

Resolution

No 84-116
As Amended

Introduced By

GORO HOKAMA

Councilmember

PROPOSING AMENDMENTS TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983)

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

1. That it does hereby propose that Section 3-2 of the Revised Charter of the County of Maui be amended to provide that the terms of council members shall be four years, concurrent with the term of the mayor, and read as follows:

"Section 3-2. Terms. The terms of office of council members shall be for four years, beginning at twelve o'clock meridian on the second day of January following their election."

2. That it does hereby propose that Section 3-5 of the Revised Charter of the County of Maui be amended to establish a salary commission for elected county officials and read as follows:

"Section 3-5. Salary Commission. There shall be a salary commission which shall consist of nine members appointed by the mayor with the approval of the council. The terms of office of salary commission members shall end with the terms of office of council members. The commission shall determine the compensation of elected officials in accordance with such principles, conditions and procedures prescribed by law, and shall have other duties as provided by law."

3. That it does hereby propose that Section 6-2 of the Revised Charter of the County of Maui be amended to provide that the term of office for all department heads

COUNCIL OF THE COUNTY OF MAUI

STATE OF HAWAII

WAILUKU, HAWAII 96793

Resolution No. 84-116
As Amended

(except police, liquor and personnel) shall end with the term of office for the mayor and read as follows:

"Section 6-2. Appointment and Removal of Officers and Employees.

3. The term of office of any administrative head of a department who is appointed by the mayor, including the corporation counsel and the prosecuting attorney, shall end with the term of office of the mayor, except that any such administrative head may be earlier removed as provided for in this charter. Such officers shall not hold over more than 60 days after their respective terms of office, and shall immediately vacate their respective offices at the end of the 60-day period or upon the appointment of a successor in accordance with this charter, whichever occurs first."

4. That it does hereby propose that Sections 7-5 and 9-18 of the Revised Charter of the County of Maui be amended to require that contracts shall be signed by the mayor, the director of finance or the chairman of the council, depending on the type of contract, and read as follows:

"Section 7-5. Powers, Duties and Functions. The mayor shall be the chief executive officer of the county. The mayor shall:

11. Sign instruments requiring execution by the county, including deeds and other conveyances, except those which the director of finance or other officer is authorized by this charter, ordinance or resolution, to sign.
"

"Section 9-18. Contracts. 1. Before execution, all written contracts to which the county is a party shall be approved by the corporation counsel as to form and legality. All such contracts shall be signed by the mayor, except that contracts for purchase of materials, supplies, equipment, personal services, and public works contracts shall be signed by the director of finance.

2. Before execution, contracts involving financial obligations of the county shall also be

COUNCIL OF THE COUNTY OF MAUI

STATE OF HAWAII

WAILUKU, HAWAII 96793

Resolution No. 84-116
As Amended

certified by the director of finance as to the availability of funds in the amounts and for the purposes set forth herein.

3. Notwithstanding any other provision in this charter, all contracts involving the council, the office of council services, and the office of the county clerk shall be signed on behalf of the county by the chairman of the council only, subject to approval by the corporation counsel as to form and legality, and certification by the director of finance as provided herein."

5. That it does hereby propose that Section 8-7.3 of the Revised Charter of the County of Maui be amended to place the primary responsibility for rescue operations with the department of fire control and read as follows:

"Section 8-7.3. Powers, Duties and Functions. The fire chief shall:

1. Provide fire protection to the people and property of the county.

2. Investigate the cause, origin and circumstances of fires.

3. Adopt rules relating to the protection of persons and property against fires.

4. Approve building plans as provided by law.

5. Coordinate and provide rescue protection to persons in the county.

6. Exercise such other duties, powers or functions as shall be provided by law or assigned by the mayor."

6. That it does hereby propose that Section 9-11 of the Revised Charter of the County of Maui be amended to provide for the lapse or abandonment of capital improvement appropriations in one and one-half years or less, to the extent the appropriation is not spent or encumbered by written contract, and read as follows:

COUNCIL OF THE COUNTY OF MAUI

STATE OF HAWAII

WAILUKU, HAWAII 96793

Resolution No. 84-116
As Amended


"Section 9-11. Lapse of Appropriations. Every appropriation, except an appropriation for a capital improvement, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered by a written contract. An appropriation for a capital improvement shall continue in force until the purpose for which it was made has been accomplished or abandoned. The purpose of any such appropriation for a capital improvement shall be deemed abandoned six months after the close of the fiscal year to the extent that it has not been expended or encumbered by a written contract."

7. That this resolution be submitted to the electors of the County of Maui at the next general election.

8. That the County Clerk is hereby requested to prepare the necessary ballot for presentation to the electors at the 1984 General Election.

9. That upon approval by a majority of the voters in favor of amending the above-cited sections of the Revised Charter of the County of Maui as indicated by the number of votes cast and upon official certification of such result, the amendments proposed herein shall take effect.

BE IT FURTHER RESOLVED that a certified copy of this resolution be transmitted to the Mayor and the County Clerk.

COUNCIL OF THE COUNTY OF MAUI WAILUKU, HAWAII 96793									
<u>CERTIFICATION OF ADOPTION</u>									
It is HEREBY CERTIFIED that the foregoing resolution was adopted by the Council of the County of Maui									
State of Hawaii, on the <u>30th</u> day of <u>August</u> , 19 <u>84</u> by the following vote:									
MEMBERS	Abraham AIONA	Howard S. KIHUNE Vice-Chairman	Linda LINGLE	E. Lee LIU	Ricardo MEDINA	Wayne K. NISHIKI	Charles S. OTA	Velma M. SANTOS	Goro HOKAMA Chairman
ROLL CALL	Excused	Aye	Aye	Aye	Aye	Excused	Aye	Aye	Aye
8/24/84 - Passed First Reading.					 COUNTY CLERK				

Council Chairman
Goro Hokama

Council Vice-Chairman
Howard S. Kihune

Council Members
Abraham Aiona
Linda Lingle
E. Lee Liu
Rick Medina
Wayne K. Nishiki
Charles S. Ota
Velma M. Santos



Gwen Y. Ohashi
Director of Council Services

COUNTY COUNCIL
COUNTY OF MAUI
WAILUKU, MAUI, HAWAII 96793

August 17, 1984

COUNCIL MEETING	AUG 17 1984
TYPE OF ACTION:	Filed
Referred to:	COMMITTEE ON
	<u>Res 84-116 Passed</u>
	<u>1st Reading</u>
/s/ JAMES S. USHIJIMA	
COUNTY CLERK	

Honorable Members of the
Council
County of Maui
Wailuku, Hawaii 96793

Members of the Council:

Your Committee of the Whole, having met on August 8, 1984, makes reference to Committee Report No. 84-222 from your Special Committee on Charter Review, recommending that Resolution No. 84-116, entitled "PROPOSING AMENDMENTS TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983)", be referred to your Committee of the Whole for further review and consideration.

Committee Report No. 84-222 explains the six Charter amendments proposed by the Special Committee, and outlines its position against the Charter amendment proposed by the Charter Reapportionment Commission.

Resolution No. 84-116 specifies the six Charter amendments proposed by the Special Committee.

At its meeting on August 8, 1984, your Committee of the Whole considered and approved certain proposed amendments to Resolution No. 84-116, which proposed amendments are designed to guide the County Clerk in formatting the general election ballots. The Corporation Counsel was requested to revise the Resolution accordingly. Your Committee did not propose amendments to the wording of the proposed Charter amendments themselves.

Your Committee requested that the County Clerk make explanatory material on the Charter amendment proposals in Resolution No. 84-116 available at the polling places.

Your Committee of the Whole concurs with the intent and purpose of Resolution No. 84-116, as revised herein and attached hereto, entitled "PROPOSING AMENDMENTS TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983)", and RECOMMENDS that it PASS FIRST READING and BE ORDERED TO PRINT.

COUNTY COMMUNICATION NO. 84-383

Members of the Council
Page 2
August 17, 1984

Your Committee further RECOMMENDS that Committee Report No. 84-222 of the Special Committee on Charter Review be ADOPTED.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Goro Hokama", written in black ink. The signature is positioned above the typed name and title.

GORO HOKAMA
Council Chairman

GH:KF:tv

COUNCIL OF THE COUNTY OF MAUI
SPECIAL COMMITTEE ON CHARTER REVIEW

Committee
Report No. 84-222

August 3, 1984

Honorable Chairman and Members
of the County Council
County of Maui
Wailuku, Hawaii 96793

Chairman and Members:

Your Special Committee on Charter Review, having met on January 12, January 26, February 9, February 23, March 8, May 17, June 8, June 21, July 5, July 18, July 20, July 23, July 24, July 25, and July 26, 1984 makes reference to a miscellaneous communication dated December 29, 1983, from the Council Chairman to the Members of the Council, informing them of the appointment of certain Council Members to your Committee, and makes reference to other related miscellaneous communications.

Your Committee notes that at the December 2, 1983, Council meeting, the Council filed a letter dated November 18, 1983, from the Council Chairman to the Members of the Council (County Communication No. 83-502), notifying them of the establishment of your Committee, and informing them that your Committee would be submitting its report and recommendations to your Committee of the Whole for consideration and for subsequent transmittal to the Council.

In addition to its regular meetings, your Committee held public meetings on Lanai, Molokai, and Maui to receive testimony from the public. The testimony received at those meetings helped your Committee come to its decisions.

In its deliberations, your Committee considered twenty proposals for Charter amendments. Your Committee was aware that the current Charter was approved in 1982. Because of this recent revision by a Charter Commission and approval by the electorate, your Committee sought to limit the scope of its review. Many of the fourteen rejected proposals had considerable merit, but were eliminated so that your Committee would consider only proposals of undisputed importance.

Your Committee found the following six proposals to be essential to an effective government providing benefits to the residents of the County:

Four-Year Term. Your Committee proposes to change the council term from two to four years, primarily to provide better long-term decision-making in government. The realities of electioneering, and pressures from special interest

COUNCIL OF THE COUNTY OF MAUI
SPECIAL COMMITTEE ON CHARTER REVIEW

August 3, 1984
Page 2

Committee
Report No. 84-222

groups, make long-term decision-making especially difficult during the year preceding an election. A four-year council term will allow elected officials to make better decisions for the long-term good of the county, while keeping them accountable between elections through recall procedures in the Charter.

A four-year term also will allow voters to judge incumbent council members on the basis of their decisions in office. The council deals primarily with matters of County policy, which usually take a considerable amount of time to implement. For example, the Charter gives the mayor three years to begin implementing capital improvement projects authorized by the council. A council member could authorize a capital improvement project in his first budget session, and not see it started before his term ends.

A four-year term also addresses the impact of rapidly rising campaign costs. The high cost of mounting a successful political campaign every two years unfairly favors candidates who are supported by established political organizations, or who are able to finance their campaigns themselves. Unfortunately, direct expenditure limits are within the State's control, and cannot be imposed by the Charter or any other County law.

Finally, a four-year council term will correspond to the mayor's four-year term, and will help maintain a balance between these two major branches of County government. In this regard, it might be noted that Hawaii and Honolulu counties already have four-year terms for both their councils and their mayors, and Kauai has a two-year term for both its council and its mayor.

Salary Commission. The Charter now forces the council and the mayor to set their salaries by ordinance. The conflict of interest this process creates makes establishing reasonable salaries a particularly difficult chore. Even the most conscientious decision is clouded by the possible accusation of self-dealing and political gamesmanship. Your Committee proposes to establish a salary commission appointed by the mayor and the council, which would effectively take the decision-making power away from those directly affected by it.

Your Committee noted that Hawaii County has had a salary commission since 1974.

Terms of Appointed Department Heads. The Charter now provides that most department heads are appointed and

COUNCIL OF THE COUNTY OF MAUI
SPECIAL COMMITTEE ON CHARTER REVIEW

August 3, 1984
Page 3

Committee
Report No. 84-222

removed without council approval. However, the corporation counsel and prosecuting attorney are appointed and removed by the mayor, with the approval of the council. The purpose of this special provision is to make sure that these chief County attorneys apply the law fairly, without unduly favoring either the mayor or the council.

The corporation counsel has interpreted the current Charter to mean that once he and the prosecuting attorney are appointed and approved, they hold their offices indefinitely until both the mayor and the council agree that they should be removed. Your Committee felt that both the mayor and council should review these crucial appointments at least once every mayoral election. Your Committee proposes that the corporation counsel and the prosecuting attorney be reappointed at the beginning of each mayoral term, consistent with other department heads appointed by the mayor.

Signing County Contracts. During the 1982 election, the voters ratified a revised Charter which required the mayor to sign all contracts. Although the change was made with the good intention of ensuring that the mayor would review each County contract, the new requirement has proven to be extremely burdensome.

In a county as large as Maui County, the mayor must be able to delegate some duties in order to have time to plan, implement and review county operations. The mayor remains ultimately responsible for the actions of his subordinates, but must conserve his time for dealing with issues which only the mayor should decide. Your Committee proposes to return the Charter to its prior language, specifying which contracts must be signed by the mayor, and which must be signed by the director of finance.

Your Committee's proposal also seeks to preserve the separation of powers between the executive and legislative branches of the County government. The executive branch is composed of the mayor and his subordinates. The legislative branch is composed of the council, the office of council services, and the office of the county clerk. Contracts involving legislative functions do not involve the mayor, and should not depend on the mayor's signature. This proposal will require only the council chairman's signature on contracts involving the legislative branch.

Responsibility for Rescue Operations. The Charter does not now identify the County agency responsible for rescue operations. This could lead to confusion as to whether the

COUNCIL OF THE COUNTY OF MAUI
SPECIAL COMMITTEE ON CHARTER REVIEW

August 3, 1984
Page 4

Committee
Report No. 84-222

primary responsibility for County rescue operations lies with the department of fire control, the department of police, or some other county agency.

Your Committee felt that the department of fire control is best suited to perform rescue functions. Your Committee proposes to make the department of fire control primarily responsible for coordinating and providing rescue protection for persons in the County. The mayor has ample authority to assign supplemental rescue duties to other county agencies in circumstances or areas where the department cannot provide rescue services (such as on Lanai where volunteer firefighters perform the department's functions).

Capital Improvement Appropriations. County funds are spent according to a procedure set by the Charter. The initial authorization to spend money is contained in an ordinance, which is usually passed by the council and signed by the mayor. The mayor is authorized to spend up to the amounts stated in the ordinance. These authorizations to spend money are called "appropriations".

Appropriations are effective for a time period established by the Charter. Most appropriations must be spent within the fiscal year, but the Charter sets a longer time period for spending money on land or permanent improvements such as buildings. These appropriations apparently are effective until a three-year period elapses during which no money has been spent or legally committed (i.e., encumbered).

There have been instances where a portion of an appropriation was spent to complete the project, and the balance was kept indefinitely to be spent later on related projects. These monies were not available for other, possibly more important uses.

Your Committee proposes to establish a shorter time limit on appropriations for land and permanent improvements. Money not spent or encumbered by a written contract during the fiscal year, or during the following six months, would immediately become available for other programs or projects. Your Committee felt that this was enough time to spend, or contract to spend, an appropriation. Your Committee noted that the City and County of Honolulu uses the same time limit.

At the request of your Committee, the Corporation Counsel drafted a proposed resolution incorporating the six proposals. Your Committee proposed that each of the six proposed amendments be submitted separately to the electorate.

COUNCIL OF THE COUNTY OF MAUI
SPECIAL COMMITTEE ON CHARTER REVIEW

August 3, 1984
Page 5

Committee
Report No. 84-222

Your Committee also reviewed the Charter amendment proposed by the Charter Reapportionment Commission. Briefly, the Commission's proposal would reduce the size of the Council from nine to seven members, and the number of districts from five to four districts. The proposal would combine Lanai and Molokai representation, and would reduce Central Maui representation from three members to one member. Each council member would be elected at large, and each district would be represented by the candidate from that district receiving the most votes.

After careful review, your Committee concluded that any improvement from the proposal would be far outweighed by adverse consequences. Your Committee based its conclusions on the following reasons:

Reduced Representation of Districts. The Charter Reapportionment Commission's proposal would deny representation to any district fielding no candidates. Under the current Charter, such seats are considered vacancies and are filled by appointing a person from the district.

Furthermore, the proposal would eliminate separate representation to Lanai and Molokai, distinct districts which are economically, geographically and socially unique. The differences between these two districts were recognized by the Territorial and State Legislatures, by the 1976 and 1982 Charter Commissions, and by a bare minority of the Charter Reapportionment Commission, all of whom favored separate representation for Lanai and Molokai.

Finally, the Charter Review Commission's proposal would reduce the Council membership from nine to seven members. The Commission's recommendation rests on the assertions that Kauai County has been "well served" by its seven member council, and that a smaller council is justified in light of the larger population served by the nine member Honolulu council. These arguments are debatable, and beg the issue of whether seven members can represent adequately the diverse interests of Maui County residents. Your Committee felt that a nine member council will more capably represent the interests of the electorate.

Effect on Ballot Format. The Charter Reapportionment Commission's proposal would result in listing all council candidates together on the ballot, thereby increasing the relative importance of certain candidate selection criteria, such as party affiliation, and the order of names on the ballot. This ballot format would eliminate the current ballot's

COUNCIL OF THE COUNTY OF MAUI
SPECIAL COMMITTEE ON CHARTER REVIEW

August 3, 1984
Page 6

Committee
Report No. 84-222

clear contest between the limited field of candidates who declare for a given council seat.

The Commission's proposal would also encourage voters to "plunk" vote. On ballots where the voter is authorized to vote for several candidates for an office, voters can "plunk" vote by casting one vote for a favored candidate while withholding remaining votes from other candidates. Denying votes to other candidates vying for the same seat would magnify the effect of the vote that is cast. In contrast, the current Charter keeps "plunk" voting to a minimum by requiring that candidates declare their candidacy for specific council seats, allowing voters to vote on each council seat without affecting other council seats.

Relative Populations Not Considered. The Charter Reapportionment Commission's proposal would reduce the number of council members from the Central Maui district, from three members to one member. This reduction would leave the populous Central Maui district with the same proportionate council representation as the smaller districts of Lanai-Molokai, West Maui, and East Maui. Your Committee agreed that population counts should not be the sole criterion for determining district representation, and that diversity of perspectives should also be sought. However, your Committee questioned whether population should be completely ignored as a basis for determining proportionate district representation.

Your Committee notes that public testimony received by your Committee was unanimously opposed to the Charter Reapportionment Commission's proposal.

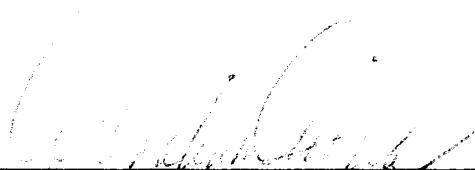
Your Special Committee on Charter Review concurs with the intent and purpose of Resolution No. 84-116, attached hereto, entitled, "PROPOSING AMENDMENTS TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983)", and RECOMMENDS that said resolution be REFERRED to your Committee of the Whole for further review and consideration.

Adoption of this report is respectfully requested.

COUNCIL OF THE COUNTY OF MAUI
SPECIAL COMMITTEE ON CHARTER REVIEW

August 3, 1984
Page 7

Committee
Report No. 84-222


ABRAHAM AIONA Chairman


GORO HOKAMA Vice-Chairman


HOWARD S. KIHUNE Member


E. LEE LIU Member


VELMA M. SANTOS Member

COUNCIL OF THE COUNTY OF MAUI
Wailuku, Hawaii 96793

CERTIFICATION OF ADOPTION

It is HEREBY CERTIFIED that the foregoing COMMITTEE REPORT was adopted by the Council of the County of Maui, State of Hawaii, on the ____ day of _____, 19 ____ by the following vote:

MEMBERS	Abraham AIONA	Goro HOKAMA Chairman	Howard S. KIHUNE Vice-Chairman	Linda LINGLE	E. Lee LIU	Ricardc MEDINA	Wayne K. NISHIKI	Charles S. OTA	Velma M. SANTOS
ROLL CALL									

8/3/84 - Referred to Committee of the Whole.

COUNTY CLERK