

**MATRIX**  
**PROPOSALS FOR SUBSTANTIVE CHANGES TO THE**  
**MAUI COUNTY CHARTER**

September 2, 2011

With New Articles Proposed - September 25, 2011

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**Preamble**

**#0.1 - Proposal to amend the Purpose Clause**

Amend Preamble to add a general statement about the purpose of establishing a County Government and to include the following: preserve and protect the rights of persons and property, to protect the beauty of Maui, to provide recreational facilities, to provide adequate and safe water, among other things

**Article 1, Incorporation and Geographical Limits**

**#1.1 - Amend Section 1-2, Geographical limits to include the area known as the Kalaupapa Settlement as part of the County of Maui.**

**Article 2, Powers of the County**

**#2.1 - Create a new section to declare that the Maui County government is non-partisan**

**Article 3, County Council**

**#3.1 - Proposal to Establish an Apportionment Commission to create a new nine-district Council Election system based on equally proportioned districts.**

This would replace the language in Section 3.1, Composition, that establishes the current at-large election system composed of nine equally proportioned single-member districts.

**#3.2 - Proposal to Implement Single Member Districts**

Amend Section 3-1, Composition, to change the composition of the Maui County Council to Nine Single Member Districts

**#3.3 - Single Member Districts Proposal with Lanai and Molokai in Separate Districts**

Amend Section 3-1, Composition, to change the composition of the Maui County Council to Nine Single Member Districts but do not place Lanai and Molokai in the same council district

**#3.4 - Single Member Districts Proposal with Self-Rule for Lanai and Molokai**

Amend Section 3-1, Composition, to change the composition of the Maui County Council to Nine Single Member Districts and grant Lanai and Molokai self-rule

**#3.5 - Proposal to Create 3 Single Member Districts and 3 Geographic Districts for Lanai, Molokai and Maui**

**#3.6 - Proposal to create Island Boards for the Islands of Lanai and Molokai.**

These would be elected bodies of five (Lanai) to seven (Molokai) members who would (1) replace and would take on the responsibilities of the appointed planning commissions (2) and in addition have authority over all other land use approvals on the island, including zoning and variances. These bodies would also (3) be the official voice of their communities, at the County, State and national levels.

**#3.7 - Single Member Districts Proposal with Lanai, Molokai and Hana in one district together**

Amend Section 3-1, Composition, to change the composition of the Maui County Council to Nine Single Member Districts and grant Lanai and Molokai self-rule

**#3.8 - Proposal to Retain At-large Districts with Geographic Residency**

Do not amend Article 3, County Council, Section 3-1, Composition

**#3.9 - Proposal to Expand the Number of Council Members to 13**

**#3.10 - Proposal to have 3 council members in each of 3 districts**

**#3.11 - Proposal to have 6 council districts with equal population plus 3 at large council districts**

**#3.12 - Proposal to Delete Subsections 1), (2), (3), and (4) of Article 3, County Council, Sections 3-2 Election of Council and Term of Office, and Add new language to enact Instant Run-Off Voting, similar to San Francisco, California**

Instant-runoff voting (IRV), also known as preferential voting, the alternative vote and ranked choice voting, is a voting system used to elect one winner. Voters rank candidates in order of preference, and their ballots are counted as one vote for their first choice candidate. If a candidate secures a majority of votes cast, that candidate wins. Otherwise, the candidate with the fewest votes is eliminated. A new round of counting takes place, with each ballot counted as one vote for the advancing candidate who is ranked highest on that ballot. This process continues

until the winning candidate receives a majority of the vote against the remaining candidates.

**#3.13 - Proposal to Return to a Closed Primary System**

**#3.14 - Proposal to Abolish Nonpartisan Elections for County Council**

Amend Article 3, County Council, Section 3-2, Election of Council and Term of Office, to delete nonpartisan elections and implement a system of partisan elections in the primary and general elections

**#3.15 - Residency Requirements for County Council Members Proposal;**

Amend Section 3-3, Qualifications, to require that candidates have lived in and voted in the district in the previous election for which they are currently running

Amend Section 3-3, Qualifications to require that candidates have lived in the district for one year

**#3.16 - Proposal to adopt a Five-Year Residency Requirement for County Council Members Proposal**

Amend Section 3-3, Qualifications, to require that candidates have lived in the district for which they are running for at least 5 years.

**#3.17 - Proposal for Eight-Year Term Limits**

Amend Section 3-2 (5), Election of Council and Term of Office, to limit a council member to 2 terms of 4 years or 4 terms of 2 years for a total of 8 years altogether and, after the 8 years have been exhausted, to prohibit the individual from ever serving on the Council again

**#3.18 - Three-Term 4 year Term Limits Proposal**

Amend Section 3-2 (5), Election of Council and Term of Office, to limit a council member to 3 terms of 4 years

**#3.19 - Two-Term 4 year Term Limits Proposal**

**#3.20 - One-Term 4 year Term Limit Proposal**

**#3.21 - Proposal to change the present system of five two year terms of council members to three full four year terms, whether consecutive or not and require that terms of council members to be staggered.**

**#3.22 - Proposal to Amend Term of Office for Council Members from a Two (2) Year Term to a Four (4) Year Term, Stagger the Terms, and Limit the Number of Terms**

Amend Section 3-2, Election of Council and Term of Office from a two (2) year term to a four (4) year term, stagger the terms by implementing for the first election the highest 4 vote getters will serve 4 year terms and the bottom 5 vote getters will serve 2 year terms, limit the terms to 2 consecutive terms and a total of 12 years or 3 full terms.

**#3.23 - Proposal to Retain Article 3, Section 3-2 (5), Term of Office for Council Members for a 2 year term**

**#3.33 - Proposal to Amend Section 3-6, Powers of the Council to Require that the Council approve the appointments of all department heads**

In the alternative, require that the Council approve the appointments of Planning Director and the Director of the Department of Finance

**#3.34 - Proposal to Establish an Office of Legislative Attorney for the County Council**

Amend Article 3, County Council, to add a new section to establish a separate Office of Legislative Attorney assigned solely to the County Council

**#3.35 - Proposal to Require an Apportionment Commission Every 10 Years**

Amend Article 3, County Council, to add a new section to establish a county reapportionment commission to establish district boundaries, to consist of 9 members appointed by the Mayor and confirmed by the Council, to be constituted in 2011 and every 10 years thereafter, to be composed of members selected from House Districts with no more than a bare majority from one political party, to have services from the County Clerk, and to have specific criteria in the establishment of the boundaries of the council districts

**#3.36 - Proposal to delete Section 3.3-8 (because the Council approves the appointments of the Mayor).**

**#3.37 – Proposal For Single Member Districts with Self-Rule for Molokai and Lanai through the creation of Island Boards**

Island Boards would replace Molokai and Lanai Planning Commissions, be responsible for all land use and planning, have authority to have direct contact with federal and state government, and get share of funding

#3.38 – Proposal for Four Year Council Terms, limited to 3 consecutive terms and staggered election dates

## **Article 5, County Clerk**

#5.1 - Proposal to Designate County Clerk to be the Official Custodian of all County records

Amend Article 5, County Clerk, Article 5-3, Powers, Duties and Functions, to add a new section to make the County Clerk the official custodian of records of the County of Maui, including but not limited to the financial reports of elected officials

## **Article 7, Office of the Mayor**

#7.1 - Proposal to Require Transparency in Appointments to Boards and Commissions

Amend Section 7-5, Powers, Duties and Functions, to require the Mayor to make the public the names of those who have volunteered to serve on Boards and Commissions

#7.2 - Proposal to Make the Office of the Mayor Ceremonial and Implement an Appointed County Manager as Chief Executive Officer

Amend Section 7-5, Powers, Duties and Functions, to change the powers of the Mayor to be ceremonial, to include accepting service of process and to be recognized by the Governor for civil defense and military purposes and to allow the County Council to appoint an interim mayor in the event of a vacancy

Amend Article 8, County Departments, Chapter 1, Department of the Management, Section 8-1.1 Organization, [1] to change the title of this section to Office of the County Manager, [2] to provide that the County Manager will be selected by the County Council, [3] to require that the County Manager have proven administrative qualifications, [4] to require residency in Maui only after selection, [5] to set forth a procedure for removal from office that includes the conduct of a hearing, and [6] to provide the County Council with final authority for removal and [7] to Amend Section 8-1.3, Powers, Duties and Functions, to enumerate the duties of the County Manager and make other conforming changes in Article 8

#7.3 - Proposal to Require the Mayor to include a balance sheet in the Mayor's Annual Report

Amend Section 7-5, Powers, Duties and Functions to require the Mayor to include a balance sheet in the Mayor's Annual Report

#7.4 – Proposal to Add a New Section and to Establish a Selection Commission that recommends the most qualified applicant for selection for appointments by the Mayor to Cabinet and Deputy Cabinet positions, and approval by the Council, except that the appointment process for the Chief of Police, Fire Chief, Director of Personnel and Director, Liquor Control Department shall remain the same. The Selection Commission shall be appointment by the Mayor and confirmed by the Council. One of the criteria shall be significant experience and/or educational background.

## **Article 8, County Departments**

### **Chapter 1, Department of Management**

#8.1.1 - Proposal to Amend Section 8-1.1, Organization, to specify that there shall be a deputy managing director

#8.1.2 - Proposal to Amend Section 8-8.3(6) to require an audit every 5 years of projects that received conditional zoning approval

### **Chapter 3, Department of Prosecuting Attorney**

#8.3.1 - Proposal to Section 8-3.3 Powers, Duties and Functions, to clarify that the investigators in the prosecuting attorney's office have all the powers and privileges of a police officer of the county

#8.3.2 - Proposal to Section 8-3.3 Powers, Duties and Functions, to clarify that the County Prosecuting Attorney prosecutes offenses against the law of the State of Hawaii under the authority of the Attorney General of the State of Hawaii.

### **Chapter 4, Department of Finance**

#8.4.1 - Proposal to Require all Finance Reports to Be Available to the Public

Amend Section 8-4.3, Power, Duties and Functions, to add a new section that requires the Director to make available to the public all financial reports in an electronic form on the county website

### **Chapter 5, Department of Public Works and Environmental Management**

#8.5.1 - Proposal to Require Expeditious Processing of Building Permits

Amend Section 8-5.3, Powers, Duties and Functions, to add a new subsection to require the Department of Planning to process building permit applications within 90 days or less

#8.5.2 – Proposal to Amend Section 8-14.1, Department of Transportation, to delete the section and merge the department of transportation to be under the powers duties and function fo the director of public works – see section 8-5.3

### **Chapter 7, Department of Fire and Public Safety**

#8.7.1 - Proposal to Abolish Department of Fire and Public Safety, Require Fire Chief to Report to Mayor, and Set Minimum Qualifications for Fire Chief and Other High Ranking Fire Officials

Delete Section 8-7.2 Fire and Public Safety Commission, and amend Section 8-7.3, Fire Chief, to give the Mayor the authority rather than the Fire and Public Safety Commission to appoint the Fire Chief, and require the Fire Chief and Assistant Chief to have a 4 year college degree and the Battalion Chief to have a 2 year college degree as one of the minimum requirements

#8.7.2 - Proposal to give the Mayor the authority to in the selection and removal of the Fire Chief.

Amend Section 8-7.3 to require approval of the Commission recommendation by the Mayor

Amend Section 8-7.3 to require that the Mayor initiate and the Commission approve the request to remove by a majority vote

#8.7.3 - Proposal to Amend Chapter 7, Department of Fire and Public Safety, to change the name of the Department of Fire and Public Safety and delete the term Public Safety in order to more accurately reflect the duties of the Fire Department, and to conform other provisions of the charter to reflect the new name

Suggested new name - Fire Protection and Prevention and Rescue

#8.7.5 - Proposal to Amend Chapter 7, Department of Fire and Public Safety, Section 8-7.2, Fire and Public Safety Commission, to delete the current language and to add new language on a Statement of Policy as follows:

It is hereby declared to be the purpose of this chapter of the charter to establish in the county a system of fire protection and prevention, emergency rescue, and emergency services which shall be based on qualified and professional leadership and personnel In order to achieve this purpose, the Maui County

INSERT NEW NAME OF DEPARTMENT shall be operated in accordance with the following:

The goal of the county shall be to have qualified and professional leadership and personnel in this department

Standards for recruitment shall be designed to attract into the department persons with high degrees of education, intelligence, and personal stability

Promotions and other personnel actions shall be in accordance with all applicable laws and based upon fair and appropriate standards of merit, ability and work performance

Appropriate training shall be provided to the maximum extent possible and practicable

#8.7.6 - Proposal to Amend Section 8-7.2, Fire and Public Safety Commission to have one member from each council district, to expand the powers of the commission to appoint such staff as it needs and to engage consultants as necessary for the performance of its duties and to add that the appointment of commission members appointed by the mayor and confirmed by the council to be done so in the manner prescribed in Section 13-2.

#8.7.7 - Proposal to Amend Section 8-7.2, Fire and Public Safety Commission to expand and clarify the powers, duties and functions of the commission to do one or more of the following:

Expand the authority of the commission to review rules for the administration of the department.

Add to subsection 4 - publish a summary of the charges filed against officers and the disposition of each charge to be included in the annual report of the commission.

Review personnel actions within the department for conformance with the policies under the statement of policy.

Review and recommend on the strategic plan for the fire department or other similar type of plans

Add to subsection 5 regarding the annual evaluation of the fire chief that the commission shall at least annually compare the actual achievements in the strategic or other similar types of plans or latest update submitted by the fire chief



Submit and annual report to the mayor and the council on its activities.

#8.7.8 - Proposal to Amend Section 8-7.2, Powers, Duties and Functions of the commission to require that a summary of the charges filed and their disposition shall be included in the annual report of the commission.

#8.7.9 - Proposal to Amend Section 8-7.4, Fire Chief, Powers, Duties and Functions to add the following:

Prepare and, when deemed necessary, update a strategic or other similar type of plan of goals and objectives for the Maui County NEW NAME OF FIRE DEPARTMENT. The chief shall submit the plan and each update to the commission for review and recommendations.

#8.7.10 - Proposal to Amend Section 8-7.4 (4), Powers, Duties, and Functions to Add and Assign Ocean Safety and Rescue to the Department of Fire and Public Safety

#8.7.11 - Proposal to Amend Section 8-7.4 (4), Powers, Duties, and Functions to Clarify that Reserve Fire Fighters and Emergency Rescue Personnel can be trained and utilized, when needed.

#8.7.12 - Proposal to Delete Section 8-7.2 to eliminate the Fire and Public Safety Commission

## **Chapter 8, Department of Planning**

#8.8.1 – Proposal to Change Planning and Variance Process to Create Elected Community Boards for Every Community Plan Area on Maui, Molokai and Lanai

Amend Chapter 8, Department of Planning, to require Planning Commission members to be elected by Community Board Members and to include one nonvoting representative on the Maui Planning Commission appointed to represent Kahoolawe

#8.8.2 - Proposal to Create Planning Commissions for Each Community

Amend Chapter 8, Department of Planning, to require that each island have its own planning commission, Each of the 6 community plan districts on Maui Island shall have its own permanent advisory board (such as the advisory board that already exists in Hana). The 6 Advisory boards would make recommendations to the County Council, the Maui Planning commission and where applicable to other county boards and commissions. Each Advisory Board shall have 11 members.

Members selected by the Mayor and one selected by each council member.  
Members will serve to 3 years, and may be reappointed twice.

#8.8.3 - Proposal to Amend Chapter 8, Department of Planning, Section 8-8.1, Organization, to add a new section to establish a Hana Planning Commission

#8.8.4 - Proposal to retain Hana Advisory Committee and make no changes to Chapter 8, Department of Planning.

#8.8.5 - Proposal to amend Section 8-8.1, Organization, to reduce the number of commissioners for the Molokai and Lanai Planning Commissions from 9 to 7 members.

#8.8.6 - Proposal to amend Section 8-8.4, Planning Commission, to allow outgoing board members of the Molokai Planning Commission to retain their membership on the board until their terms expire or their replacement member is confirmed, whichever is later.

#8.8.7 - Proposal to Amend Section 8-8.4, Planning Commissions, to expand the jurisdiction and powers of the Molokai Planning Commission

Amend Section 8-8.4, Planning Commissions, to expand the jurisdiction and powers of the Molokai Planning Commission so that it will have all the powers of the Board of Variances and Appeals for Molokai, to grant all permits (SMA, building, business, etc.) and provide that appeals from any variance granted shall be heard and determined by the Maui County Council, provided that a 2/3rds vote would be required to overturn any variance granted within 30 days

#8.8.8 - Proposal to Make No Changes to Planning Commission

Retain Article 8, County Departments, Chapter 8, Department of Planning, Section 8-8.4, Planning Commission in its current form

#8.8.9 - Proposal to Provide Adequate Time for Planning Commissions to Act

Amend Section 8-8.4, Planning Commission, Second Subsection 3, to extend the time from 120 days to 180 days for the Planning Commissions to transmit findings and recommendations of ordinances to the Council

#8.8.10 - Proposal to Provide Adequate Time for Planning Commissions to Act

Amend Section 8-8.6, Adoption of General Plan and Other Land Use Ordinances, Subsection 2, to give the Planning Commissions 180 days after the final public hearing to transmit ordinances with their findings and recommendations to the Council

**#8.8.11 - Proposal to Combine Board of Code Appeals with Board of Variances and Appeals**

Delete Section 8-8.7, Board of Variances and Appeals, to combine the Board of Code appeals and all its functions and powers with the Board of Variances and Appeals

**#8.8.12 - Proposal to Protect the Right of Citizens to Use Their Residence for Economic Activity**

Amend Article 8, County Departments, Chapter 8, Department of Planning, to add a new section to provide that the use of the home for small business or rental for any period of time shall not be infringed upon except in cases of health, safety, welfare and nuisance

**#8.8.13 Proposal to Establish Elected Island Boards for Molokai and Lanai**

Amend Article 8, County Departments, Chapter 8, Department of Planning to add a new section for Elected Island Boards for Molokai and Lanai, to have 5 or 7 members, to replace the Planning Commissions and all their functions and take over the variance and zoning functions of the County Council for those islands

**#8.8.14 - Proposal to create an Implementation Unit within the Department of Planning's Long-Range Division**

Amend Article 8, County Departments, to add a new section for an Implementation Unit within the Department of Planning's Long-Range Division to proactively implement and coordinate the General Plan and coordinate with the Enforcement Unit to vigorously enforce the provisions of these plans.

**Chapter 9, Department of Personnel Services**

**#8.9.1 - Proposal to Amend Article 8, County Departments, Chapter 9, Department of Personnel Services, Section 9.4, Civil Service Commission with a housekeeping measure to align the Maui County Charter with the Hawaii Revised Statutes regarding recent changes to the civil service law .**

**Chapter 11, Department of Water Supply**

**#8.11.1 - Proposal to Eliminate the Board of Water Supply**

Delete Section 8-11.3, Board of Water Supply and Section 8-11.4 Powers Duties and Functions, in order to eliminate the Board of Water Supply.

#8.11.2 - Proposal to Amend Article 8, County Departments, Chapter 11, Department of Water Supply, Section 8-11.3 Board of Water Supply and Section 8-11.4 Powers Duties and Functions to Strengthen the independence of the Board of Water Supply and to Establish It as a Semi-autonomous Entity and to have some or all of the following powers:

issue revenue bonds

hire its own legal counsel and not use the Corporation Counsel

set rates

promulgate rules and regulations

set its own budget

appoint the Director of the Department of Water Supply

use model of the provisions in the Charter of the City and County of Honolulu

use model it after the provision proposed by the 2001 Maui County Charter Commission

complete and independent authority for rules, budget, fees and rates

#8.11.3 - Proposal to amend Section 8-11.5, Powers Duties and Functions [of Director of Water Supply] to increase his or her powers

report to either the council or the board of water supply on all issues to eliminate piecemeal authority

#8.11.4 Proposal to delete the requirement in Sec. 8.11 -5 that Director of Water Supply be confirmed by the County Council

#8.11.5 Proposal to Amend Article 8, County Departments, Chapter 11, Department of Water Supply, Section 8-11

a. To Strengthen the **Independence of the Department of Water Supply**, to Establish It as a Semi-autonomous Entity, to include all water owned and operated by the County, and to have some or all of the following powers and duties:

Add real property and personal associated with water systems, and organization of private water within its authority

Have the County Council authorized to issue general obligations revenue bonds for the Department of Water Supply and to appropriate funds for the Department

Develop for each community plan or department water system district a water use and development plan, which shall include an inventory of existing uses and sustainable yields, projected water demand, proposed public and private water system improvements and water source developments, storage and cost and prepare a long-range capital improvement plan to ensure proper maintenance and to increase the publically-owned and publically- maintained water systems and infrastructures and all such plans shall be subject to approval by the Council

**b. To Strengthen the Board of Water Supply**

Members shall serve pursuant to county charter section 13-2

Neither Planning Director nor Director of Public Works may serve as Chair

Authority to evaluate yearly and to remove Director, to remove or add positions, adopt rules and regulations that are binding, including setting rates and charges for furnishing water, to issue revenue bonds in the name of the Board of Water Supply,

Adopt an annual operating and capital budget,

Have eminent domain authority

Authority to appoint the Director of Water Supply, who shall have 3 [rather than 5] years of experience, in an administrative capacity [rather than management]

**c. To amend the powers, functions and duties of the Director of Water Supply**

Recommend rules and regulations for adoption by the Board of Water Supply

Implement plans adopted by the Board

Appoint the Deputy Director

Prepare an annual operating and capital budget for the review and approval of the Board

Coordinate with the Mayor and Council and submit the annual budget to them

**d. Have an independent audit by CPA**

e. Corporation Counsel shall be **counsel** to the Department, compensation shall be as mutually agreed upon

Corporation Counsel shall have authority to settle cases

Department shall have its own right to hire independent counsel, subject to Board approval, Section 3-6.6 of this Charter governing special counsel shall not apply

## **Chapter 12, Department of Police**

### **#8.12.1 - Proposal to Establish Mayor as Appointing Authority for Police Chief**

Amend Section 8-12.3, Chief of Police, to have the Mayor appoint and remove the Chief of Police at will and delete the power of the Police Commission to do so, and to add the requirements of a notice and hearing

### **#8.12.2 - Proposal to Make No Changes to Article 8, County Departments, Chapter 12, Department of Police**

#8.12.3 - Proposal to Amend Article 8, County Departments, Chapter 12, Department of Police, Section 8-12.4 (4), Powers, Duties, and Functions of the Chief of Police to Clarify that Reserve Police Officers can be trained and utilized, when needed.

#8.12.4 - Proposal to amend Section 8-12.2, Police Commission, to add a new subsection to require that the Police Commission hold public meetings in truly public venues in different parts of the County four times a year.

## **Chapter 13, Department of Liquor Control**

### **#8.13.1– Proposal to Abolish the Liquor Adjudication Board**

Amend Article 8, County Departments, Chapter 13, Department of Liquor Control, to abolish the Liquor Control Adjudication Board and Transfer its Function to the Liquor Control Commission

### **#8.13.2 - Proposal to make no changes to Liquor Adjudication Board**

## **Chapter 14 – Department of Transportation**

### **#8.14.1– Delete Department of Transportation**

#8.14.2 - Delete Department of Transportation and create a Deputy Transportation position in the Department of Public Works

## **Chapter 15 – Department of Environmental Management [2006 Charter Amendment]**

#8.15.1 - Proposal to Amend Article 8, County Departments, Chapter 15, Department of Environmental Management to Add the Function of Sustainability to the Department of Environmental Management and change the name of the department to Department of Sustainability and Environmental Management, create a new department entitled the Department of Sustainability and Environmental Management :

Add specific language to include the function of sustainability as follows:

Guide efforts to maximize opportunities for natural resource protection, conservation, and restoration.

Coordinate and develop policies and initiatives that integrate sustainable resource development, support local food and energy production, and establish partnerships with agencies and organizations to implement programs, policies, and projects that promote sustainability.

## **Chapter 16 –Cost of Government Commission**

#8.16.1 - Proposal to Amend Article 8-16.2, Cost of Government Commission, to require that annual appropriation not be less than the year before, and that the commission decide the compensation of elected officials, appointed directors and deputy directors of all departments, consulting with the boards and commissions which have appointing authority for department heads.

#8.16.2 - Proposal to Amend Article 8-16.3, Term of Commission from a Two (2) Year Term to a Four (4) Year Term and Limit the Number of Terms

#8.16.3 – Proposal to Amend Article 8-16.3, Term of Commission from a two (2) year term to a five (5) year term and limit the terms to 2 consecutive terms for a total of 10 years.

#8.16.4 – Proposal to Amend Article 8-16.3, Term of Commission from a two (2) year to a six (6) year term and must be a resident of Maui for at least one year preceding the filing of nomination papers and have voted in the last election and must continue to reside on Maui for his or her elected term. Vacancy in office shall be filled at the next special election, unless it is more than 6 months before, and then the Mayor shall make the appointment to serve until the next special election.

#8.16.5 – Proposal to Amend Article 8-16.3, Term of Commission to have 3 members, elected for 6 years, whose terms shall be staggered every 2 years. Longest serving commissioner shall serve as temporary chair until the commission elects a permanent chair.

#8.16.6 – Proposal to Amend Article 8-16.3, Term of Commission to have commission members elected in a nonpartisan special election, with a second special election where necessary.

#8.16.7 - Proposal to Amend Article 8, Section 16.3, Term of Commission, to Conform the Term of the Cost of Government Commissioners to be the same as the terms and the timetables of other Commissions as provided in the Charter in Article 13, General Provisions, Section 13.2, Boards and Commissions.

## **Chapter 18 – Salary Commission**

#8.18.1 - Proposal to Amend Section 8-17.1 to add the following language:  
Notwithstanding any law to the contrary, in setting the salary of each appointed department head, the salary of each appointed department head shall not be less than any base salary of any of the appointed department head's subordinate; and the salary of any first deputy for first assistant to the appointed department head of any department shall not exceed a sum equal to ninety-five percent of the salary of such appointed department head, pursuant to HRS sec 4-24, as amended.

## **New Chapters to be designated in Article 8, County Departments**

#8.New.1 - Proposal to Establish an Independent Office of County Hearings Officers

Amend Article 8, County Departments, to add a new section establishing an Independent Office of County Hearings Officers to conduct all contested cases and to make findings and to recommend action to officials, boards, and commissions, to be administered by the Office of Finance

#8.New.2 – Proposal to establish Elected Community Boards

Amend Article 8, County Departments, to add a new section for Communities and Community Boards and mandate that each Community Plan Area have an elected Community Board of nine at-large members, whereby each member would run in a nonpartisan special elections conducted at the same time as the special election for Council and the two candidates receiving the most votes would run in the General Election, with the terms limited to two four-year terms,



designating a separate Community Board for Maui, Molokai and Lanai, with additional conforming amendments regarding vacancies, the conduct and scheduling of meetings, the powers of the Board, the replacement of Citizen Advisory Committees, with Community Boards in the Community Plan Process and the authority to appoint a member to the Board of Variances and Appeals

**#8.New.3 - Proposal to Create an Office of Independent Counsel for Boards and Commissions**

Amend Article 8, County Departments, to add a new section to create an Office of Independent Counsel separate from the Department of Corporation Counsel to provide independent legal advice to County Boards and Commissions

**Article 9, Financial Procedures**

**#9.1 - Proposal to Amend Article 9, Financial Procedures, Section 9-2, Preparation and Submission of Budget and Capital Program to Change from an Annual Budget to a Biennial Budget to Commence in a Non-election Year.**

**#9.2 - Proposal to Amend Article 9, Financial Procedures, Section 9-2, Preparation and Submission of Budget and Capital Program to Change from an Annual Budget in odd years for the operating budget and even years for the CIP budget.**

**#9.3 - Proposal to Amend Article 9, Financial Procedures, Section 9-13, Audit, to shorten the time for each department to prepare its reports from 6 months to 3 months after the close of the year.**

**#9.4 - Proposal to Delete Section 9-20, Affordable Housing Program [amended 2010].**

**#9.5 - Proposal to Add a New Section to Prohibit the County from Giving Money to Non-profits.**

**Article 10, Code of Ethics**

**#10.1– Proposal to Require Simultaneous Filing of Candidate Financial Disclosures**

Amend Article 10, Code of Ethics, Section 10-3, Financial Disclosures, to add a provision that requires [1] the filing of a financial disclosure statement with the County Clerk at the time a candidate files his or her nomination papers for office, [2] the submission of the financial disclosure statement to the Mayor by the County Clerk and from the Mayor to the Ethics Commission, and [3] the convening of a public meeting by the Ethics Commission to discuss any conflicts of interest entries on the form

NOTE – Corporation Counsel indicated at the June 27, 2011 meeting, Transcript page 99, that “there is nothing for the Commission to do” on the issue of concurrent filing of a financial statement and that “State law has been changes and we changed the Charter, now we’re changing the ordinance”.

**#10.2 – Proposal to Define Ethics to Prohibit Making False Statements**

Amend Article 10, Code of Ethics, Section 10-1, Declaration of Policy, to add a provision to define “ethics” to prohibit the making of false statements

**#10.3 - Proposal to Amend Article 10, Code of Ethics, Section 10-3 (1), Financial Disclosure to specify that financial disclosure be as required by provisions of Article 10 of the Maui County Charter, Maui County Code and Maui County Rules of the Board of Ethics.**

**#10.4 - Proposal to Amend Article 10, Code of Ethics, Section 10-4, Prohibitions, subsection 2 (a), to extend the time from one year to a longer time after termination of service of employment with the county for former county employees, Mayors and Councilmember before one can appear for compensation before any agency of the county.**

**#10.5 - Proposal to penalize those candidates who do not file timely financial statements by disqualifying them for County office.**

**Article 11, Initiative**

**#11.1 - Proposal to Reduce Number of Signatures Required for Initiative Petition**

Amend Section 11-3(2), Petitions, to reduce the percentage of signatures required from 20% to 10% of voters, and to amend the definition of voters from those that were registered to those that voted

**#11.2 - Proposal to Require Explanation of the Effect of Blank Votes on Ballot Initiative**

Amend Article 11-6(2), Action on Petitions, to add a new section to require an explanation on the ballot itself of the consequence of leaving the vote blank

**Article 12, Recall**

**#12.1– Proposal to Reduce Number of Signatures Required for Recall Petition**

Amend Section 12-3(2), Petitions, to reduce the percentage of signatures required from 20% to 10% of voters, and to amend the definition of voters from those that were registered to those that voted

**#12.2 - Proposal to Extend Time to File Papers for Recall Petition**

Amend Section 12-4, Filing and Certification, to extend the date for filing all papers comprising a recall petition from 30 days to 180 days after the affidavit filing (the same as an initiative requirement).

**#12.3 - Proposal to Reduce Number of Votes Required to Recall**

Amend Section 12-6, Recall Election, to change the definition of voters from those that were registered to those that voted

**#12.4 – Proposal to Require Explanation of Blank Vote on Ballot for Recall**

Amend Section 12.7, Ballots, to add a new section to require an explanation on the ballot itself of the consequence of leaving the vote blank

**Article 13 – General Provisions**

**#13.1 - Proposal to Amend Section 13-2 (16), Subsection 17 to clarify that the 30 days for the Mayor to submit to the Council the name of the Mayor's nominee to fill the vacancy commences upon the date of informing the Council of a vacancy.**

**#13.2 - Proposal to Remove the Council's power to nominate and approve Board and Commission Members under Sections 13.2-16 and 13.2-17**

**#13.3 - Proposal to Require Interactive Communications Access for the Public to All County Public Meetings and to County Departments**

Amend Article 13, General Provisions, to add a new section to require interactive communications access for the public to all County Public Meetings and to County Departments

**#13.4 - Proposal to Add a New Paragraph to require that all county boards and commissions post on the county website [1] the minutes of any public meeting or hearing within a certain number of days after the meeting and [2] any and all internal policies of any and all departments**

**#13.5 - Proposal to Amend Article 13, General Provisions to create a new section to require Telecommunications Access for the Hana, Lanai and Molokai residents to all County Public Hearings with the capability for Hana, Lanai and Molokai residents to testify remotely at all County Public Hearings**

**#13.6 - Proposal to Amend Article 13, General Provisions Create a new section to establish a Blue Ribbon Committee to make recommendations to the Mayor for Appointments to Boards and Commissions**

Amend Article 13, General Provisions, to add a new section to require the creation of a Blue Ribbon Committee to make recommendations to the Mayor for Appointments to Boards and Commissions, 3 to be appointed by the Mayor and 3 to be appointed by the Council, to serve for 2 year terms that can be renewed one time. Recommendations shall be revealed to the Mayor only and the Mayor shall make every effort to utilize the Committee's recommendations.

**#13.7 - Proposal to Amend Article 13, General Provisions, to add a new section entitled reports to make available all reports required by Charter, Code or Ordinance to be posted and available to the public at no cost.**

**#13.8 - Proposal to delete Section 13.2, Boards and Commissions, Subsection 2, which requires that no more than a majority of the members of a board or commission can belong to the same political party**

**#13.9 - Proposal to Amend Section 13-2 (3) Boards and Commissions to require that each board or commission include a qualified resident of Lanai and Molokai.**

#### **Article 14, Charter Amendments**

**#14.1– Proposal to Delete Power of County Council to Amend Maui Charter**

Amend Sections 14-1, Initiation of Amendments, Subsections (1) and (2), to remove power of the County Council to amend the Maui Charter on its own, and to make conforming changes

**#14.2 - Proposal to Delete Power of County Council to Amend Maui Charter**

Amend Sections 14-1, Initiation of Amendments, Subsections (1) and (2), to completely remove power of the County Council to amend the Maui Charter

**#14.3 - Proposal to Amend Article 14, Charter Amendment, Sections 14-1, Initiation of Amendments, Subsections (1) and (2), to delete Power of County Council to Amend Maui Charter during the time that a Charter Commission is constituted**

Amend Sections 14-1, Initiation of Amendments, Subsections (1) and (2), to remove power of the County Council to amend the Maui Charter on its own, and to make conforming changes

#14.4 - Proposal to Amend the Charter Commission Appointment Process, Sec. 14.3, so that it follows the time requirements for regular Maui County boards and commissions in Sec. 13.2-16.

#14.5 - Proposal to Reduce the Number of Votes Required for Charter Amendment Petition

Amend Section 14-2(3), Initiation of Amendments, to reduce from 20% to 10% the percentage of voters required to sign a petition to change the County Charter, and amend the definition of voters from those that were registered to those that voted

#14.6 – Proposal to Require a Charter Commission Every 10 Years

Amend Article 14 Charter Amendment, Section 14-3, Mandatory Review, and delete the section which refers only to a Charter Commission appointed in 2001 and draft a new section mandating the appointment of a Charter Review Commission every 10 years

#14.7 – Proposal to Require an Estimated Cost on the Ballot for Every Charter Amendment

Amend Article 14, Charter Amendment, to add a new section to require that every charter amendment proposed to the voters include an estimated cost on the ballot

#14.8 – Proposal to Eliminate the Charter Commission

Delete Article 14, Charter Amendment, Section 14-3, Mandatory Review

#14.9 – Proposal to Amend Article 14, Section 14-3, Mandatory Review to Extend Term of Charter Commissioners to 18 months

#14.10 – Proposal to Require that the Charter be republished each time it is amended, with a significant amendment

## **NEW ARTICLES PROPOSED**

A. Proposal to Establish an Office of County Auditor to establish an Office of County Auditor to include or not include none or one or more of the following:

\*independent of both the Mayor and Council/complete autonomy

\*perform all financial and operational audit functions

- \*coordinate with the COG or otherwise work with COG
- \* complete discretion to prioritize assignments
- \*administrative assigned to the Council
- \*possible appointment by the Judiciary
- \*possible appointment by a committee
- \*county auditor could be removed only by a 2/3rds vote of the council [as in Honolulu Charter]
- \* model powers and duties after the Auditor for the City and County of Honolulu

**B. Proposal to Establish a new office of Hearings Officers.**

**NOT INCLUDED – Clear Conflict with State or Federal Law**

Proposal to Legalize Cock Fighting – Cock Fighting is a crime under state law and is prohibited by HRS § 711-1109, Cruelty to animals in the second degree. The Hawaii State Courts have already ruled that the conduct which this cruelty to animals statute seeks to regulate is amenable to reasonable regulation by the state and that no constitutionally protected right is involved. The Hawaii Supreme Court specifically held that “cockfighting itself is also an act of cruelty to animals.” *State v. Kaneakua*, 61 Haw. 136, 597 P.2d 590 (Hawai`i, 1979).

Proposal to Elect the Sheriff – HRS § 26-14.6 establishes the Department of Public Safety within the State Executive and places the functions and authorities of the sheriff's office within said department.

**ACTIVE PROPOSALS FOR SUBSTANTIVE CHANGES TO THE**  
**MAUI COUNTY CHARTER**

September 25, 2011

Sherry P. Broder, Esq. and Jon M. Van Dyke, Esq.

**Article 3, County Council**

#3.2 - Amended Proposal to have a general discussion on proposals of Single Member Districts

#3.3 – Amended Proposal to have as part of a general discussion on Single Member Districts – Single Member District Proposal with Lanai and Molokai in Separate Districts

Amend Section 3-1, Composition, to change the composition of the Maui County Council to Nine Single Member Districts but do not place Lanai and Molokai in the same council district

#3.4 - Amended Proposal to have as part of a general discussion on Single Member Districts - Single Member Districts Proposal with Self-Rule for Lanai and Molokai

Amend Section 3-1, Composition, to change the composition of the Maui County Council to Nine Single Member Districts and grant Lanai and Molokai self-rule

#3.5 - Amended Proposal to have as part of a general discussion on Single Member Districts - Proposal to Create 3 Single Member Districts and 3 Geographic Districts for Lanai, Molokai and Maui

#3.6 - Amended Proposal to have as part of a general discussion on Single Member Districts - Proposal to create Island Boards for the Islands of Lanai and Molokai.

These would be elected bodies of five (Lanai) to seven (Molokai) members who would (1) replace and would take on the responsibilities of the appointed planning commissions (2) and in addition have authority over all other land use approvals on the island, including zoning and variances. These bodies would also (3) be the official voice of their communities, at the County, State and national levels.

092611 - Item No. III. A. pg-1-1