- 2. The winning proposal.** Please find on included CD.
- 3. Any contracts signed by the County with the winning contractor concerning the garage construction.** Please find on included CD
- 4. Any projections the County has made of the cost of operating the garage for the first ten years.** Please find on included CD
- 5. Any projects the county has made of the cost of maintain the garage in its first ten years.** The County will be soliciting for a reserve study to be completed for the parking structure. This number is not yet known with specificity but it is estimated the maintenance will be approximately \$250,000 in the first ten years.

6. **Any projections the county has made of the revenues that will be generated by parking fees from garage users.** Please find on included CD
7. **Any plans the County has to provide free or reduced price parking for County employees.** The County does not plan to offer employees free or discounted parking. County employees pay for County provided parking in all Wailuku campus locations.
8. **Documents reflecting the likely date when construction of the garage will begin under the current plan.** Please find the most recent project newsletter including the current project schedule attached for your information.

Please do not hesitate to contact me with additional questions or thoughts.

Sincerely,

A handwritten signature in black ink, appearing to read 'Sandy Baz', with a stylized flourish at the end.

Sandy Baz
Managing Director

Exhibit E

Letter from Sandy Baz, Managing Director,
to Michael Williams, Chair, Cost of Government Commission,
Regarding “Use of Federal Opportunity Zone Tax Subsidies
to Finance Wailuku Parking Structure” (August 12, 2020)

MICHAEL P. VICTORINO
Mayor

SANDY K. BAZ
Managing Director

JOSIAH K. NISHITA
Deputy Managing Director



DEPARTMENT OF MANAGEMENT
COUNTY OF MAUI
200 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793

August 12, 2020

Honorable Michael P. Victorino
Mayor, County of Maui
200 South High Street
Wailuku, Hawaii 96793

For Transmittal to:

Michael Williams, Chair
Cost of Government Commission
Maui County Council
200 South High Street
Wailuku, HI 96793

APPROVED FOR TRANSMITTAL

Michael P Victorino 8/14/20
Mayor Date

Dear Mr. Williams:

SUBJECT: **USE OF FEDERAL OPPORTUNITY ZONE TAX SUBSIDIES TO FINANCE
WAILUKU PARKING STRUCTURE**

Thank you for your letter dated August 3, 2020 requesting further information regarding the Wailuku Parking Structure. Per the County's financial advisors of PFM Financial Advisors LLC:

In evaluating funding infrastructure, it is important to view the full spectrum of alternatives – public private partnerships as well as traditional public sale alternatives. Public private partnerships require a significant amount of time to canvas interested parties through a formal solicitation process and negotiate appropriate terms and conditions. In general, public private partnerships work effectively when there is a benefit both to the public entity and the private entity.

In terms of the example laid out, there is a potential tax benefit to the Opportunity Zone (OZ) investor but minimal benefit to the County for the significantly longer timeline and more challenging process when compared with the public alternative. As had been mentioned in the finance team's prior response, these types of public partnerships are effective for more broad real estate development projects (mixed use developments) in which the private developer can gain a profit and the County may gain a benefit (public improvements and increased property tax revenues or sales tax revenues for example) from the type/scope of development.

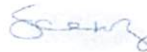
It is clear that investments in OZs provide tax incentives; however, as reflected in the example, it is a complex mechanism that has created a barrier for entry for investors.

In addition to tax incentives, investors typically require a return on their investment above the original cost of the infrastructure development which would increase the purchase cost for the County.

With the public ownership model, the County maintains full control over the parking garage and maintains maximum flexibility to change or adapt uses based on the broader community need and overall County planning objectives. The County is able to quickly mobilize and construct the garage in a timely manner. By issuing long-term debt for the garage, the County is deferring the payment for the garage in a similar manner as the buy-back requirement from the OZ investor, and at very cost effective interest rates in the current market. The County would still likely need to issue long-term bonds to pay the OZ investor for the garage improvements in ten years, so there is no cost savings, just a cost deferral. OZ investors still have opportunities to invest in the residential and commercial improvements outlined in the initial response, which is likely where OZ investments were intended.

Should you have any additional questions, please do not hesitate to contact me directly or Finance Director Scott Teruya at scott.teruya@mauicounty.gov.

Sincerely,



Digitally signed by
Sananda K. Baz
Date: 2020.08.13
23:19:33 -10'00'

Sandy Baz
Managing Director

COST OF GOVERNMENT COMMISSION COUNTY OF MAUI

Report on Strengthening the County of Maui's Technological Infrastructure

May 2021

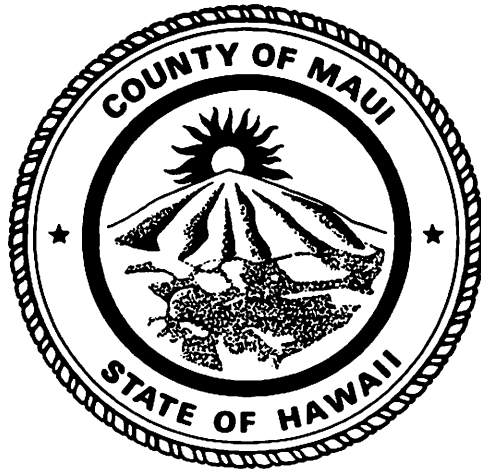
*The Commission shall have the power and duty to:
Study and investigate the organizations and methods of operations of all departments,
commissions, boards, offices, and other instrumentality of all branches of the county government
and determine what changes, if any, may be desirable to accomplish the policy set forth herein.¹*

COMMISSIONERS

Michael Williams, Chair
Noemi Barbadillo, Member
Paula Heiskell, Member
Lu Ann Lankford-Faborito, Member
Patrick O'Neil, Member
Susan Pu, Member
Sarah Simmons, Member

¹ Charter, County of Maui, Section 3-9.3 (2019)

COUNTY OF MAUI



COST OF GOVERNMENT COMMISSION

REPORT ON STRENGTHENING THE COUNTY OF MAUI'S TECHNOLOGICAL INFRASTRUCTURE

May 2021

Appendix B

Cost of Government Commission,
“Report on Strengthening the County of Maui’s
Technological Infrastructure” (May 2021)

COST OF GOVERNMENT COMMISSION

Report on Strengthening the County of Maui's Technological Infrastructure

I. INTRODUCTION

In August 2019, the Cost of Government Commission decided to review the County of Maui's information technology practices. The initial goals of the investigation were to evaluate opportunities to upgrade the technology used to provide County services, and to explore ways to improve internal County processes. Just a few months later, the COVID-19 pandemic changed the technological landscape. With offices closed and the potential loss of public participation in government, the County was forced to pivot quickly to accommodate the technological needs of both its employees and constituents.

This report examines how the County is actively exploring areas where technology can assist with its response to the COVID-19 pandemic and whether that same technology can make County processes more efficient. The report examines some of these recent changes and challenges to upgrading the County's technological infrastructure and offers the following recommendations:

1. That the County establish a work from home policy that departments can implement on a case-by-case basis as appropriate for the work performed by its employees;
2. That the County continue to explore software applications to assist the County with its internal workflows as well as to enhance the services it provides to the public;
3. That a separate Department of Information Technology be created and that the Maui County Charter Commission evaluate the issue further;
4. That the Administration engage in detailed union negotiations to seek solutions to the compensation roadblock for Information Technology Division personnel;
5. That beginning in Fiscal Year 2023, the Mayor and County Council give serious consideration to increasing the Information Technology Division budget both to better compensate IT personnel and to fund the capital needs for technology modernization programs that will make all County operations more efficient.

II. BACKGROUND: INFORMATION TECHNOLOGY SERVICES DIVISION

The County of Maui's Information Technology Services Division ("IT Division") falls under the Department of Management. Jacob Verkerke served as the Chief Technology Officer (CTO) of the IT Division until his retirement in November 2020. The Division is now headed by Vince Hu. There are 53 employees in the IT Division, which is responsible for the following: (1) establishing hardware, software, and network standards; (2) monitoring the acquisition, development, and use of computer technology; (3) maintaining an effective end-user support program; and (4) continuing evaluation of information systems technology for potential County applications.

The work of the IT Division is distinct from the work done by other information technology analysts/technicians who are hired by other departments. According to Mr. Verkerke, this separation is a creature of past hiring decisions of previous administrations, and these employees are not supported by the IT Division. The Legislative Branch (including the County Council, Office of Council Services, Office of the County Auditor, and Office of the County Clerk) is supported by separate information technology employees. Due to privacy concerns, the Legislative Branch has kept itself somewhat separate from the IT Division.

III. WORK FROM HOME POLICIES

According to Deputy Managing Director Josiah Nishita, approximately one-third of the County's 2,400 employees worked remotely at the height of the COVID-19 pandemic. Though some have returned to their County offices, many employees continue to work from home if permitted by their Department. Telework could be a viable long-term option for certain departments, or certain groups of employees in certain departments, to increase County operational efficiencies.

The COVID-19 pandemic devastated the County's economy, but also provided an opportunity to receive Federal emergency funding to cover costs for teleworking. These funds were used to cover the costs of additional laptops, monitors, virtual private networks (VPNs), phones, and additional software licenses. According to former CTO Jacob Verkerke, when the County implemented teleworking in March 2020, the IT Division was able to accomplish the following: (1) created 325 VPNs for secure access within 14 days; (2) configured 170 new laptops and adjusted over 355 desktops; (3) deployed the BlueJeans software application to ensure that public access to ongoing government business continued uninterrupted; and (4) enabled over 400 county employees to telework. The current CTO, Vince Hu, estimates that there are an additional 80 laptops available to distribute upon request to County departments.

With increased telework, County processes will have to be more digitized so that employees can access information remotely. For example, the Workday program

allows payroll to be processed online instead of through paper forms submitted to administrative staff at each department. Although it would take time for departments to adapt to these workflow changes, increased digitization would allow technological innovations to inform County processes and reduce redundancies that are common with outdated systems.

The County and its employees might also enjoy cost savings if more employees worked remotely. For example, the County could save large sums on rent and utilities for office space and parking. Shared offices among departments could be created through staggered schedules, which also would reduce the amount of office space needed. Even with the proposed purchase of The Maui News building and moving departments to the newly constructed County of Maui Service Center, the County will need to continue renting space in the Wailuku area if reductions to office space needs are not made.

The Department of Management conducted a survey of 400 employees in July 2020. Of the 195 who responded, 72% stated that working remotely increased productivity during worktime due to fewer distractions. Employees also reported that they gained worktime due to less time spent commuting to work. Employees without assigned parking in Wailuku spent less time moving vehicles from one two-hour space to another. Fewer commute trips would also save on fuel and reduce tailpipe emissions.

Flexibility is the primary advantage of working from home for many employees. For example, the County of Maui does not have a paid family leave policy. In lieu of such a policy, teleworking provides working parents the flexibility to tend to family obligations while still being able to work full time.

There are several issues that need to be carefully considered before implementing a permanent work from home policy. First, managers may find it more difficult to manage and monitor employees to ensure that employees are working during public hours. To combat this, project management systems and key performance measures should be revamped and tracked carefully to ensure that work is being completed. A web-based application, such as Asana, can assist with organizing, managing, and tracking departments that do team-based projects. Monitoring employees on County computers can also be used to track productivity.

In addition, some County employees may require phone connections to complete work functions, and may need to be issued County cell phones, to avoid using personal phones for County business. There are technological solutions for this, such as Amazon Connect, which allows users to make phone calls using a computer. Corporation Counsel may need to review and revise County policies on the use of county laptops, personal phones, or other devices.

The Commission recommends that the County institute a work from home policy that departments can implement on a case-by-case basis as appropriate for the work performed by its employees.

IV. SOFTWARE APPLICATIONS

The County purchased several software applications that are now being fully utilized due to the pandemic.

A. BlueJeans

BlueJeans is the platform used for all County meetings, including County Council and board and commission meetings. It has allowed for greater public participation across the County. Residents who previously could not attend meetings in person are now able to call or login to a meeting from the location of their choice, testify if they so choose, and watch or listen at their convenience. Meetings are also recorded and can be made available on demand.

The BlueJeans platform can also increase board and commission participation by those who live in more remote parts of Maui or on Moloka'i or Lana'i. For example, the Cost of Government Commission's membership includes commissioners from Hāna, Lana'i, and Moloka'i. Without the added time and associated costs associated with travel to the County Building for monthly meetings, Commission attendance is consistent, and turnover has decreased.

BlueJeans has also increased participation in internal staff meetings from employees who work in remote areas because they are now able to call in and participate. According to comments provided by Josiah Nishita, County staff report that conducting meetings via BlueJeans has led to fewer back and forth in-person meetings and increased productivity.

B. Maka'ala Everbridge Mobile Application

The Everbridge software is used to push out emergency notifications. This is location-specific software, so messages only go to specific locations and not the entire County. For example, during recent flooding in the Ha'ikū area, cell phones within the range of the affected cell towers received the flooding warning directly on their phones. Instead of blanketing the entire island with warning messages, contributing to messaging fatigue, the County successfully adopted a more efficient messaging system. For now, the application is only used to provide emergency messages related to imminent threats to health and safety such as severe weather, flooding, gas leaks, and police activity. In the future, the application could be used to report nonemergency issues to specific departments, such as water main breaks or other damage to County property.

These two applications are just a small example of the change that technology can bring to processes that had not been changed in years. The momentum gained from the technological upgrades due to the COVID-19 pandemic should not be cast aside to return to "normal." Each County Department

should look to permanently adopting technological processes that were temporarily allowed during the pandemic. Changes as small as accepting electronically submitted documents, forms and signatures could have a drastic impact on future workloads.

The Commission recommends that the County continue to explore web applications to assist the County with its internal workflows as well as to enhance the services it provides to the public.

V. LONG-TERM STRUCTURAL CHANGE — CREATION OF A DEPARTMENT OF INFORMATION TECHNOLOGY

The County of Maui's IT Division is currently housed under the Department of Management. By comparison, the City & County of Honolulu and the County of Hawai'i both have Departments of Information Technology, while the IT Division for the County of Kaua'i is housed under its Department of Finance. Maui County's legislative branch, which includes the County Council, County Clerk, Office of Council Services, and County Auditor, uses its own IT support, which seems to be a product of history and an ingrained separation of responsibilities. It is unclear the extent to which the County Council's IT support staff works with the IT Division under the Department of Management. Other individual departments do have information technology analysts on its staff. For example, the Planning Department's Geographic Information System (GIS) Mapping technicians work with the IT Division as needed.

Based on discussions with former CTO Verkerke, the IT Division does not make suggestions for more efficient workflows. The IT Division is not in a position to guide departments toward more efficient workflows and technological processes, as those improvements are arguably guided by the departments themselves and the Administration's directive. However, once department processes are implemented, there is little incentive to improve efficiencies.

The department currently tasked with pushing technological reforms is the Department of Management. Projects currently underway and/or near completion include the MAPPS project—Maui's Automated Permitting and Planning System—which will assist several departments in modernizing its review of land use permits and processing, and the HR/Payroll upgrade to Workday, which will get all departments onboard to a modern platform to allow for more accurate recordkeeping. Further, an upgrade of the email system to MSExchange is in process.

The Commission asserts that the County should prioritize the implementation of new technology and technological reforms and that the creation of a new Department of Information of Technology is a first step. According to Mr. Verkerke, the current practice is for County departments to provide a technologically-related request to the IT Division at varying stages of contractual implementation. If the IT Division were its own Department, it could have more extensive oversight and participation in a

Department's technological planning. For example, Mr. Verkerke suggested that he could have individual technicians assigned to specific departments, who could schedule quarterly reviews to discuss technology-related upgrades.

Creating a new Department will require additional funding. In addition, there will need to be careful consideration of the appointment process for a Department director to ensure that the process is depoliticized; continuity in leadership of a Department that manages the County's information systems is essential. Finally, as discussed in the next section, there is an IT staffing shortage due to bargaining unit restrictions that depress wages to a point where qualified applicants are difficult to attract.

The Commission recommends the creation of a separate Department of Information Technology and urges the Maui County Charter Commission to evaluate the issue further.

This department will be charged with assisting all County departments with the use of technology to achieve department goals and provide increased services to the public.

VI. INFORMATION TECHNOLOGY BUDGET

A. Recruitment

Both CTOs Verkerke and Hu highlighted the difficulty of recruiting qualified talent. There are 53 employees in the Information Technology Services Division. Mr. Hu explained that he recently attempted to fill a vacant position but had four different candidates turn down offers because of compensation issues.

Union bargaining constraints contribute, in part, to the County being unable to offer competitive wages. For example, an Information Analyst may earn approximately \$70,000 on the high end with the County of Maui, but similar jobs in other jurisdictions are paying upwards of \$100,000 per year. Coupled with the high cost of living on Maui, committing to the position does not pencil out for many candidates.

Furthermore, hiring outside contractors is discouraged as a standard practice, and there are union agreements that restrict this option. Finally, there are other constraints to overtime and/or standby pay. Mr. Verkerke reported that it is costly to have County employees handle infrastructure emergencies on a standby basis due to union agreements on overtime pay. This leaves the County exposed to higher wage costs and lengthy wait times to correct issues with the IT infrastructure.

Whether renegotiating salaries for information technology positions is a viable option is unknown at this time, and may require coordination from other parties involved. Perhaps bargaining unit exemptions could be explored to increase salaries and attract applicants. If salary caps can be increased, the annual budget also will need to be increased for those positions.

The Commission recommends that the Administration engage in detailed union negotiations to seek solutions to the compensation roadblock for Information Technology Division personnel.

B. Infrastructure Improvements Require Funding

Unfortunately, technology is expensive, and continued upgrades are required for security and functionality purposes. The current budget for FY2021 called for \$12.6 million dollars, which was a 14.9% increase over the previous year, and FY2022 calls for a reduction to \$11.3 million dollars. By comparison, the City and County of Honolulu budget for FY2021 was \$26.5 million. Due to the current uncertainty brought on by the COVID-19 pandemic, increasing the budget for IT infrastructure is an unlikely option at this time.

The Commission recommends that beginning in Fiscal Year 2023, the Mayor and County Council give serious consideration to increasing the Information Technology Division budget both for better compensation of IT personnel and to fund the capital needs for technology modernization programs that will make all County operations more efficient.

VI. Summary and Recommendations

Technological advances allow our communities to accomplish goals never thought possible. At the same time, change can be difficult, and the favorite retort of those who are reluctant to implement new processes — “this is how we’ve always done it” — will forever remain. Nonetheless, this Commission urges the County to consider making technological improvements a first step of the long-range planning for all departments.

Due to the COVID-19 pandemic, we have learned that work from home policies can be successfully implemented, and they should remain long after the threat of COVID-19 has passed. Additional software applications need to be explored to improve the County’s internal workflows and enhance the County’s efficient delivery of services. To organize this exploration into uncharted territory, a separate Department of Information Technology should be created so that it can better plan and implement the County’s technological infrastructure improvements. Finally, the County must increase funding levels to ensure it can meet the changing technological landscape.

The Cost of Government Commission therefore recommends the following:

1. That the County establish a work from home policy that departments can implement on a case-by-case basis as appropriate for the work performed by its employees;
2. That the County continue to explore software applications to assist the County with its internal workflows as well as to enhance the services it provides to the public;
3. That a separate Department of Information Technology be created and that the Maui County Charter Commission evaluate the issue further;
4. That the Administration engage in detailed union negotiations to seek solutions to the compensation roadblock for Information Technology Division personnel; and
5. That beginning in Fiscal Year 2023, the Mayor and County Council give serious consideration to increasing the Information Technology Division budget both to better compensate IT personnel and to fund the capital needs for technology modernization programs that will make all County operations more efficient.

The Commission urges the County to look beyond a “this is how we’ve always done it” mindset, and instead continually look for ways to improve and grow its technology infrastructure as the County’s needs evolve.

VII. ACKNOWLEDGMENTS

The Commission would like to thank the Victorino Administration, as well as the members of the Maui County Council, who have continued to support and consider the Commission’s work.


The Commission thanks Deputy Managing Director Josiah Nishita, current Chief Technology Officer Vince Hu, and former Chief Technology Officer Jacob Verkerke for their cooperation and insight.

The Commission also thanks Corporation Counsel Deputies Gary Murai and Keola Whittaker for their guidance, advice, and assistance in ensuring that the Commission is adhering to all legal matters correctly.

The Commission would like to thank Commissioner Sarah Simmons whose work was central to this report. She exemplifies public service and care for our County and community.

Finally, the Commission would like to thank the Office of the County Auditor and Shelley Pellegrino, Technical Writer for the Commission, for their professionalism and support.

Respectfully Submitted:

A handwritten signature in black ink, appearing to be "Michael Williams", written over a horizontal line.

**MICHAEL WILLIAMS, CHAIR
2021 – 2022 COMMISSION TERM**

5/19/21

DATE

Appendix C

Cost of Government Commission,
May 21, 2021 Letter to Maui County Charter Commission
Regarding “Proposed Charter Amendments and
Recommendations Concerning the Cost of Government
Commission and Other Boards and Commissions”

Michael Williams
Chair



COST OF GOVERNMENT COMMISSION

COUNTY OF MAUI
2145 WELLS STREET, SUITE 303
WAILUKU, MAUI, HAWAII 96793

May 21, 2021

Maui County Charter Commission
c/o Department of the Corporation Counsel
200 S. High Street, 3rd Floor
Wailuku, Hawaii 96793

Dear Chair Collins and Commissioners:

**SUBJECT: PROPOSED CHARTER AMENDMENTS AND RECOMMENDATIONS
CONCERNING THE COST OF GOVERNMENT COMMISSION AND
OTHER BOARDS AND COMMISSIONS**

Thank you for your March 22, 2021 Memorandum inviting boards and commissions to submit proposed Charter amendments or recommendations to the Charter Commission. In response to your request, the Cost of Government Commission [COGC] offers the following recommendations:

1. COGC commissioner terms be modified so that they are staggered as required by Charter Section 13-2. To accomplish this, the Commission recommends that the initial staggered terms be based on chronological order of appointment [see detailed recommendation below].
2. Review all board and commission terms and reconcile them with their respective enabling legislation and Charter Section 13.2.
3. Charter Section 13-2.2 related to party affiliation be repealed.
4. Charter Section 3-9.3 be amended to grant the COGC the authority to issue stand-alone reports to the Mayor, County Council, and Auditor, in addition to the COGC's duty to produce an annual report.

Each of these recommendations is discussed in more depth below.

I. COST OF GOVERNMENT COMMISSION TERMS

Background

The Charter Commission recommended the creation of a Cost of Government Commission (COGC) in 1976, and the COGC was approved by the electorate in the 1976 General Election.¹

From its inception through 1982, a seven-member commission was appointed by the Mayor. The COGC was required to submit a report of its findings and recommendations no more than 18 months after the start of its term; sixty (60) days after the submission of the report, the COGC was disbanded. Eighteen months later, the cycle began again, with the Mayor appointing a new COGC.²

In 1982, the Charter was amended to provide for a nine-member COGC, appointed by the Mayor and approved by the Council, which met biennially, beginning on March 1st of each odd numbered year and ending on the last day of February of the following year.³

In 1994, the Charter was amended to eliminate the biennial language, and instead provided that COGC members serve for staggered two-year terms, with the initial appointment of four members to serve two-year terms and five members to serve one-year-terms.⁴ In addition, members could be reappointed, but could not serve on the COGC for more than a total of four years.⁵ Five members were appointed in 1995 to serve one year, until March 31, 1996, and four members were appointed to serve two years, until March 31, 1997. In 1996, the newly appointed replacements were appointed to two-year terms, so that thereafter, all commissioners served two-year terms.

In 2012, the Charter Commission recommended, and the voters approved, a Charter amendment establishing an Office of the County Auditor and moving the functions of the Cost of Government Commission to the new Charter section governing the Auditor.⁶ At that time, Charter language specifically governing COGC terms was repealed, and COGC terms now fell under Charter Section 13-2 governing boards and commissions. Section 13-2 provides that new commissions have nine members who serve for staggered terms of five years beginning on April 1 and ending on March 31 five years after.⁷ Under this provision, terms are staggered such that three members leave the commission in one year, followed by two members each of the next three years (3-2-2-2-0 rotation).

Beginning in 2013, the COGC transitioned to 5-year terms, but no change was made to stagger them. Four new commissioners were appointed in 2013, and five in 2014, with

¹ Report of the Maui County Charter Commission, pp. 4–5 (1976). See Exhibit A.

² Revised Charter of the County of Maui (1977 ed.), §§ 8-14.2–14.3. See Exhibit B.

³ Revised Charter of the County of Maui (1983 ed.), §§ 8-14.2–14.3. See Exhibit C. See also Revised Charter of the County of Maui (1993 ed.), §§ 8-14.2–14.3. See Exhibit D.

⁴ “Charter amendments approved at the 1994 General Election (Insert to the Revised Charter of the County of Maui, 1993 Edition).” See Exhibit E. See also Revised Charter of the County of Maui (2003 ed.), §§ 8-15.2–15.3. See Exhibit F.

⁵ Id.

⁶ Revised Charter of the County of Maui (2019 ed.), § 3-9.3. See Exhibit G.

⁷ Id. § 13-2. See Exhibit G.

their 5-year terms ending in 2018 and 2019 respectively. During this time period, there were 12 resignations, so the lack of staggered terms went unnoticed. Since then, and in part due to meetings being held remotely via BlueJeans,⁸ the number of resignations declined significantly, and the COGC took notice when there was no scheduled turnover of commissioners following the 2020 – 2021 term.

The next scheduled appointment of new commissioners is April 1st of 2023 and 2024, at which point there essentially will be nine brand new commissioners.⁹ The COGC's investigations can be multi-year efforts and it can take time for new commissioners to get up to speed. Assuming all nine of the current commissioners complete their current terms, the loss of "institutional memory" that will accompany losing all nine commissioners in the course of a year is less than ideal.

Recommendation

The COGC recommends that COGC commissioner terms be modified so that they are staggered as required by Charter Section 13-2. To accomplish this, the COGC recommends that the initial staggered terms be based on chronological order of appointment, as set forth below.

Position 1 (currently held by Paula Heiskell). Commissioner Heiskell was appointed in March 2017 to complete the remaining two (2) years of a vacant position, and then reappointed to a full 5-year term beginning April 2019, which expires on March 31, 2024. The term expiration date should be amended to March 31, 2023, and a new commissioner appointed for a 5-year term through 2028.

Position 2 (currently held by Noemi Barbadillo). Commissioner Barbadillo was appointed to a new 5-year term in June 2018, which is set to expire on March 31, 2023. Following the expiration of the term, a new commissioner should be appointed to a 5-year term through 2028.

Position 3 (vacant). Commissioner Hannah Werth was appointed in December 2018, to fill a vacant position expiring on March 31, 2023. Ms. Werth resigned in April 2021, and her position is currently vacant. Pursuant to Charter Section 13-2(6),¹⁰ her replacement will be appointed to complete the term and be offered the opportunity to be reappointed to a new 5-year term. Regardless of whether the replacement is reappointed for a 5-year

⁸ One reason for the high turnover of commissioners in the past was the burden of travel time for members living in Hāna, or on Lana'i or Moloka'i, or even in West Maui. Another reason was the need to attend meetings at the County Building in person during weekdays. Since April 2020, the COGC has met using BlueJeans and attendance has been consistently high. Frankly, except for occasional face-to-face meetings, the COGC prefers to continue meeting remotely even after the pandemic restrictions are relaxed.

⁹ Table of Appointed Commissioners and Terms for the Cost of Government Commission (2007 – Present). See Exhibit G.

¹⁰ Charter Section 13-2(6) provides in pertinent part: "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 for a term not exceeding two (2) years shall be eligible to succeed themselves for an additional term." Revised Charter of the County of Maui (2019 ed.), § 13-2. See Exhibit G.

term or whether a new commissioner is appointed, the subsequent 5-year term should expire on March 31, 2028.

Position 4 (currently held by Sarah Simmons). Commissioner Simmons was appointed to a new 5-year term beginning on April 1, 2019, and expiring on March 31, 2024. Following the expiration of the term, a new commissioner should be appointed for a 5-year term through 2029.

Position 5 (vacant). Commissioner Michelle Del Rosario was appointed to a new 5-year term beginning on April 1, 2019, and expiring on March 31, 2024. Ms. Del Rosario resigned in May 2021, and her position is currently vacant. Pursuant to Charter Section 13-2(6),¹¹ her replacement will complete the term expiring on March 31, 2024, but will not be offered the reappointment option. Following the expiration of the term, a new commissioner should be appointed for a 5-year term through 2029.

Position 6 (currently held by Michael Williams). Commissioner Williams was appointed in May 2019 to fill a vacant position expiring on March 31, 2023. This term should be extended to March 31, 2025. Following the expiration of the term, a new commissioner should be appointed for a 5-year term through 2030.

Position 7 (currently held by Patrick O’Neal). Commissioner O’Neal was appointed in September 2019 to fill a vacant position expiring on March 31, 2024. This term should be extended to March 31, 2025. Following the expiration of the term, a new commissioner should be appointed for a 5-year term through 2030.

Position 8 (currently held by Lu Ann Lankford-Fabarito). Commissioner Lankford-Faborito was appointed in February 2020 to fill a vacant position expiring on March 31, 2023. This term should be extended to March 31, 2026. Following the expiration of the term, a new commissioner should be appointed for a 5-year term through 2031.

Position 9 (currently held by Susan Pu). Commissioner Pu was appointed in July 2020 to fill a vacant position expiring on March 2024. This term should be extended to March 31, 2026. Following the expiration of the term, a new commissioner should be appointed for a 5-year term through 2031.

With these changes, the future expirations of individual terms will be as follows: 2023: 3; 2024: 2; 2025: 2; 2026: 2. The COGC will then meet the staggered-term requirements set forth in Charter Section 13-2.

II. OTHER BOARD AND COMMISSION TERMS

Background

A cursory review of other board and commission terms, summarized in Table 1 below (based on board and commission membership as of January 15, 2021), reveals less

¹¹ Id.

striking discrepancies in the staggered term requirement under Section 13.2, but there are discrepancies nonetheless.

BOARD OR COMMISSION	# OF MEMBERS	TERM LENGTH	TERM ROTATION
Affirmative Action Advisory Council	7	5 years	3-1-1-1-1
Animal Control Board (MCC 6.04.095)	5	3 years	2-3-0
Board of Ethics	9	5 years	2-2-2-1-2
Board of Variances and Appeals	9	5 years	2-2-2-1-2
Board of Water Supply	9	5 years	2-2-2-3-0
Civil Service Commission	5	5 years	1-1-1-1-1
Commission on Children and Youth	9	5 years	2-3-3-0-1
Cost of Government Commission	9	5 years	5-4-0-0-0
Council on Aging	15	5 years	5-3-4-1-2
Fire and Public Safety Commission	9	5 years	2-1-1-1-2-2
Hana Advisory Committee	7	5 years	2-2-1-0-2
Lanai Planning Commission	9	5 years	1-3-3-0-2
Liquor Control Adjudication Board	9	5 years	2-2-2-1-2
Liquor Control Commission	9	5 years	2-2-2-1-2
Maui County Commission on Persons with Disabilities	9	5 years	2-3-0-2-2
Maui County Cultural Resources Commission	9	5 years	1-1-2-2-3
Maui Planning Commission	9	5 years	2-2-2-1-2
Molokai Planning Commission	9	5 years	2-2-2-3-0
Police Commission	9	5 years	2-2-2-1-2
Public Works Commission	9 + 2 alternates	5 years	4-2-2-(1+2)
Real Property Tax Review Board	5	5 years	1-1-1-1-1
Salary Commission	9	5 years	2-1-2-2-2
Maui County Arborist Committee	9	5 years	3-2-1-0-3

Recommendation

The COGC recommends that the Charter Commission review all board and commission terms and reconcile them with their respective enabling legislation and Section 13.2, or amend Section 13.2 to provide more clarity to how board and commission terms should be staggered.

III. PARTY AFFILIATION

Background

Section 13-2.2 of the Charter provides that “no more than a bare majority of the members of any board or commission shall belong to the same political party.”¹² A review of current commission party affiliation reveals that accomplishing this goal is difficult, given that more

¹² See *supra* n. 7.

than two-thirds (67%) identify as either independent or nonpartisan, 25% as Democrat, and only 7.5% Republican. Table 2 below summarizes board and commission party affiliation as of January 15, 2021.

BOARD OR COMMISSION	# OF MEMBERS	PARTY AFFILIATION			
		D	R	I	N
Affirmative Action Advisory Council	7	1	0	0	6
Animal Control Board (MCC 6.04.095)	5	0	0	3	2
Board of Ethics	9	1	2	2	3
Board of Variances and Appeals	9	6	2	0	1
Board of Water Supply	9	2	1	0	6
Civil Service Commission	5	3	0	0	2
Commission on Children and Youth	9	5	1	1	2
Cost of Government Commission	9	3	1	1	4
Council on Aging	15	5	1	4	5
Fire and Public Safety Commission	9	3	2	2	2
Hana Advisory Committee	7	4	0	0	3
Lanai Planning Commission	9	1	0	3	5
Liquor Control Adjudication Board	9	1	0	4	4
Liquor Control Commission	9	4	0	0	5
Maui County Commission on Persons with Disabilities	9	1	2	2	4
Maui County Cultural Resources Commission	9	3	0	2	4
Maui Planning Commission	9	2	0	3	4
Molokai Planning Commission	9	1	1	1	6
Police Commission	9	0	0	3	6
Public Works Commission	9 + 2 alternates	2	1	2+1	4+1
Real Property Tax Review Board	5	1	0	1	3
Salary Commission	9	0	1	2 + 1 L/I	5
Maui County Arborist Committee	9	1	0	2	6
TOTAL		50	15	40	93

In 1998, Maui County voters adopted a Charter amendment to provide that both Council and Mayoral elections be nonpartisan. The COGC submits that board and commission representation should be nonpartisan as well.

Recommendation

The COGC recommends that the Charter Section 13-2.2 related to party affiliation be repealed.

IV. COST OF GOVERNMENT COMMISSION INVESTIGATIVE REPORTS

Background

From its inception in 1976 through 1982, a seven-member COGC met for an 18-month term, submitted a report of its findings and recommendations, and then was disbanded 60 days later. After an 18-month hiatus, a new commission was appointed by the Mayor and the process began again.¹³ As such, the COGC produced just one report during the course of a four-year mayoral term.

Between 1983 and 1993, the COGC met on a biennial basis and was required to “submit a report of its findings and recommendations to the Mayor and County Council no later than 11 months *after its appointment*” (emphasis added).¹⁴ As such, the COGC issued two reports over a four-year mayoral term.

In 1994, when voters approved a Charter amendment providing for two-year staggered terms, there was no accompanying amendment to the report requirement, so the clause requiring the COGC to submit a report no later than 11 months “*after its appointment*” remained. The COGC began the practice of transmitting annual reports to the Mayor and County Council at the end of each term.

When the Charter was amended in 2012 to move the COGC to the Charter section under the Office of the County Auditor, the annual report language was amended as follows: “The commission shall have the power and duty to [s]ubmit an annual report of its findings and recommendations to the mayor, council, and county auditor.”¹⁵ The COGC continued producing annual reports and transmitting them as required.

In February 2017, former COGC Chair Paul Kailiponi suggested the COGC put out single issue “briefs” as the COGC completed an investigation or review of a particular topic. In May 2017, Chair Kailiponi again mentioned filing independent reports as well as an annual report. In its 2016–2017 Annual Report (issued in June 2017), the COGC memorialized its position:

Any investigation undertaken by the Commission must follow a clear set of criteria in order to uphold the highest standards of professionalism and utility for Maui County. The aforementioned factors must also take into consideration the limitations of the Commission, including limited availability of time given the voluntary nature of Commission members and a fluid set of skills available to the Commission due to the changing make-up of its members. In order to institutionalize quality and utility as primary components of investigations, the Commission has decided to adjust the way in which it processes investigations.

¹³ See *supra* n. 2.

¹⁴ Revised Charter of the County of Maui (1983 ed.), § 8-14.2(5). See Exhibit C. See also Revised Charter of the County of Maui (1993 ed.), § 8-14.2(4). See Exhibit D.

¹⁵ Revised Charter of the County of Maui (2019 ed.), § 3-9.3(3). See Exhibit G.

Prior to this year, Commission investigations mirrored County budgeting periods. Investigations were started, worked on, and completed prior to the start of budget deliberations for the upcoming fiscal year. The inclusion of two to three different topics led to a rush to complete work by these deadlines.

This year, the Commission decided to permit the continued investigation of topics and to eliminate the Commission-imposed deadline associated with the County budget period. While an annual report will continue to be presented to the County Council according to County Charter Sec. 3-9.3(3), investigations will be de-bundled from a single report and stand on their own. These investigations also will be allowed to run until completion instead of being bound by the budgetary calendar or annual Commission term. These changes will allow the commissioners additional time to work within their voluntary status and improve the quality and breadth of current investigations. It will also allow for a better allocation of limited resources as individual commissioners will be allowed to remain on a specific topic for an increased duration instead of moving on to another topic annually. Above all, the change in process will relieve pressure from our Commission members and lead to active, satisfied work that can increase meeting attendance and lower member turnover.¹⁶

The COGC again discussed "de-bundling" its investigations in the 2017-2018 Annual Report, issued in November 2018. That same month, the COGC issued its first stand-alone report on Compliance Losses and Risk Management. Since then, the COGC has issued two additional stand-alone reports: (1) Report on County of Maui Grant to the Maui Visitors Bureau (April 2020); and (2) Report on Financing of the Wailuku Parking Structure (November 2020). Each of these reports has been transmitted to the Mayor, County Council, and County Auditor, similar to the COGC's annual reports.

In December 2020, it came to the COGC's attention that the Charter language authorizes only "an" annual report, such that the COGC's practice of issuing stand-alone reports could potentially be challenged as not authorized under the Charter.¹⁷ To eliminate any confusion, the COGC recommends that the Charter be amended to grant the COGC the authority to issue stand-alone reports to the Mayor, County Council, and Auditor in addition to its duty to produce an annual report.

The COGC has found that its current practice of issuing stand-alone reports is beneficial for a number of reasons. First, as mentioned above, it improves the quality and breadth of COGC investigations; commissioners are no longer "forced" to complete an investigation by the end of a commission term nor limited to investigations that can be done quickly. Second, it allows the COGC to investigate issues that are time sensitive; if the COGC were limited to transmitting its findings and recommendations only at certain times of the year,

¹⁶ Cost of Government Commission 2016–2017 Annual Report, p. 2 (June 2017), located at <https://www.mauicounty.gov/DocumentCenter/View/109079/Annual-Report-2016-2017-17-MB?bidId=> (accessed on May 17, 2021).

¹⁷ Cost of Government Commission December 10, 2020 Meeting Minutes, p. 2 (located at <https://www.mauicounty.gov/ArchiveCenter/ViewFile/Item/28191> (accessed on May 17, 2021).

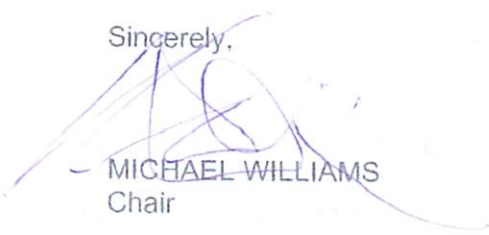
much of its work and analysis on time-sensitive issues could be rendered moot. Finally, the single report made sense when the COGC met for a discrete term (18 months from 1976 to 1982, and biennially from 1983 to 1994). Now that the COGC meets regularly and evaluates County economy and efficiency on an ongoing basis, it should be authorized to transmit its findings and recommendations when its investigations are complete.

Recommendation

The COGC recommends that the Charter Section 3-9.3 be amended to grant the COGC the authority to issue stand-alone reports to the Mayor, County Council, and Auditor, in addition to its duty to produce an annual report.

Thank you for the opportunity to present the COGC's recommendations. Please feel free to contact me at (808) 264-4884, or Shelley Pellegrino, Technical Writer for the Commission, at costofgov@mauicounty.us with any questions.

Sincerely,



MICHAEL WILLIAMS
Chair

cc: Honorable Michael P. Victorino, Mayor
Honorable Alice L. Lee, Chair, Maui County Council
Sandy Baz, Managing Director
Lance Taguchi, County Auditor
Keola Whittaker, Deputy Corporation Counsel
Ipo Mossman, Community Liaison and Commission Ex-Officio Member, Office of the Mayor

COST OF GOVERNMENT COMMISSION
PROPOSED CHARTER AMENDMENTS AND RECOMMENDATIONS
CONCERNING THE COST OF GOVERNMENT COMMISSION
AND OTHER BOARDS AND COMMISSIONS

LIST OF EXHIBITS

- | | |
|-----------|--|
| Exhibit A | Report of the Maui County Charter Commission, pp. 4–5, 32–34 (1976) |
| Exhibit B | Revised Charter of the County of Maui, §§ 8-14.1–14.3, 13-2 (1977 ed.) |
| Exhibit C | Revised Charter of the County of Maui, §§ 8-14.1–14.3, 13-2 (1983 ed.) |
| Exhibit D | Revised Charter of the County of Maui, §§ 8-14.1–14.3, 13-2 (1993 ed.) |
| Exhibit E | “Charter amendments approved at the 1994 General Election (Insert to the Revised Charter of the County of Maui, 1993 Edition)” |
| Exhibit F | Revised Charter of the County of Maui, §§ 8-15.1–15.3, 13-2 (2003 ed.) |
| Exhibit G | Revised Charter of the County of Maui, §§ 3-9.3, 13.2. (2019 ed.) |
| Exhibit H | Table of Appointed Commissioners and Terms for the Cost of Government Commission (2007 – present) |

Exhibit A

Report of the Maui County Charter Commission, pp. 4–5, 32–34 (1976)

REPORT
of the
MAUI COUNTY CHARTER COMMISSION

I. GENERAL

A. BACKGROUND

The Maui County Charter Commission was appointed in February, 1975, according to the provisions of Sec. 14-3 of the Charter of the County of Maui. It proceeded with its work on the assumption that the present Charter is basically a sound document, and therefore, no wholesale changes would be proposed.

A thorough study and review of the operation of the County government under the present Charter was made. The operations of local government under existing charters in other counties were studied. Informative talks were had with public officials, including the County Council members in Maui and other Counties of the State. Studies of various forms of local government were also made and some of the best printed materials available were gone over in the process.

After this preliminary study and review, the Charter Commission singled out those areas of the Charter that it believed needed revisions, or where it felt that alternative choices should be presented to the voters.

These proposals were presented at public hearings both early in its deliberations and later after it had refined its work, alternatives were discussed, advantages and disadvantages were laid out.

Although the Commission was somewhat disappointed in the small numbers of Maui County residents that turned out for these public meetings, nonetheless a feeling of general concern amongst the people was determined. Accordingly, those concerns were taken into account by the Commission in its final draft of proposed revisions.

B. ACCOUNTABILITY, RESPONSIVENESS, EFFICIENCY

The discussions within the Commission centered mainly on

separate the civil law functions from the criminal law functions presently handled by a single department, viz., the County Attorney's Office. It was the belief of the Commission that greater expertise could and would be developed in each of these fundamental areas of the law, if each was entrusted to a separate department. Thus, there would be greater efficiency, and perhaps more accountability as well, in the operations of these areas of County government. The Commission therefore, proposed a new Department of the Prosecuting Attorney, and a Department of Corporate Counsel.

2. DEPARTMENT OF HUMAN CONCERNS

Under the existing Charter, with the passage of time, there appeared to be a variety of functions carried on by different departments and agencies that had to do with what the Commission characterized as "human concerns." It was felt that for greater efficiency, the elimination of overlap, and for the purpose of giving greater attention to these human concerns, the time had come for the centering of these responsibilities in a single department. A new Department of Human Concerns has therefore been proposed.

3. MANAGING DIRECTOR

The Commission felt that the size of operations of the executive branch of County government, together with the ever increasing demands being made upon the time available to the Mayor, that greater efficiencies in the executive branch would be effected in providing the Mayor with a chief administrative officer. Thus, the Commission has provided for a Managing Director who will act as the Chief Administrative Assistant to the Mayor who will be responsible for the coordination and efficiency in the various departments and agencies of the executive branch of County government. This office has proven successful in the County of Hawaii and the City and County of Honolulu.

4. COST OF GOVERNMENT COMMISSION

Something entirely new has been proposed by way of a Cost of Government Commission. The Charter Commission is of the be-

lief that the problem of ever increasing costs of operating local government on the one hand, with limited financial resources to meet those costs on the other hand, has given rise to the need to keep the cost of government minimized, and to maximize its efficiency.

The Cost of Government Commission would provide a cyclical review of cost and efficiency of both the legislative and executive branches of County government. The Commission believes that this Commission, if adopted, will be one of the first of its kind in local government.

5. BOARD OF ETHICS

A complete revision of the Code of Ethics is proposed. One of its chief characteristics is to provide for a Board of Ethics.

In general, the Code of Ethics requires public disclosure by public servants, so that, should conflicts of interest arise they would be made generally known to the public.

The Board of Ethics is empowered to initiate on its own, or receive complaints from the public and to hear and investigate alleged violations of the Code of Ethics and to make its findings known to the prosecuting attorney for appropriate action.

IV. FINANCIAL ACCOUNTABILITY

The Commission has proposed a newly drafted section calling for the annual auditing of all accounts and financial transactions of the County by independent certified public accountants.

The audit shall include both financial accountability and adequacy of the County's financial and accounting system. In short, this function together with the services of the Cost of Government Commission and a newly drafted provision for statements to be provided by the Director of Finance to the County Council should provide a sound "watch dog" service over the public purse.

V. PLANNING

A. PRESENT CHARTER PROVISIONS

The existing Maui Charter gives the County Planning Director little guidance other than to direct him to "Prepare a general plan to guide the development of the County by district or districts."

Sec. 8-13.4. DIRECTOR OF THE DEPARTMENT OF LIQUOR CONTROL.

The director of the department of liquor control shall be appointed and may be removed by the liquor control commission. The director of the department of liquor control shall have had a minimum of five years of training and experience in law enforcement, at least three of which shall have been in a responsible administrative capacity.

The director of the department of liquor control shall:

1. Be the administrative head of the department of liquor control.
2. Investigate complaints regarding violations of the liquor control laws of the State or complaints regarding violations of rules and regulations established by the liquor control commission and report such violations to the prosecuting officer of the county.

CHAPTER 14.

COST OF GOVERNMENT COMMISSION

Sec. 8-14.1. DECLARATION OF POLICY.

It is declared to be the policy of the county of Maui, while giving full recognition to the separation of powers between the legislative and executive branches of government provided in this charter and not to interfere therewith, to promote economy, efficiency and improved service in the transaction of the public business in the legislative and executive branches of the county of Maui by:

1. Limiting expenditures to the lowest amount consistent with the efficient performance of essential services, activities and functions.
2. Eliminating duplication and overlapping of services, activities and functions.
3. Consolidating services, activities and functions of a similar nature.
4. Abolishing services, activities and functions not necessary to the efficient conduct of government.

5. Defining and limiting executive functions, services and activities.

Sec. 8-14.2. COST OF GOVERNMENT COMMISSION.

For the purpose of carrying out the policy set forth herein, there shall be a cost of government commission. The commission shall consist of seven members appointed by the mayor with the approval of the council. The mayor shall appoint the members of the commission within forty-five (45) days after the effective date of this charter.

The commission shall:

1. Prepare and submit to the mayor a request for an annual appropriation for the operation of the commission.

2. Study and investigate the then existing organizations and methods of operations of all departments, commissions, boards, offices and other instrumentalities of all branches of the county government and determine what changes, if any, may be desirable to accomplish the policy set forth herein.

3. Be authorized to secure directly from any department, commission, board, office, or any other instrumentality of all branches of the county government or from any individual officer or employee of the county, information, suggestions, estimates, and statistics necessary to carry out its duties.

4. Shall review the salaries of the mayor and the county council and shall submit their recommendations thereon to the mayor and the council.

5. Submit a report of its findings and recommendations to the mayor and council not later than eighteen months after its appointment.

Sec. 8-14.3. TERM OF OFFICE.

Each commission shall cease to exist sixty (60) days after the submission to the mayor and council of its report. Eighteen months thereafter, the mayor shall appoint a new commission, no members of which shall have been members of the preceding commission, and in like manner shall appoint a new com-

mission at like intervals of eighteen months after the previous
commission shall cease to exist.

CHAPTER 15.

CIVIL DEFENSE AGENCY

Sec. 8-15.1. ORGANIZATION AND FUNCTIONS.

There shall be a civil defense agency whose powers, duties, functions and organization shall be as provided by law.

ARTICLE 9. FINANCIAL PROCEDURES.

Sec. 9-1. FISCAL YEAR.

The fiscal year shall begin on the first day of July and end on the thirtieth day of June of the succeeding year.

Sec. 9-2. PREPARATION AND SUBMISSION OF BUDGET AND CAPITAL PROGRAM.

1. On or before the first day of March before the ensuing fiscal year begins, the mayor shall submit to the county council (a) an operating budget for the ensuing fiscal year, (b) a capital program, and (c) an accompanying message..

2. Upon submission, the budget, the capital program and the message shall be a public record in the office of the clerk of the county council and shall be open to public inspection. The mayor shall at the same time make available copies of the budget, the capital program and the message for distribution to interested persons.

Sec. 9-3. SCOPE OF BUDGET AND MESSAGE.

1. The budget shall present a complete financial plan for the current operations of the county and its departments in the ensuing fiscal year, showing all funds and reserves. It shall be set up as provided by the administrative code, insofar as there is no provision, as provided by the county council after consultation with the mayor.

2. The estimated revenues, proposed expenditures and total appropriations for the ensuing fiscal year shall be equal in amount.

Exhibit B

Revised Charter of the County of Maui, §§ 8-14.1–14.3, 13-2 (1977 ed.)



MOLOKAI



MAUI



LANAI



KAHOOLAWE



CHARTER

County of Maui

EFFECTIVE JANUARY 1, 1977

PREFACE

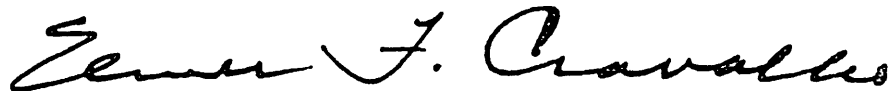
Dedicated men and women put many thousands of hours of work into the writing and implementation of this, Maui County's second Charter. The community at large owes a great deal of thanks to all those who labored to give Maui a governmental foundation that will serve our needs now and in the future.

In a very real sense the new Charter is not new at all. It continues, for example, the basic divisions of responsibility between the executive and legislative branches of government. What is new about this Charter is that it further refines the organization of the executive branch.

Implementation of the Charter was complicated enormously by the lack of a built-in transition period. But, despite the almost overnight implementation required, there was never a disruption in service to the community.

This Charter, or any Charter, should accommodate change. The very best theories sometimes prove unworkable or less efficient than desired. However, this Charter does provide the mechanisms that will be employed when and if change is needed.

In 1967 Maui set out a new road with its first Charter. In 1977 that road made the first of many turns that will be made as Maui moves confidently into a better future for all of its people.

A handwritten signature in black ink, reading "Elmer F. Cravalho". The signature is fluid and cursive, with the first name "Elmer" and last name "Cravalho" clearly legible, and "F." as a small initial in the middle.

ELMER F. CRAVALHO
Mayor, County of Maui

FORWARD

This is the Charter of the County of Maui as revised by the Charter Commission in 1976 and approved by a majority of the voters voting thereon at the General Election on November 2, 1976. The provisions of the Charter were to be effective as of January 1, 1977.

On December 29, 1976, actions were filed in the Second Circuit Court of the State of Hawaii by the Hawaii Government Employees' Association, the United Public Workers and the Hawaii Fire Fighters Association, pursuant to which a restraining order was granted enjoining the implementation of certain provisions of the Revised Charter of the County of Maui.

On January 11, 1977, an action was filed in the First Circuit Court of the State of Hawaii by the County of Maui, contesting an opinion rendered by the Attorney General of the State of Hawaii, which opinion held that exemptions as provided in the Revised Charter of the County of Maui from the civil service law of the State of Hawaii were not valid.

On February 17, 1977, the Second Circuit Court rendered a decision and order on the challenged provisions of the Revised Charter. The court ruled that all challenged portions of the Charter were valid and in accordance with constitutional requirements. The court, in ruling on the disclosure requirements of the code of ethics, ordered that the phrase of Section 10-2 of the Revised Charter, "All elected and appointed officials, officers and employees . .

" shall be interpreted to mean only those who are elected or appointed by officials elected pursuant to law or by County agencies and who have discretionary executive or policy-making powers and responsibilities. With the concern for a proper review of its decision, the court extended the restraining order enjoining the County of Maui from implementing the various challenged Charter provisions pending review by the Supreme Court of the State of Hawaii.

The action filed in the First Circuit Court is still pending and an appeal of the decision in the Second Circuit Court has been filed with the Supreme Court of the State of Hawaii.

After January 2, 1977, the Department of the Corporation Counsel has issued opinions and memoranda of law with regard to the provisions of the Charter and will continue to do so in the future. Such opinions and any future judicial decisions which have an impact on the substance of the Revised Charter will be added hereto as a supplement in future editions.

PAUL R. MANCINI
Corporation Counsel

April 20, 1977

CHARTER COUNTY OF MAUI

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2. Adopt rules and regulations having the force and effect of law for the administration of liquor control in the county and to carry out provisions of the liquor control laws of the State.

3. Grant, renew or refuse applications for licenses for the manufacture, importation and sale of liquor in the county under applicable laws and regulations.

4. Have such other powers and duties as may be provided by law, not in conflict with the provisions of this section.

Sec. 8-13.3. LIQUOR CONTROL ADJUDICATION BOARD.

The liquor control adjudication board shall consist of five members appointed by the mayor with the approval of the council for terms of five years.

The liquor control adjudication board shall hear and determine all complaints regarding violations of the liquor control laws of the State, or complaints regarding violations of rules and regulations established by the liquor control commission, and impose such fines or punishment as may be provided by law upon the conviction thereof.

Sec. 8-13.4. DIRECTOR OF THE DEPARTMENT OF LIQUOR CONTROL.

The director of the department of liquor control shall be appointed and may be removed by the liquor control commission. The director of the department of liquor control shall have had a minimum of five years of training and experience in law enforcement, at least three of which shall have been in a responsible administrative capacity.

The director of the department of liquor control shall:

1. Be the administrative head of the department of liquor control.

2. Investigate complaints regarding violations of the liquor control laws of the State or complaints regarding violations of rules and regulations established by the liquor control commission and report such violations to the prosecuting officer of the county.

CHAPTER 14.

COST OF GOVERNMENT COMMISSION

Sec. 8-14.1. DECLARATION OF POLICY.

It is declared to be the policy of the county of Maui, while giving full recognition to the separation of powers between the legislative and executive branches of government provided in this charter and not to interfere therewith, to promote economy, efficiency and improved

service in the transaction of the public business in the legislative and executive branches of the county of Maui by:

1. Limiting expenditures to the lowest amount consistent with the efficient performance of essential services, activities and functions.
2. Eliminating duplication and overlapping of services, activities and functions.
3. Consolidating services, activities and functions of a similar nature.
4. Abolishing services, activities and functions not necessary to the efficient conduct of government.
5. Defining and limiting executive functions, services and activities.

Sec. 8-14.2. COST OF GOVERNMENT COMMISSION.

For the purpose of carrying out the policy set forth herein, there shall be a **cost of government commission**. The commission shall consist of seven members appointed by the mayor with the approval of the council. The mayor shall appoint the members of the commission within **forty-five (45) days** after the effective date of this charter.

The commission shall:

1. Prepare and submit to the mayor a request for an annual appropriation for the operation of the commission.
2. Study and investigate the then existing organizations and methods of operations of all departments, commissions, boards, offices and other instrumentalities of all branches of the county government and determine what changes, if any, may be desirable to accomplish the policy set forth herein.
3. Be authorized to secure directly from any department, commission, board, office, or any other instrumentality of all branches of the county government or from any individual officer or employee of the county, information, suggestions, estimates, and statistics necessary to carry out its duties.
4. Shall review the salaries of the mayor and the county council and shall submit their recommendations thereon to the mayor and the council.
5. Submit a report of its findings and recommendations to the mayor and council not later than **eighteen months** after its appointment.

Sec. 8-14.3. TERM OF OFFICE.

Each commission shall cease to exist **sixty (60) days**

after the submission to the mayor and council of its report. **Eighteen months thereafter, the mayor shall appoint a new commission, no members of which shall have been members of the preceding commission, and in like manner shall appoint a new commission at like intervals of eighteen months after the previous commission shall cease to exist.**

CHAPTER 15.

CIVIL DEFENSE AGENCY

Sec. 8-15.1. ORGANIZATION AND FUNCTIONS.

There shall be a civil defense agency whose powers, duties, functions and organization shall be as provided by law.

ARTICLE 9. FINANCIAL PROCEDURES.

Sec. 9-1. FISCAL YEAR.

The fiscal year shall begin on the first day of July and end on the thirtieth day of June of the succeeding year.

Sec. 9-2. PREPARATION AND SUBMISSION OF BUDGET AND CAPITAL PROGRAM.

1. On or before the first day of March before the ensuing fiscal year begins, the mayor shall submit to the county council (a) an operating budget for the ensuing fiscal year, (b) a capital program, and (c) an accompanying message.

2. Upon submission, the budget, the capital program and the message shall be a public record in the office of the clerk of the county council and shall be open to public inspection. The mayor shall at the same time make available copies of the budget, the capital program and the message for distribution to interested persons.

Sec. 9-3. SCOPE OF BUDGET AND MESSAGE.

1. The budget shall present a complete financial plan for the current operations of the county and its departments in the ensuing fiscal year, showing all funds and reserves. It shall be set up as provided by the administrative code, insofar as there is no provision, as provided by the county council after consultation with the mayor.

2. The estimated revenues, proposed expenditures and total appropriations for the ensuing fiscal year shall be equal in amount.

3. The mayor's message shall explain the budget both in fiscal terms and in terms of work to be done. It shall outline the proposed financial policies of the county for the ensuing fiscal year and describe the most important features of the budget plan. It shall indicate any

the unexpired term of his predecessor.

Sec. 12-9. IMMUNITY TO RECALL.

The question of the removal of any officer shall not be submitted to the voters until such person has served six (6) months of the term during which he is sought to be recalled, nor, in case of an officer retained in a recall election, until one year after that election.

ARTICLE 13. GENERAL PROVISIONS

Sec. 13-1. DEFINITIONS.

1. The term "department" shall mean any office, department, board, commission or other governmental unit of the county, **but shall not include the county council.**

2. The terms "board" and "commission" shall mean a board or commission which establishes policies for a department or which performs adjudicative functions.

3. The term "employee" shall mean any person, except an officer, employed by the county, but the term shall not include an independent contractor.

4. The term "law" shall mean any law of the State of Hawaii or any ordinance of the County of Maui or any rule or regulation of any department having the force and effect of law.

5. The term "officer" shall include the following:

a. Mayor, **managing director** and members of the council.

b. Any person appointed as administrative head of any department or as a member of any board or commission.

c. The first deputy appointed by the administrative head of any department.

d. Deputies of the **corporation counsel and prosecuting attorney.**

6. The term "State" shall mean the State of Hawaii.

Sec. 13-2. BOARDS AND COMMISSION.

1. The members of all boards or commissions shall serve for staggered terms. Upon the initial appointment of the members of a commission consisting of three members appointed for a term of five years, one shall be appointed for a term of three years, one for a term of four years and one for a term of five years. Upon the initial appointment of the members of a commission consisting of five members appointed for a term of five years, one shall be appointed for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years and one for a term of five years. Upon the initial appointment of the members of a

commission consisting of seven members appointed for a term of five years, one shall be appointed for a term of one year, one for a term of two years, two for a term of three years, two for a term of four years and one for a term of five years.

2. Not more than a bare majority of the members of any board or commission shall belong to the same political party.

3. **In making appointments to all boards and commissions, the appointing authority shall give due consideration to balanced geographic representation.**

4. Any vacancy occurring on any board or commission shall be filled for the unexpired term.

5. The members of boards and commissions appointed by the mayor, with the 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. 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 years, provided that members of any board or commission initially appointed for a term of one year and two 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 term expires unless he is specifically reappointed. A vacancy shall be automatically created upon the expiration of a member's term and this vacancy shall be filled within sixty (60) days by an appointment made by the mayor with the confirmation of the council.**

7. 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. **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 shall be necessary to take any action.**

9. Each board or commission shall select a chairman from its membership annually.

10. All boards and commissions shall have the power to subpoena witnesses and administer oaths to witnesses as to all matters within the scope of such boards or commissions.

11. 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. 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. 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. 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. 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.

Sec. 13-3. TITLE TO PROPERTY.

Except as otherwise provided by law, title to all property acquired by any department of the county shall be vested in the county. Upon the retirement of all bonded indebtedness of the department of water supply, all right, title and interest in and to any real property held in the name of the board of water supply shall be promptly transferred and conveyed to the county.

Sec. 13-4. FACSIMILE SIGNATURES.

Whenever any person is required to sign negotiable instruments, multiple bonds, or certification of payrolls, the signatures may be a facsimile.

Sec. 13-5. EXPENSES.

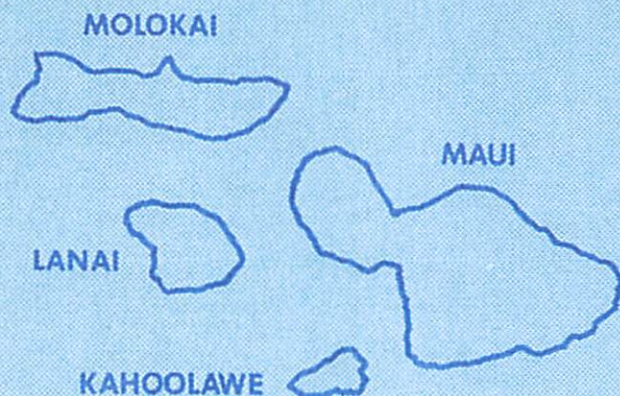
All officers and employees of the county shall be entitled to their traveling or other necessary expenses incurred in the performance of their public duties as provided by ordinance.

Sec. 13-6. CLAIMS.

No action shall be maintained for the recovery of damages for any injury to person or property by reason of negligence of any officer or employee of the county unless a written statement stating fully when, where and how the injuries occurred, the extent thereof and the amount claimed therefor has been filed with the county clerk within two years after the date the injury was sustained.

Exhibit C

Revised Charter of the County of Maui, §§ 8-14.1–14.3, 13-2 (1983 ed.)



CHARTER

County of Maui

EFFECTIVE JANUARY 1, 1983

PREFACE

Our new Maui County Charter is a constitutional document which defines the responsibilities of our local government.

This revised charter was drafted by a Charter Commission which devoted several hundred hours to studying county government. Public input was received at numerous public hearings held throughout the county.

The charter was formally adopted by the voters in the 1982 general election.

Some of the changes made from the previous charter are technical and nonsubstantive. Other changes provide greater clarity of purpose, and carefully delineate the responsibilities of the executive and legislative branches of county government.

A constitution is a living document which accommodates change and enables government to operate effectively, according to the will of the people.

A handwritten signature in cursive script, reading "Hannibal Tavares".

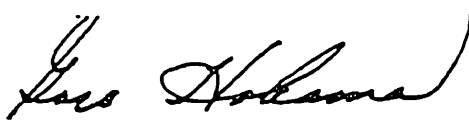
HANNIBAL M. TAVARES
Mayor, County of Maui

PREFACE

The new Charter of the County of Maui which was adopted by the voters in the general election of 1982 increases the accountability of the elected and appointed officials to the public. There is the requirement that candidates and elected officials must file public disclosure forms and members of the boards and commissions must file private disclosure forms. There are, also, stricter post-employment restrictions that contribute to added accountability.

The Mayor and the County Council have the responsibility for rates, assessments, fees and other revenue sources. As an example, the new Charter makes the Board of Water Supply an advisory body making the Mayor and County Council responsible for water rates and fees.

The County Charter serves as our constitution and allows for change by periodic revisions that are drafted by an appointed commission and approved by the voters. This revised Charter incorporates many changes that require careful monitoring in its implementation to test the workability and effectiveness in guiding our County government.

A handwritten signature in black ink, appearing to read 'Goro Hokama', written in a cursive style.

GORO HOKAMA, Chairman
County Council

FOREWORD

The Charter Commission of the County of Maui was duly appointed pursuant to ordinance and the prior Charter. Commission members undertook the revision of the Charter on July 27, 1981. Within one year, the final draft of a proposed Charter was submitted to the County Clerk for placement on the ballot in the next General Election. At the General Election held on November 2, 1982, the people of the County of Maui adopted this Charter by a majority vote of the voters voting thereon as certified by the County Clerk. The provisions of this Charter became effective on January 1, 1983.

This Charter, as revised, establishes the structure and organization of the government of the County of Maui. It outlines the basic framework within which the County will operate.

All laws of the State of Hawaii and the Charter provisions and ordinances of the County of Maui have been complied with in the promulgation of this Charter.

After January 1, 1983, the Department of the Corporation Counsel has issued opinions and memoranda of law with regard to the provisions of the Charter and will continue to do so in the future. Such opinions and any future judicial decisions which have an impact on the substance of the Revised Charter will be added hereto as a supplement in future editions.



H. RODGER BETTS
Corporation Counsel

March 28, 1983

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CHAPTER 14

COST OF GOVERNMENT COMMISSION

Section 8-14.1. Declaration of Policy. It is declared to be the policy of the county to promote economy, efficiency and improved service in the transaction of the public business in the legislative and executive branches of the county by:

1. Limiting expenditures to the lowest amount consistent with the efficient performance of essential services, activities, and functions.

2. Eliminating duplication and overlapping of services, activities, and functions.

3. Consolidating services, activities and functions of a similar nature.

4. Abolishing services, activities, and functions not necessary to the efficient conduct of government.

Section 8-14.2. Cost of Government Commission. For the purpose of carrying out the policy set forth herein the mayor with the approval of the council shall biennially appoint a cost of government commission consisting of nine members.

Each such commission shall:

1. Prepare and submit to the mayor a request for an appropriation for the operation of the commission.

2. Study and investigate the organizations and methods of operations of all departments, commissions, boards, offices and other instrumentalities of all branches of the county government and determine what changes, if any, may be desirable to accomplish the policy set forth herein.

3. Be authorized to secure directly from any department, commission, board, office, or any other instrumentality of all branches of the county government or from any individual officer or employee of the county, information, suggestions, estimates, and statistics necessary to carry out its duties.

4. Review the salaries of the mayor and the council members and submit its recommendations thereon to the mayor and the council.

5. Submit a report of its findings and recommendations to the mayor and council not later than eleven months after its appointment.

Section 8-14.3. Term of Commission. Commissions shall be appointed biennially to serve a term commencing on March 1st of each odd numbered year and concluding on the last day of February of the following year. No member of a commission shall have served as a member of the preceding commission.

CHAPTER 15

CIVIL DEFENSE AGENCY

Section 8-15.1. Organization and Functions. There shall be

recalled in such election, shall continue in office for the remainder of the unexpired term subject to the recall as before, except as provided in this charter. If recalled in the recall election, the officer shall be deemed removed from office upon the announcement of the official canvass of that election, and the office shall be filled as provided by this charter for the filling of vacancies of elected officials or members of boards and commissions as the case may be. The successor of any person so removed shall hold office during the unexpired term of his predecessor.

Section 12-9. Immunity to Recall. The question of the removal of any officer shall not be submitted to the voters until such person has served six (6) months of the term during which he is sought to be recalled, nor, in case of an officer retained in a recall election, until one year after that election.

ARTICLE 13 GENERAL PROVISIONS

Section 13-1. Definitions. The terms "board" or "commission" shall mean a board of commission established by this charter.

2. The term "employee" shall mean any person, except an officer, employed by the county, but the term shall not include an independent contractor.

3. The term "law" shall mean any Federal law, any law of the State or any ordinance of the county of Maui or any rule having the force and effect of law.

4. The term "officer" shall include the following:

- a. Mayor, managing director and members of the council.
- b. Any person appointed as administrative head of any department or as a member of any board or commission.
- c. The first deputy appointed by the administrative head of any department.
- d. Deputies of the corporation counsel and prosecuting attorney.

5. The term "State" shall mean the State of Hawaii.

Section 13-2. Boards and Commissions. 1. Unless otherwise provided, the members of all boards or commissions shall serve for staggered terms of five years beginning on January 2nd and ending on December 31st five years thereafter. All members of boards and commissions recognized by this charter who hold office upon the effective date of this charter shall continue in office for the balance of the term for which they were originally appointed. Within thirty (30) days of the effective date of this charter the mayor shall appoint five members each to the Board of Variances and Appeals, the Board of Ethics, the Liquor Adjudication Board, and the Liquor Commission. Of the five members appointed to each such board or commission two shall serve for a term

of five years, one shall serve for a term of four years, one shall serve for a term of three years and one shall serve for a term of two years. Within thirty (30) days of the effective date of this charter the mayor shall appoint three members each to the Board of Water Supply, the Planning Commission and the Police Commission. Of the three members appointed to each such board or commission two shall serve for a term of five years and one shall serve for a term of two years.

2. Not more than a bare majority of the members of any board or commission shall belong to the same political party.

3. In making appointments to all boards and commissions, the mayor shall give due consideration to balanced geographic representation.

4. Any vacancy occurring on any board or commission shall be filled for the unexpired term as provided for herein.

5. The members of boards and commissions appointed by the mayor, with 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. 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 years, provided that members of any board or commission initially appointed for a term not exceeding two 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. 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. 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 those members present shall be necessary to take any action.

9. Each board or commission shall select a chairman from its membership annually.

10. 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. 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. 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. 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. 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. 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.

16. A vacancy on a commission or board due to the expiration of a member's term shall be filled as follows:

Not more than seventy (70) days nor less than sixty (60) 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) 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 of its action. The mayor shall then submit the name of a second nominee to the council within ten (10) days and the council shall act thereon within sixty (60) days. The process shall continue until the vacancy is filled. 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.

17. A vacancy on a commission or board due to death, resignation or removal shall be filled as follows: Within thirty (30) days of the occurrence of a vacancy the mayor shall submit to the council the name of the mayor's nominee to fill the vacancy. Within sixty (60) 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 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 sixty (60) days. This process shall continue until the vacancy is filled. 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.

Section 13-3. Title to Property. Except as otherwise provided by law, title to all property acquired by any department of the county shall be vested in the county. Upon the

Exhibit D

Revised Charter of the County of Maui, §§ 8-14.1–14.3, 13-2 (1993 ed.)



MOLOKAI



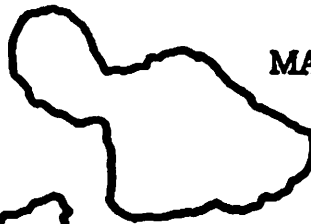
LANAI



KAHOOLAWE



MAUI



CHARTER

COUNTY OF MAUI

1993 EDITION

FOREWORD

This edition sets forth the Charter of the County of Maui, effective as of January 1, 1983, as it was revised by the Charter Commission in 1982 and approved by a majority of the voters at the General Election held on November 2, 1982. This edition also incorporates amendments to the Charter proposed by the County Council and approved by a majority of the voters at the General Elections of 1984, 1986, 1988, and 1990, as well as an amendment proposed by a Special Charter Commission and approved by a majority of the voters at the General Election of 1988. Also incorporated in this edition are amendments proposed by the Charter Commission in 1992 and approved by a majority of the voters at the General Election of 1992, which amendments became effective on November 24, 1992. This 1993 edition of the Charter, therefore, replaces all previous editions and contains all those Charter provisions in effect at the time of its publication.

This Charter, as revised, establishes the structure and organization of the government of the County of Maui. It is a constitutional document, drafted in accordance with the will of the people, which defines the responsibilities of our local government.

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Section 8-13.4. Director of the Department of Liquor Control. The director of the department of liquor control shall be appointed and may be removed by the liquor control commission. The director of the department of liquor control shall have had a minimum of five years of experience in law enforcement, at least three of which shall have been in an administrative capacity.

Section 8-13.5. Powers, Duties and Functions. The director of liquor control shall:

1. Be the administrative head of the department of liquor control.
2. Investigate violations of the liquor control laws of the State and of the rules established by the liquor control commission.
3. Investigate applications for liquor licenses.
4. Have such other powers and duties as may be assigned by the mayor or as may be provided by law.

CHAPTER 14

COST OF GOVERNMENT COMMISSION

Section 8-14.1. Declaration of Policy. It is declared to be the policy of the county to promote economy, efficiency and improved service in the transaction of the public business in the legislative and executive branches of the county by:

1. Limiting expenditures to the lowest amount consistent with the efficient performance of essential services, activities, and functions.
2. Eliminating duplication and overlapping of services, activities, and functions.
3. Consolidating services, activities, and functions of a similar nature.
4. Abolishing services, activities, and functions not necessary to the efficient conduct of government.

Section 8-14.2. Cost of Government Commission. For the purpose of carrying out the policy set forth herein the mayor with the approval of the council shall biennially appoint a cost of government commission consisting of nine members.

Each such commission shall:

1. Prepare and submit to the mayor a request for an appropriation for the operation of the commission.
2. Study and investigate the organizations and methods of operations of all departments, commissions, boards, offices and other instrumentality of all branches of the county government and determine what changes, if any, may be desirable to accomplish the policy set forth herein.
3. Be authorized to secure directly from any department, commission, board, office, or any other instrumentalities of all branches of the county government or from any individual officer or employee of the county, information, suggestions, estimates, and statistics necessary to carry out its duties.
4. Submit a report of its findings and recommendations to the mayor and council not later than eleven months after its appointment. (Amended 1988)

Section 8-14.3. Term of Commission. Commissions shall be appointed biennially to serve a term commencing on March 1st of each odd numbered year and concluding on the last day of February of the following year. No member of a commission shall have served as a member of the preceding commission.

Section 12-7. Ballots. The ballots at such election shall, with respect to each person whose removal is sought, submit the question: "Shall (name of person) be removed from the office (name of office) by recall?" Immediately following each such question, there shall be printed on the ballots the two propositions in the order set forth: "I favor the removal of (name of person)," "I am against the removal of (name of person)." Next to the proposition shall be placed a square in which the voters, by marking an X mark, may vote for either of such propositions. A majority vote shall be sufficient to recall such officer, subject to the provisions of Section 12-6 of this Article.

Section 12-8. Succeeding Officer. The incumbent, if not recalled in such election, shall continue in office for the remainder of the unexpired term subject to the recall as before, except as provided in this charter. If recalled in the recall election, the officer shall be deemed removed from office upon the announcement of the official canvass of the election, and the office shall be filled as provided by this charter for the filling of vacancies of elected officials or members of boards and commissions as the case may be. The successor of any person so removed shall hold office during the unexpired term of his predecessor.

Section 12-9. Immunity to Recall. The question of the removal of any officer shall not be submitted to the voters until such person has served six (6) months of the term during which he is sought to be recalled, nor, in case of an officer retained in a recall election, until one year after that election.

ARTICLE 13 GENERAL PROVISIONS

Section 13-1. Definitions.

1. The terms "board" or "commission" shall mean a board or commission established by this charter.
2. The term "employee" shall mean any person, except an officer, employed by the county, but the term shall not include an independent contractor.
3. The term "law" shall mean any Federal law, any law of the State or any ordinance of the county of Maui or any rule having the force and effect of law.
4. The term "officer" shall include the following:
 - a. Mayor, managing director and members of the council.
 - b. Any person appointed as administrative head of any department or as a member of any board or commission.
 - c. The first deputy appointed by the administrative head of any department.
 - d. Deputies of the corporation counsel and prosecuting attorney.
5. The term "State" shall mean the State of Hawaii.

Section 13-2. Boards and Commissions.

1. Unless otherwise provided, the members of all boards or commissions shall serve for staggered terms of five years beginning on April 1st and ending on March 31st five 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 their term for which they were originally appointed and ninety (90) days thereafter to the following March 31st.

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 years, two shall serve for a term of four years, two shall serve for a term of three years and two shall serve for a term of two years. (Amended 1988)

2. Not more than a bare majority of the members of any board or commission shall belong to the same political party.

3. In making appointments to all boards and commissions, the mayor shall give due consideration to balanced geographic representation.

4. Any vacancy occurring on any board or commission shall be filled for the unexpired term as provided for herein.

5. 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. 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 years, provided that members of any board or commission initially appointed for a term not exceeding two 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. 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. 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. (Amended 1988)

9. Each board or commission shall select a chairman from its membership annually.

10. 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. 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. 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. 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. 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. 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.

16. A vacancy on a commission or board due to the expiration of a member's term shall be filled as follows:

Not more than seventy (70) days nor less than sixty (60) 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) 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 of its action. The mayor shall then submit the name of a second nominee to the council within ten (10) days and the council shall act thereon within sixty (60) days. The process shall continue until the vacancy is filled. 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.

17. A vacancy on a commission or board due to death, resignation or removal shall be filled as follows: Within thirty (30) days of the occurrence of a vacancy the mayor shall submit to the council the name of the mayor's nominee to fill the vacancy. Within sixty (60) 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 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 sixty (60) days. This process shall continue until the vacancy is filled. 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.

Section 13-3. Title to Property. Except as otherwise provided by law, title to all property acquired by any department of the county shall be vested in the county. Upon the retirement of all bonded indebtedness of the department of water supply, all right, title and interest in and to any real property held in the name of the board of water supply shall be promptly transferred and conveyed to the county.

Section 13-4. Facsimile Signatures. Whenever any person is required to sign negotiable instruments, multiple bonds, or certification of payrolls, the signatures may be a facsimile.

Section 13-5. Expenses. All officers and employees of the county shall be entitled to their traveling or other necessary expenses incurred in the performance of the public duties as provided by ordinance.

Section 13-6. Claims. No action shall be maintained for the recovery of damages for any injury to person or property by reason of negligence of any officer or employee of the county unless a written statement stating fully when, where and how the injuries occurred, the extent thereof and the amount claimed therefor, has been filed with the county clerk within two years after the date the injury was sustained.

Section 13-7. Annual Reports. Not later than ninety (90) days after the close of the fiscal year, each department shall make an annual written report of its activities to the mayor in such form as the mayor may prescribe. Copies of such reports shall be filed in the office of the county clerk.

Exhibit E

“Charter amendments approved at the 1994 General Election (Insert to the Revised Charter of the County of Maui, 1993 Edition)”

Charter amendments approved at the 1994 General Election
(Insert to the Revised Charter of the County of Maui, 1993 Edition)

Section 8-11.8. Approval of Rules. The adoption, amendment and repeal of all rules adopted pursuant to Subsection 8-11.4(3) shall require action by both the mayor and the council. The mayor shall either approve or disapprove and transmit the request to the council within fifteen (15) days of receipt. The request shall be deemed approved and transmitted to the council on the sixteenth day if the mayor takes no action.

Within forty-five (45) days of receipt from the mayor, the council may confirm the mayor's action by majority vote or may override any action by the mayor by a two-thirds (2/3) vote of its entire membership. If the council takes no action within forty-five (45) days, the proposal shall be deemed approved.

Section 8-14.3 Term of Commission. Members of the Cost of Government Commission shall serve for staggered terms of two years, with an initial appointment of four members to serve two year terms and five members to serve one year terms. A member may be reappointed, but shall not serve on the Commission for more than a total of four years.

Section 10-3. Financial Disclosure.

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 disclosures in a form or forms to be prescribed by the board of ethics which disclosures shall not be open to public inspection provided that the names of all persons required to file confidential financial disclosures, the dates by which the disclosures are required to be filed, and the dates on which the disclosures are actually filed, shall be open to public inspection.

Exhibit F

Revised Charter of the County of Maui, §§ 8-15.1–15.3, 13-2 (2003 ed.)



Moloka'i



Lāna'i



Kaho'olawe



Maui



CHARTER

COUNTY OF MAUI

2003 EDITION

FOREWORD

This edition sets forth the Charter of the County of Maui, effective as of January 1, 1983, as it was revised by the Charter Commission in 1982 and approved by a majority of the voters at the General Election held on November 2, 1982. This edition also incorporates amendments to the Charter proposed by the County Council and approved by a majority of the voters at the General Elections of 1984, 1986, 1988, 1990, 1994, 1996, 1998, and 2002, as well as an amendment proposed by a Special Charter Commission and approved by a majority of the voters at the General Election of 1988. Also incorporated in this edition are: amendments proposed by the Charter Commission in 1992 and approved by a majority of the voters at the General Election of 1992, which amendments became effective on November 24, 1992; and amendments proposed by the Charter Commission in 2002 and approved by a majority of the voters at the General Election of 2002, which amendments became effective on December 5, 2002. This 2003 edition of the Charter, therefore, replaces all previous editions and contains all those Charter provisions in effect as of January 2, 2003.

This Charter, as revised, establishes the structure and organization of the government of the County of Maui. It is a constitutional document, drafted in accordance with the will of the people, which defines the responsibilities of our local government.

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2. Be responsible for the planning and implementation of all modes of transportation in Maui County, including those in the air and those on water and land.
3. Be responsible for planning and developing an efficient program to facilitate the rapid, safe, and economical movement of people and goods in Maui County.
4. Coordinate Maui County's transportation programs with other county departments and with agencies of the state and federal government.
5. Perform such other duties and functions as shall be assigned by the mayor. (Amended 2002)

CHAPTER 15

COST OF GOVERNMENT COMMISSION

Section 8-15.1. Declaration of Policy. It is declared to be the policy of the county to promote economy, efficiency and improved service in the transaction of the public business in the legislative and executive branches of county by:

1. Limiting expenditures to the lowest amount consistent with the efficient performance of essential services, activities, and functions.
2. Eliminating duplication and overlapping of services, activities, and functions.
3. Consolidating services, activities, and functions of a similar nature.
4. Abolishing services, activities, and functions not necessary to the efficient conduct of government.

Section 8-15.2. Cost of Government Commission. For the purpose of carrying out the policy set forth herein the mayor with the approval of the council shall biennially appoint a cost of government commission consisting of nine members.

Each such commission shall:

1. Prepare and submit to the mayor a request for an appropriation for the operation of the commission.
2. Study and investigate the organizations and methods of operations of all departments, commissions, boards, offices and other instrumentality of all branches of the county government and determine what changes, if any, may be desirable to accomplish the policy set forth herein.
3. Be authorized to secure directly from any department, commission, board, office, or any other instrumentalities of all branches of the county government or from any individual officer or employee of the county, information, suggestions, estimates, and statistics necessary to carry out its duties.
4. Submit a report of its findings and recommendations to the mayor and council not later than eleven (11) months after its appointment. (Amended 1988)

Section 8-15.3. Term of Commission. Members of the cost of government commission shall serve for staggered terms of two (2) years, with an initial appointment of four members to serve two (2) year terms and five members to serve one (1) year terms. A member may be reappointed, but shall not serve on the commission for more than a total of four (4) years. (Amended 1994)

CHAPTER 16 CIVIL DEFENSE AGENCY

Section 8-16.1. Organization and Functions. There shall be a civil defense 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 civil defense administrator for the administrator's disposition. (Amended 2002, 1986)

CHAPTER 17 SALARY COMMISSION

Section 8-17.1. 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. (Amended 2002, 1992, 1984)

ARTICLE 13 GENERAL PROVISIONS

Section 13-1. Definitions.

1. The terms "board" or "commission" shall mean a board or commission established by this charter.
2. The term "employee" shall mean any person, except an officer, employed by the county, but the term shall not include an independent contractor.
3. The term "law" shall mean any Federal law, any law of the State or any ordinance of the county of Maui or any rule having the force and effect of law.
4. The term "officer" shall include the following:
 - a. Mayor, managing director and members of the council.
 - b. Any person appointed as administrative head of any department or as a member of any board or commission.
 - c. The first deputy appointed by the administrative head of any department.
 - d. Deputies of the corporation counsel and prosecuting attorney.
5. The term "State" shall mean the State of Hawai'i.

Section 13-2. Boards and Commissions.

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. In making appointments to all boards and commissions, the mayor shall give due consideration to balanced geographic representation.

4. Any vacancy occurring on any board or commission shall be filled for the unexpired term as provided for herein.

5. 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. 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 for a term not exceeding two (2) 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. 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. 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. Each board or commission shall select a chair from its membership annually.

10. 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. 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. 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. 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. 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. 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.

16. A vacancy on a commission or board due to the expiration of a member's term shall be filled as follows:

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) 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 of its action. The mayor shall then submit the name of a second nominee to the council within ten (10) days and the council shall act thereon within sixty (60) days. The process shall continue until the vacancy is filled. 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) days nominate and approve the appointment of an individual to fill the vacancy.

17. A vacancy on a commission or board due to death, resignation or removal shall be filled as follows:

Within thirty (30) days of the occurrence of a vacancy the mayor shall submit to the council the name of the mayor's nominee to fill the vacancy. Within sixty (60) 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 of its action. The mayor shall then submit the name of a second nominee to the council within ten (10) days and the council shall act thereon within sixty (60) days. This process shall continue until the vacancy is filled. 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) days nominate and approve the appointment of an individual to fill the vacancy. (Amended 2002, 1988)

Section 13-3. Title to Property. Except as otherwise provided by law, title to all property acquired by any department of the county shall be vested in the county. Upon the retirement of all bonded indebtedness of the department of water supply, all right, title and interest in and to any real property held in the name of the board of water supply shall be promptly transferred and conveyed to the county.

Section 13-4. Facsimile Signatures. Whenever any person is required to sign negotiable instruments, multiple bonds, or certification of payrolls, the signatures may be a facsimile.

Section 13-5. Expenses. All officers and employees of the county shall be entitled to their traveling or other necessary expenses incurred in the performance of the public duties as provided by ordinance.

Section 13-6. Claims. No action shall be maintained for the recovery of damages for any injury to person or property by reason of negligence of any officer or employee of the county unless a written statement stating fully when, where and how the injuries occurred, the extent thereof and the amount claimed therefor, has been filed with the county clerk within two (2) years after the date the injury was sustained.

Section 13-7. Annual Reports. Not later than ninety (90) days after the close of the fiscal year, each department shall make an annual written report of its activities to the mayor in such form as the mayor may prescribe. Copies of such reports shall be filed in the office of the county clerk.

Exhibit G

Revised Charter of the County of Maui, §§ 3-9.3, 13.2. (2019 ed.)

CHARTER
COUNTY OF MAUI

2019 EDITION

FOREWORD

This edition sets forth the Charter of the County of Maui, effective as of January 1, 1983, as it was revised by the Charter Commission in 1982 and approved by a majority of the voters at the General Election held on November 2, 1982. This edition also incorporates amendments to the Charter proposed by the County Council and approved by a majority of the voters at the General Elections of 1984, 1986, 1988, 1990, 1994, 1996, 1998, 2002, 2006, 2010, 2012, 2014, 2016, and 2018, as well as an amendment proposed by a Special Charter Commission and approved by a majority of the voters at the General Election of 1988. Also incorporated in this edition are: amendments proposed by the Charter Commission in 1992 and approved by a majority of the voters at the General Election of 1992, which amendments became effective on November 24, 1992; amendments proposed by the Charter Commission in 2002 and approved by a majority of the voters at the General Election of 2002, which amendments became effective on December 5, 2002; and amendments proposed by the Charter Commission in 2012 and approved by a majority of the voters at the General Election of 2012, which amendments became effective on December 6, 2012. This 2019 edition of the Charter, therefore, replaces all previous editions and contains all those Charter provisions in effect as of January 2, 2019.

This Charter, as revised, establishes the structure and organization of the government of the County of Maui. It is a constitutional document, drafted in accordance with the will of the people, which defines the responsibilities of our local government.

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2. 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 the council and its members. (Amended 2016)

Section 3-8. Restrictions on Council and Council Members.

1. Unless otherwise provided in this charter, neither the council nor any of its members shall, in any manner, dictate the appointment or removal of any officer or employee appointed by the mayor or by the mayor's subordinates.

2. Neither the council nor its members shall give orders to any county employees or county officers other than those appointed pursuant to Section 3-7 or Article 5, either publicly or privately. Any willful violation of the provisions of this subsection by a member of the council shall be sufficient grounds for the councilmember's removal from office by impeachment. (Amended 2016, 2002)

Section 3-9. Declaration of Policy. It is declared to be the policy of the county to promote economy, efficiency and improved service in the transaction of the public business in the legislative and executive branches of the county by:

1. Limiting expenditures to the lowest amount consistent with the efficient performance of essential services, activities, and functions.

2. Eliminating duplication and overlapping of services, activities, and functions.

3. Consolidating services, activities, and functions of a similar nature.

4. Abolishing services, activities, and functions not necessary to the efficient conduct of government. (Amended 2012)

Section 3-9.1. Office of the County Auditor and County Auditor.

1. There is established an office of the county auditor, to be headed by a county auditor who shall be appointed by the county council, by a majority vote of its membership, and shall serve for a term of six years. The county auditor may be re-appointed, or a successor appointed, by the council for subsequent terms of six years. The county auditor may hold over until a successor is appointed. The salary of the county auditor shall be determined by the salary commission. The council, by a two-thirds vote of its membership, may remove the county auditor from office at any time for cause. The county auditor shall be exempt from civil service.

2. The county auditor shall possess adequate professional proficiency for the office, demonstrated by relevant certification as a certified

internal auditor or certified public accountant, and have at least five years of experience in the field of auditing, evaluation, or analysis. The county auditor shall have a bachelor's degree in accounting, business administration, or public administration or related field.

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

4. The county auditor shall appoint the necessary staff as shall be authorized by law. Persons appointed to such positions shall be exempt from civil service and shall serve at the pleasure of the county auditor. (Amended 2012)

Section 3-9.2. Powers, Duties, and Functions.

1. The county auditor shall have the duty and power to conduct or cause to be conducted:

a. The independent annual financial audit of the county, as authorized by Section 9-13 of this charter;

b. Other program, financial, or performance audits or evaluations regarding county organizations, operations, and regulations; and

c. Performance or financial audits of the funds, programs, or activities of any agency or function of the county, as the county auditor deems warranted; provided that, before each fiscal year, the auditor shall transmit a plan of the audits proposed to be conducted during the fiscal year to the mayor and the council, for review and comment, but not approval.

2. Audit findings and recommendations shall be set forth in written reports of the county auditor, a copy of which shall be transmitted to the mayor and to the council, which shall be public records, except as provided by law.

3. For the purposes of carrying out any audit, the county auditor shall have full, free, and unrestricted access to any county officer or employee and shall be authorized to examine and inspect any record of any agency or operation of the county, to administer oaths and subpoena witnesses, and compel the production of records pertinent thereto. If any person subpoenaed as a witness or compelled to produce records shall fail or refuse to respond thereto, the proper court, upon request of the county auditor, shall have the power to compel obedience to any process of the county auditor and to punish, as a contempt of the court, any refusal to comply therewith without good cause. Notwithstanding Section 3-6.6, the county auditor may, without council approval, retain special counsel to represent the county auditor in implementing these powers.

4. The county auditor shall submit its budget to the county council and its budget shall include the cost of government's budget subject to Article 9, Section 9-2.1. (Amended 2012)

Section 3-9.3. Cost of Government Commission. For the purpose of carrying out the policy set forth herein, in accordance with section 13-2 of this charter, the mayor with the approval of the council shall appoint a cost of government commission consisting of nine members. The commission shall be advisory to the county auditor.

The commission shall have the power and duty to:

1. Study and investigate the organizations and methods of operations of all departments, commissions, boards, offices, and other instrumentality of all branches of the county government and determine what changes, if any, may be desirable to accomplish the policy set forth herein.

2. Be authorized to secure directly from any department, commission, board, office, or any other instrumentalities of all branches of the county government or from any individual officer or employee of the county, information, suggestions, estimates, and statistics necessary to carry out its duties.

3. Submit an annual report of its findings and recommendations to the mayor, council, and county auditor. (Amended 2012)

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. (Amended 2012)

ARTICLE 4 ORDINANCES AND RESOLUTIONS

Section 4-1. Actions of the Council. Every legislative act of the council shall be by ordinance, unless otherwise provided for herein. Other acts of the council may be by resolution.

Section 12-7. Ballots. The ballots at such recall election shall, with respect to each person whose removal is sought, submit the question: "Shall (name of person) be removed from the office (name of office) by recall?" Immediately following each such question, there shall be printed on the ballots the two propositions in the order set forth: "I favor the removal of (name of person)," "I am against the removal of (name of person)." Next to the proposition shall be placed a square in which the voters, by marking an X mark, may vote for either of such propositions. A majority vote shall be sufficient to recall such officer, subject to the provisions of Section 12-6 of this Article.

Section 12-8. Succeeding Officer. The incumbent, if not recalled in such election, shall continue in office for the remainder of the unexpired term subject to the recall as before, except as provided in this charter. If recalled in the recall election, the officer shall be deemed removed from office upon the announcement of the official canvass of that election, and the office shall be filled as provided by this charter for the filling of vacancies of elected officials or members of boards and commissions as the case may be. The successor of any person so removed shall hold office during the unexpired term of that person's predecessor.

Section 12-9. Immunity to Recall. The question of the removal of any officer shall not be submitted to the voters until such person has served six (6) months of the term during which the officer is sought to be recalled, nor, in case of an officer retained in a recall election, until one (1) year after that election.

ARTICLE 13 GENERAL PROVISIONS

Section 13-1. Definitions.

1. The terms "board" or "commission" shall mean a board or commission established by this charter.
2. The term "employee" shall mean any person, except an officer, employed by the county, but the term shall not include an independent contractor.
3. The term "law" shall mean any Federal law, any law of the State or any ordinance of the county of Maui or any rule having the force and effect of law.
4. The term "officer" shall include the following:
 - a. Mayor, managing director and members of the council.

- b. Any person appointed as administrative head of any department or as a member of any board or commission.
- c. The first deputy appointed by the administrative head of any department.
- d. Deputies of the corporation counsel and prosecuting attorney.
- 5. The term "State" shall mean the State of Hawai'i.

Section 13-2. Boards and Commissions.

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. In making appointments to all boards and commissions, the mayor shall give due consideration to balanced geographic representation.

4. Any vacancy occurring on any board or commission shall be filled for the unexpired term as provided for herein.

5. 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. 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 for a term not exceeding two (2) 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. 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. 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. Each board or commission shall select a chair from its membership annually.

10. 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. 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. 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. 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. 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. 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.

16. A vacancy on a commission or board due to the expiration of a member's term shall be filled as follows:

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) 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 of its action. The mayor shall then submit the name of a second nominee to the council within ten (10) days and the council shall act thereon within sixty (60) days. The process shall continue until the vacancy is filled. 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) days nominate and approve the appointment of an individual to fill the vacancy.

17. A vacancy on a commission or board due to death, resignation or removal shall be filled as follows:

Within thirty (30) days of the occurrence of a vacancy the mayor shall submit to the council the name of the mayor's nominee to fill the vacancy. Within sixty (60) 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 of its action. The mayor shall then submit the name of a second nominee to the council within ten (10) days and the council shall act thereon within sixty (60) days. This process shall continue until the vacancy is filled. 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) days nominate and approve the appointment of an individual to fill the vacancy. (Amended 2002, 1988)

Section 13-3. Title to Property. Except as otherwise provided by law, title to all property acquired by any department of the county shall be vested in the county. Upon the retirement of all bonded indebtedness of the department of water supply, all right, title and interest in and to any real property held in the name of the board of water supply shall be promptly transferred and conveyed to the county.

Section 13-4. Facsimile Signatures. Whenever any person is required to sign negotiable instruments, multiple bonds, or certification of payrolls, the signatures may be a facsimile.

Section 13-5. Expenses. All officers and employees of the county shall be entitled to their traveling or other necessary expenses incurred in the performance of the public duties as provided by ordinance.

Section 13-6. Claims. No action shall be maintained for the recovery of damages for any injury to person or property by reason of negligence of any officer or employee of the county unless a written statement stating fully when, where and how the injuries occurred, the extent thereof and the amount claimed therefor, has been filed with the county clerk within the time period as provided by law. (Amended 2006)

COST OF GOVERNMENT COMMISSION APPOINTMENTS AND TERMS (2007 - present)

Prepared by Cost of Government Commission

May 2021

NAME	PARTY AFFIL.	RESIDENTIAL DISTRICT	TERM	COUNCIL MEETING DATE APPROVED	TERM EXPIRATION	OTHER INFO	COMMITTEE REPORT	COUNCIL RESOLUTION
John Del Gatto	N	Kula	2007-2008 2008-2009	03/16/07 03/16/07	03/31/09 03/31/09	New 2-Year Term Completed Term		
Rebecca Kikumoto	D	Pukalani	2007-2008 2008-2009 2009-2010 2010-2011	03/16/07 03/16/07 03/20/09 03/20/09	03/31/09 03/31/09 03/31/11 03/31/11	New 2-Year Term Completed Term Reappointed Completed Term		
Warren Suzuki	N	Wailuku	2007-2008 2008-2009	03/16/07 03/16/07	03/31/09 03/31/09	New 2-Year Term Completed Term		
Sharron Courter	R	Makawao	2007-2008	03/16/07	03/31/09	New 2-Year Term; Resigned 2/4/08		
Ron Vaught	N	Kihei	2008-2009	03/18/08	03/31/09	Replaced Sharron Courter; Completed Term		
Craig Anderson	I	Makawao	2008-2009 2009-2010	03/18/08 03/18/08	03/31/10 03/31/10	New 2-Year Term Completed Term		
Robert Hill	D	Wailuku	2008-2009 2009-2010 2010-2011	03/18/08 03/18/08 03/19/10	03/31/10 03/31/10 03/31/12	New 2-Year Term Completed Term New 2-Year Term/Reappointed; Resigned 3/29/10		
Frank DeRego	I	Kahului	2010-2011 2011-2012 2012-2013 2013-2014	06/18/10 06/18/10 03/02/12 03/02/12	03/31/12 03/31/12 03/31/14 03/31/14	Replaced Robert Hill Completed Term		
Leo Caires	N	Haiku	2008-2009 2009-2010	06/06/08 06/06/08	03/31/10 03/31/10	New 2-Year Term Completed Term		

COST OF GOVERNMENT COMMISSION APPOINTMENTS AND TERMS (2007 - present)

Prepared by Cost of Government Commission

May 2021

NAME	PARTY AFFIL.	RESIDENTIAL DISTRICT	TERM	COUNCIL MEETING DATE APPROVED	TERM EXPIRATION	OTHER INFO	COMMITTEE REPORT	COUNCIL RESOLUTION
Malcolm Findley	I	Kuau	2008-2009 2009-2010	06/06/08 06/06/08	03/31/10 03/31/10	New 2-Year Term Completed Term		
Gina Flammer	N	Kula	2008-2009	06/06/08	03/31/10	New 2-Year Term		
Ivan Lay	I	Haiku	2008-2009 2009-2010	08/25/09 03/19/10	03/31/10 03/31/12	Replaced Gina Flammer; Completed Term New 2-Year Term/Reappointed; Resigned 4/6/11		
Sunny Gutierrez	R	Wailuku	2011-2012	05/24/11	03/31/12	Replaced Ivan Lay; Completed Term		
Yarrow Flower	I	Makawao	2009-2010 2010-2011	03/20/09 03/20/09	03/31/11 03/31/11	New 2-Year Term Completed Term		
Bradford Ing	D	Wailuku	2009-2010 2010-2011	03/20/09 03/20/09	03/31/11 03/31/11	New 2-Year Term Completed Term		
Ann Moe	NA	Kihei	2009-2010 2010-2011	03/20/09 03/20/09	03/31/11 03/31/11	New 2-Year Term Completed Term		
Norma Barton	N	Lahaina	2010-2011	03/19/10	03/31/12	New 2-Year Term; Resigned 8/4/10		
Ronald Kawahara	I	Lahaina	2010-2011 2011-2012 2012-2013 2013-2014	10/01/10 10/01/10 03/02/12 03/02/12	03/31/12 03/31/12 03/31/14 03/31/14	Replaced Norma Barton Completed Term New 2-Year Term/Reappointed Completed Term		
Harold Davis	R	Wailuku	2010-2011 2011-2012	03/19/10 03/19/10	03/31/12 03/31/12	New 2-Year Term Completed Term		

COST OF GOVERNMENT COMMISSION APPOINTMENTS AND TERMS (2007 - present)

Prepared by Cost of Government Commission

May 2021

NAME	PARTY AFFIL.	RESIDENTIAL DISTRICT	TERM	COUNCIL MEETING DATE APPROVED	TERM EXPIRATION	OTHER INFO	COMMITTEE REPORT	COUNCIL RESOLUTION
Jody Yoshida	D	Wailuku	2010-2011	03/19/10	03/31/12	New 2-Year Term		
			2011-2012	03/19/10	03/31/12	Completed Term		
Walter Balaola	N	Wailuku	2011-2012	03/29/11	03/31/13	New 2-Year Term		
			2012-2013	03/29/11	03/31/13	Resigned 6/22/12		
Rick Tanner	R	Lahaina	2012-2013	08/21/12	03/31/13	Replaced Walter Balaola; Completed Term		
Garrett Evans	NA	Makawao	2011-2012	03/29/11	03/31/13	New 2-Year Term		
			2012-2013	03/29/11	03/31/13	Completed Term		
			2013-2014	03/15/13	*03/31/15*	New Term/Reappointed (*changed to 3/31/18)	CR 13-30	Reso 13-24
			2014-2015	03/25/13	03/31/18			
			2015-2016	03/25/13	03/31/18			
			2016-2017	03/25/13	03/31/18	Resigned 8/11/16 (via email; letter rec'd ??)		
Sharron Courter	R	Makawao	2016-2017	03/24/17	03/31/18	Replaced Garrett Evans; Completed Term	CR 17-48	Reso 17-61
			2017-2018	03/09/18	03/31/23	New 5-Year Term/Reappointed	CR 18-40	Reso 18-33
			2018-2019	03/09/18	03/31/23		CR 18-40	Reso 18-33
			2019-2020	03/09/18	03/31/23	Resigned 12/3/19	CR 18-40	Reso 18-33
Lu Ann Lankford-Faborito	R	Molokai	2019-2020	02/07/20	03/31/23	Replaced Sharron Courter	CR 20-17	Reso 20-14
			2020-2021	02/07/20	03/31/23		CR 20-17	Reso 20-14
Joseph Kanahuna	N	Haiku	2011-2012	03/29/11	03/31/13	New 2-Year Term		
			2012-2013	03/29/11	03/31/13	Completed Term		
Fred Rohlfing	R	Kula	2011-2012	03/29/11	03/31/13	New 2-Year Term		
			2012-2013	03/29/11	03/31/13	Completed Term		

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Alexander Gat	N	Wailuku	2012-2013	03/02/12	03/31/14	New 2-Year Term; Resigned 8/9/12		
Tina Gomes	D	Wailuku	2012-2013	10/05/12	03/31/14	Replaced Alexander Gat		
			2013-2014	10/05/12	03/31/14	Completed Term		
			2014-2015	03/25/14	03/31/19	New 5-Year Term/Reappointed		
			2015-2016	03/25/14	03/31/19	Resigned 8/27/15		
Annie Alvarado	D	Wailuku	2015-2016	10/16/15	03/31/19	Replaced Tina Gomes	CR 15-151	Reso 15-131
			2016-2017	10/16/15	03/31/19	Resigned 1/9/17	CR 15-151	Reso 15-131
Paula Heiskell	N	Kula	2016-2017	03/24/17	03/31/19	Replaced Annie Alvarado	CR 17-45	Reso 17-57
			2017-2018	03/24/17	03/31/19		CR 17-45	Reso 17-57
			2018-2019	03/24/17	03/31/19	Completed Term	CR 17-45	Reso 17-57
			2019-2020	03/08/19	03/31/24	New 5-Year Term/Reappointed	CR 19-24	Reso 19-58
			2020-2021	03/08/19	03/31/24		CR 19-24	Reso 19-58
Jeffrey Halpin	I	Lahaina	2012-2013	03/02/12	03/31/14	New 2-Year Term		
			2013-2014	03/02/12	03/31/14	Completed Term		
Victoria Johnson	D	Kihei	2012-2013	03/02/12	03/31/14	New 2-Year Term		
			2013-2014	03/02/12	03/31/14	Completed Term		
Sunny Gutierrez	N	Wailuku	2013-2014	03/15/13	*03/31/15*	New Term (*changed to 3/31/18); Resigned 9/24/13		
Gayle Long	I	Wailuku	2013-2014	12/20/13	03/31/18	Replaced Sunny Gutierrez		
			2014-2015	12/20/13	03/31/18			
			2015-2016	12/20/13	03/31/18	Resigned 7/14/16		
Bobbie Patnode	N	Kula	2016-2017	09/16/16	03/31/18	Replaced Gayle Long	CR 16-142	Reso 16-144
			2017-2018	09/16/16	03/31/18	Completed Term; Did Not Reapply	CR 16-142	Reso 16-144

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Adrienne Kawano	D	Makawao	2013-2014	03/15/13	*03/31/15*	New Term (*changed to 3/31/18); Resigned 9/24/13		
Yuki Lei Sugimura	D	Kula	2013-2014	07/05/13	03/31/18	Replaced Adrienne Kawano		
			2014-2015	07/05/13	03/31/18	Resigned 9/2/14		
Bradley Bunn	R	Lanai	2014-2015	11/07/14	03/31/18	Replaced Yuki Lei Sugimura	CR 14-134	
			2015-2016	11/07/14	03/31/18		CR 14-134	
			2016-2017	11/07/14	03/31/18		CR 14-134	
			2017-2018	11/07/14	03/31/18	Completed Term	CR 14-134	
Steve Aheong	I	Kahului	2013-2014	05/07/13	03/31/18	New 5-Year Term; Resigned 4/4/14		
Dale Thompson	N	Lahaina	2014-2015	05/27/14	03/31/18	Replaced Steve Aheong	CR 14-62	
			2015-2016	05/27/14	03/31/18		CR 14-62	
			2016-2017	05/27/14	03/31/18		CR 14-62	
			2017-2018	05/27/14	03/31/18	Completed Term	CR 14-62	
Gabe Hoeffkin	I	Kula	2014-2015	03/25/14	03/31/19	New 5-Year Term		
			2015-2016	03/25/14	03/31/19	Resigned 2/2/16		
Emmanuel Baltazar	D	Kahului	2016-2017	04/15/16	03/31/19	Replaced Gabe Hoeffken; Resigned 4/10/17	CC 16-67	Reso 16-67
Barbara Mattson	I	Lahaina	2016-2017	06/02/17	03/31/19	Replaced Emmanuel Baltazar	CR 17-79	Reso 17-99
			2017-2018	06/02/17	03/31/19		CR 17-79	Reso 17-99
			2018-2019	06/02/17	03/31/19	Completed Term	CR 17-79	Reso 17-99
			2019-2020	03/08/19	03/31/24	New 5-Year Term/Reappointed; Resigned 5/14/20	CR 19-24	Reso 19-58
Susan Pu	N	Hana	2020-2021	07/24/20	03/31/24	Replaced Barbara Mattson	CR 20-381	Reso 20-106
Kent Hiranaga	N	Paia	2014-2015	03/25/14	03/31/19	New 5-Year Term; Resigned 3/16/15		
Paul Kailiponi	N	Wailuku	2015-2016	05/26/15	03/31/19	Replaced Kent Hiranaga	CR 15-59	Reso 15-57
			2016-2017	05/26/15	03/31/19		CR 15-59	Reso 15-57
			2017-2018	05/26/15	03/31/19		CR 15-59	Reso 15-57
			2018-2019	05/26/15	03/31/19	Completed Term	CR 15-59	Reso 15-57

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Stanford Lantias	C	Waikapu	2014-2015	03/25/14	03/31/19	New 5-Year Term	CR 14-45	Res. 14-38
			2015-2016	03/25/14	03/31/19		CR 14-45	Res. 14-38
			2016-2017	03/25/14	03/31/19		CR 14-45	Res. 14-38
			2017-2018	03/25/14	03/31/19		CR 14-45	Res. 14-38
			2018-2019	03/25/14	03/31/19	Completed Term	CR 14-45	Res. 14-38
John Watling	N	Kihei	2014-2015	03/25/14	03/31/19	New 5-Year Term	CR 14-45	Reso 14-38
			2015-2016	03/25/14	03/31/19		CR 14-45	Reso 14-38
			2016-2017	03/25/14	03/31/19		CR 14-45	Reso 14-38
			2017-2018	03/25/14	03/31/19	Resigned 2/5/18	CR 14-45	Reso 14-38
Bonnie DeRose	R	Lahaina	2017-2018	04/06/18	03/31/19	Replaced John Watling; Completed Term	CR 18-63	Reso 18-67
			2018-2019	03/08/19	03/31/24	New 5-Year Term/Reappointed; Removed 7/5/19		
Patrick O'Neil	I	Wailuku	2020-2021	09/06/19	03/31/24	Replaced Bonnie DeRose	CR 19-104	Reso 19-148
			2019-2020	09/06/19	03/31/24		CR 19-104	Reso 19-148
Norman Halip	N	Kihei	2018-2019	03/09/18	03/31/23	New 5-Year Term; Withdrew 3/28/28; Did Not Serve	CR 18-40	Reso 18-33
Edward Codelia	I	Pukalani	2018-2019	07/06/18	03/31/23	Replaced N. Halip; Withdrew 10/19/18; Did Not Serve	CR 18-105	Reso 18-117
Hannah Werth	D	Kihei	2018-2019	12/21/18	03/31/23	Replaced Edward Codelia	CR 18-449	Reso 18-205
			2019-2020	12/21/18	03/31/23		CR 18-449	Reso 18-205
			2020-2021	12/21/18	03/31/23	Resigned 4/14/21	CR 18-449	Reso 18-205
						AWAITING APPOINTMENT OF NEW COMMISSIONER		
Noemi Barbadillo	N	Lanai	2018-2019	06/01/18	03/31/23	New 5-Year Term (Roger Alconcel disapproved by Council)	CR 18-93	Reso 18-102
			2019-2020	06/01/18	03/31/23		CR 18-93	Reso 18-102
			2020-2021	06/01/18	03/31/23		CR 18-93	Reso 18-102

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Gayla Haliniak-Lloyd	N	Molokai	2018-2019	03/09/18	03/31/23	New 5-Year Term; Resigned 7/25/18	CR 18-40	Reso 18-33
Ronald Kimball			2018-2019	11/16/18	03/31/23	Replaced G. Haliniak-Lloyd; Resigned; Did Not Serve		
Michael Williams	D	Kula	2019-2020	05/03/19	03/31/23	Replaced Ronald Kimball	CC 19-194	Reso 19-87
			2020-2021	05/03/19	03/31/23		CC 19-194	Reso 19-87
Michelle Del Rosario	N	Makawao	2019-2020	03/08/19	03/31/24	New 5-Year Term	CR 19-24	Reso 19-58
			2020-2021	03/08/19	03/31/24	Resigned 5/4/21	CR 19-24	Reso 19-58
						AWAITING APPOINTMENT OF NEW COMMISSIONER		
Sarah Simmons	D	Wailuku	2019-2020	03/08/19	03/31/24	New 5-Year Term	CR 19-24	Reso 19-58
			2020-2021	03/08/19	03/31/24		CR 19-24	Reso 19-58