

FINAL REPORT
of the
WEST MAUI
CHARTER WORKING
GROUP

Members

Gordon Cockett
George Lavenson, MD
Flo Wiger, PhD
Nell Woods

www.westmauicharter.org
Lahaina, Maui, Hawai'i

Introduction

The West Maui Charter Working Group is a group of residents of the West Maui community from diverse professional, political and social backgrounds that came together to review the charter to determine if changes to the Charter of the County of Maui would be beneficial to the West Maui community and, if changes would be beneficial, to propose specific changes. The Working Group received funding and technical assistance from the North Beach West Maui Benefit Fund. The Working Group, after determining that changes would be beneficial, met over the course of a year. The Working Group members spent the time between meetings engaging in independent research and discussions with members of the West Maui community and of the broader Maui Nui community.

The Working Group developed and found consensus with the following proposals with a brief overview of their rationale and some history regarding the particular ideas involved in the proposal. The text of the amendments appear after the overview of each proposals rationale and history.

Proposal No. 1 was submitted to the Maui County Council, through Lahaina Councilwoman JoAnne Johnson in April. The Working Group also conducted a scientific telephone poll at the same time regarding Proposal No. 1. Sixty five percent of Maui residents support district voting while seventeen percent do not. The Council voted to refer the matter to next Charter Review Commission.

The Working Group would like to acknowledge the assistance of attorney and political scientist Lance D. Collins who served as a non-voting reporter of the group's decisions and the group's secretary.

Proposal No. 1 – District Voting: Changing the Composition of the Maui County Council to Nine Single Member Districts and Creating a Decennial Apportionment Commission

Rationale. Nine Single Member Districts follow the state-wide trend currently in use in Honolulu and the Big Island. Single Member Districts would allow lower electioneering costs, better accountability of council members to voters, and permits every area of the county to have a population-proportionate influence in the election of the council.

This proposal appeared at the first Charter Commission of 1963-1964. This occurred before the series of U.S. Supreme Court cases that required equally proportionate electoral districts and was eventually dismissed with the belief that the Democratic and Republican parties could adequately represent the diversity of viewpoints of individual voters. There was also concern that the Board of Supervisors and the State Legislature would not accept district voting.

In 1967, the Second Charter Commission also considered district voting but the objection came from the idea that the island of Lanai, with approximately 900 voters, must have their own individual representative and the decennial apportionment was cumbersome. Others argued that Kihei, with 450 voters, must have their own individual representative and the number of council members would be too much. The Maui Chamber of Commerce criticized the system of residency areas with at-large election as: “The present compromise systems in Maui County ... are illogical and undesirable.” (Minutes of August 1, 1966). Residents of Lahaina criticized the system: “I feel there should be representatives from each district instead of the Island of Molokai where they are elected at large. We don't have the true representation of that district. Same with the Island of Lanai... I know enough about the district of Lahaina that I feel a representative from this district should be a member on the Board of Supervisors or council, or whatever you call it.” (Minutes of August 2, 1966) On Molokai, Eligio Ocampo of the Molokai Filipino Council and Kapaakea Homesteader

Association stated: “It's the feeling of my people that the councilmen elected at large is not a very good idea for Molokai.” (Minutes of September 16, 1966) Forty five people at that meeting on Molokai endorsed that view, while one person registered his uncertainty about it. No one on Molokai opposed district voting.

In 1976, the Third Charter Commission considered again single member district voting and its interrelationship with party primaries or the idea of non-partisan elections. The alternative of both single member districts and at-large district together was proposed.

In 1992, the Fifth Charter Commission considered again the composition of the council and considered single member districts. However, the commission recommended and the voters adopted, nine at-large districts with the present residency area requirements.

In 2002, the Sixth Charter Commission briefly considered single member district voting but focused much more attention on increased participation of communities in the planning process.

Proposal No. 2 – County Manager: Changing Administration of the County to a County Manager, Changing Mayor to Ceremonial Head, Non-Voting Chair of Council

Rationale. County Manager allows a professional administrator to run the county and ensures that a professional, well-qualified individual, that is politically impartial, carries out the management of the county; the Mayor would become the ceremonial head of the county and preside over the Council as its non-voting chair.

This proposal was considered by the First Charter Commission in 1964, however, it was decided that, although the trend at that time was a manager-council type of government for smaller county governments across the country and was widely popular with voters, having an elected mayor as chief executive officer was preferable to commissioners. Advocates for a city manager type government included the Women Voters of Maui (Minutes of August 1, 1963), Chairman and Executive Officer Eddie Tam (Minutes of October 3, 1963) and the Maui Citizen's Association for Good Government (Minutes of November 14, 1963). After voters rejected the proposed charter from the First Charter Commission, Chairman and Executive Officer Eddie Tam, during the Second Charter Commission changed his position regarding the manager form of government because “we are not ready for a city manager form of government.” (Minutes of April 14, 1966). Commissioner Keith Tester summarized the popular opinion of the city manager form of government: “We discussed the city manager type of government at former charter meetings. One big objection to the city manager type for the community with small population as Maui has, is that there is no large pool of people to draw from. In all probability will import one. In general it was felt that the administration should be left in the hands of this county; qualified people for city manager were hard to get from Maui where the population is relatively small.”

In 1975, the Third Charter Commission reviewed the idea of a “city manager” type executive

again. Mayor Elmer Cravalho, mayor in 1976, supported the concept because he believed that the efficient administration of the county government was best done one removed from the political process stating “the adoption of the City Manager form of government would ensure high quality talent for the chief executive position within the County as well as removing the position from undue political influence.” (Minutes of May 12, 1975) However, Hannibal Tavares, successor to Mayor Cravalho opposed the city manager position and supported maintaining the elected chief executive feature of county government. (Minutes of May 5, 1975).

In 1991, the Fifth Charter Commission again reviewed the idea of the city manager form of government and Mayor Linda Lingle, mayor in 1991, opposed the idea feeling “that to go to a City Manager form of government would be a step backwards for Maui.” She felt “the public needs to have a person to hold responsible and accountable and that this is possible with an elected mayor.” (Minutes of November 21, 1991)

Proposal No. 3 – Elected Community Boards: Changing Planning & Variance Process to Include Elected Community Boards for Every Community Plan Area on Maui, Molokai and Lanai
Planning Commissions Become Directly Elected

Rationale. Elected Community Boards would allow greater community participation in the planning and government processes and would allow community plan areas to have better direct relationship to the composition of the Planning Commissions and the Variances and Appeals Board.

In 1991 and 1992, the Fifth Charter Commission heard significant public testimony and received correspondences on implementing neighborhood boards or townships especially from voters on Lanai and Molokai. However, no proposals were forth coming.

In 1996, the Cost of Government Commission in its annual report recommended the creation of a system of neighborhood boards similar to the system in existence in the Honolulu. At the time, Mayor Linda Lingle and Planning Director David Blaine opposed the proposal as being too costly for county government and inimical to development. The Cost of Government Commission argued, in support, that first, neighborhood boards would more directly represent local communities better than community associations or temporary “citizen advisory committees.” Second, the elected boards would be able to provide timely feedback to developers on proposed projects and allow greater community involvement in the development process with locally elected individuals who represent the particular interests of the local communities. The concept was deferred until after Lingle's administration and then, in 2000, the Council's Committee of the Whole referred it to the upcoming 2001-2002 Sixth Charter Commission.

The Sixth Charter Commission extensively considered the concept of neighborhood boards and the planning process in general but ultimately added powers and responsibilities to the temporary citizen advisory committees.

Proposal No. 4 – Abolishing Liquor Adjudication Board: Abolish the Liquor Control Adjudication Board and Transfer Its Function to the Liquor Control Commission

Rationale. Abolishing the Liquor Adjudication Board would save the money associated with the costs of having the Board while being unlikely to significantly vary current practices.

In 1964, the First Charter Commission discussed the role of the Liquor Commission in County government as that power was being devolved to the counties by the state government. Mr. Yokouchi suggested that the Liquor Commission be abolished altogether and decisions of a discretionary nature like liquor licenses should be determined by the council: “The council, being elected officers, should be the most responsive group to the people, and all decisions made should be handled by the council.” (Minutes of February 28, 1964) The first motion was to abolish the Liquor Commission and transfer its functions to the Finance Department. It died. The second motion was to abolish the Liquor Commission and transfer its functions to the Police Commission. It died. The third motion was to retain the Liquor Commission appointed by the mayor with council approval. It passed.

In 1990, Mayor Hannibal Tavares proposed that the charter be amended to transfer the liquor enforcement and inspectors to the Police Department so that liquor inspectors and the enforcement of liquor laws would be enlivened by the opportunity for lateral and vertical mobility within the police force as opposed liquor inspectors being stuck in one position throughout one's career. Led by Frank Silva, at the time, senior liquor investigator, the proposal was not submitted to the voters.

Currently, the original functions of the Liquor Commission have been bifurcated into Liquor Control Commission and Liquor Adjudication Board. The original concern was that licensees would get a fair process by having the quasi-judicial functions separated from the more routine licensing

process. However, currently the Liquor Adjudication Board and Liquor Control Commission are primarily composed of members who were previously members of the other Board some alternating in this fashion several times. This eliminates the primary purpose of separating these functions, produces redundancy and inefficiency.

Proposal No. 5 – Creating County Hearings Officers: Create an Independent Office of County Hearings Officers to Conduct All Contested Case Proceedings and Make Findings and Recommended Action to Officials, Boards and Commissions

Rationale. Creating County Hearings Officers would eliminate county expenditures for contract hearings officers and the expenditure of time of volunteer boards and commissions who generally do not have the legal or professional background to efficiently conduct contested cases. This proposal is also likely to significantly limit litigation by dissatisfied parties to contested case proceedings.

In 1964 and 1967, the First Charter Commission and the Second Charter Commission discussed a Board of Appeals and this idea was subsequently incorporated into the present Board of Variances and Appeals to allow an independent board to help resolve disputes between individual citizens and members of the executive branch. However, over the last fifty years, the extensive responsibilities placed on volunteer, citizen boards and commissions to address often factually and legally complex issues have taxed the time and abilities of these volunteer boards and costs the County real money by the extensive reliance on contract hearings officers.

The state has created, by statute, an Office of Administrative Hearings that conduct all administrative hearings for matters before the Department of Commerce and Consumer Affairs. It has also been assigned the role of determining medical tort claims, tort claims against design professionals, procurement disputes, due process hearings involving students with disabilities and certain condominium disputes.

This proposal would keep the final decision-making authority with the volunteer citizen boards and commission and would assign the task of initial fact-finding and recommending legally sound decisions to independent, neutral hearings officers.

Proposal No. 6 – Separate Attorneys for Council & Boards and Commissions: Create Legislative Attorney and Independent Counsel For Separate Legal Advice, Counsel and Representation For County Council and Boards and Commissions

Rationale. Separate Attorneys for the Council and Boards and Commissions would ensure that the Council and Boards and Commissions, which regularly have divergent legal interests from the County Administration, would have regular access to independent advice free of the appearance of conflicts. It would also dramatically limit the need for the hiring of independent counsel and can be fully funded by decreasing the size of the Department of Corporation Counsel since some of its functions are being transferred.

Several Charter Commissions reviewed special provisions for “special counsel” and how corporation counsel was appointed. While the Hawai'i Rules of Professional Conduct provides great flexibility to government attorneys regarding conflicts of interest, the fact that the rule permits it doesn't mean that the result is best for the county. Legal advice shapes the policy decisions made by the boards and commissions and the county council and it is important that such legal advice is frank and honest and not confined to the policy perspective of the incumbent administration. The case of the Maui County Council v. Thompson, 84 Haw. 105 (1996) is an example of the necessity of the Maui County Council to have an official legal advisor where the Hawai'i Supreme Court found that Mayor Linda Lingle violated the charter by hiring her husband's law firm as special counsel when the corporation counsel determined it had a conflict of interest during a lawsuit brought by former county employees.

Proposal No. 1 – District Voting

Changing the Composition of the Maui County Council to Nine Single Member Districts and
Creating a Decennial Apportionment Commission

TEXT OF THE AMENDMENT (New material underscored, deleted material bracketed)

Section 3-1. Composition. There shall be a council composed of nine members who shall be elected[-at large] from each of nine districts hereafter provided. [~~Of the nine members elected to the council, one shall be a resident of the Island of Lāna`i, one a resident of the Island of Moloka`i, one a resident of the residency area of East Maui, one a resident of the residency area of West Maui, one a resident of the residency area of Makawao-Ha`ikū-Pā`ia, one a resident of the residency area of "Upcountry" comprising Pukalani-Kula-`Ulupalakua, one a resident of the residency area of South Maui, one a resident of the residency area of Kahului, and one a resident of the residency area of Wailuku-Waihe`e-Waikapū. The county clerk shall prepare the nomination papers in such a manner that candidates desiring to file for the office of council member shall specify the residency area from which they are seeking a seat. The ballots shall, nevertheless, be prepared to give every voter in the county the right to vote for each and every council seat.~~]

[~~1. The East Maui (Hana-Keanae-Kailua) residency area shall be described as follows:~~

~~Beginning at shoreline and Kakipi Gulch~~

~~Proceed to Kepuni Gulch~~

~~North along Kepuni Gulch to Kahikinui Forest Reserve boundary~~

~~Easterly along Kahikinui Forest Reserve boundary to Haleakalā National Park boundary~~

~~Northwest, west, northerly, then southeast along Haleakalā National Park boundary to Waikamoi Stream~~

~~North along Waikamoi Stream and continuing due west to Ka`ili`ili Road~~

~~West on Ka`ili`ili Road to Opana Gulch~~

~~North along Opana Gulch to jeep trail~~

~~Easterly on jeep trail to Pālama Gulch then northeasterly to Halchaku Gulch~~

~~North along Halchaku Gulch to Kakipi Gulch~~

~~North along Kakipi Gulch to point of beginning~~

~~2. The West Maui residency area shall be described as follows:~~

~~Beginning at shoreline and Lahaina-Wailuku District boundary at Po`o`lua Bay~~

~~Proceed south along boundary to shoreline (Manawainui Gulch)~~

~~Northwest, north, then northeast along shoreline to point of beginning~~

~~(includes the islands of Molokini and Kaho`olawe)~~

~~3. The Wailuku-Waihe`e-Waikapū residency area shall be described as follows:~~

~~Beginning at shoreline and Lahaina-Wailuku District boundary~~

~~Proceed southeast along shoreline to Kanaloa Avenue extension~~

~~Southwest on Kanaloa Avenue extension to Kahului Beach Road~~

~~Southeast on Kahului Beach Road to Ka`ahumanu Avenue~~

~~West on Ka`ahumanu Avenue to Mahalani Street~~

~~Southwest on Mahalani Street to Pu`umele Street~~

~~Southwest on Pu`umele Street to Wai`inu Road~~

~~West on Wai`inu Road to Wai`ale Road~~

~~South on Wai`ale Road to East Waikō Road~~

~~East on East Waikō Road to Kū`ihēlani Highway
 Southwest on Kū`ihēlani Highway to Honoapi`ilani Highway
 South on Honoapi`ilani Highway to Pohākea Gulch
 West, then northwest along Pohākea Gulch to point of beginning
 4. The Kahului residency district area shall be described as follows:
 Beginning at shoreline and Kanaloa Avenue extension
 Proceed east along shoreline to Kanahā Beach Park boundary
 Southeast along Kanahā Beach Park boundary to Kalialinui Gulch
 Southeast along Kalialinui Gulch to Haleakalā Highway
 Southeast on Haleakalā Highway to Lowrie Ditch
 Southwest along Lowrie Ditch to Spanish Road
 West, then northwest on Spanish Road to East Waikō Road
 West on East Waikō Road to Wai`ale Road
 North on Wai`ale Road to Wai`inu Road
 East on Wai`inu Road to Pu`umele Street
 North on Pu`umele Street to Mahalani Street
 East, then north on Mahalani Street to Ka`ahumanu Avenue
 East on Ka`ahumanu Avenue to Kahului Beach Road
 Northwest on Kahului Beach Road to Kanaloa Avenue extension
 Northeast on Kanaloa Avenue extension to point of beginning
 5. The South Maui residency area shall be described as follows:
 Beginning at Lahaina-Wailuku District boundary and Pohākea Gulch
 Proceed southeast, then east along Pohākea Gulch to Honoapi`ilani Highway
 North on Honoapi`ilani Highway to Kū`ihēlani Highway
 Northeast on Kū`ihēlani Highway to East Waikō Road
 East on East Waikō Road to Spanish Road
 Southeast, then east on Spanish Road to Lowrie Ditch
 South along Lowrie Ditch to Pūlchu Gulch
 Southeast along Pūlchu Gulch to Waiakoa Road
 South on Waiakoa Road to Kihei CDP boundary
 South along Kihei CDP boundary to unnamed road
 Southwest, then south on unnamed road to unnamed stream (west of Keonckai Road)
 East on unnamed stream to Kula Highway
 Southwest on Kula Highway to jeep trail (abutting Tiger 2000 line 85098642)
 West, then south on jeep trail to Kanaio-Kalama Park Road (Ulupalakua Road)
 Southeast along Kanaio-Kalama Park Road to Pi`ilani Highway
 Southeast, then east on Pi`ilani Highway to Kepuni Gulch
 Southeast along Kepuni Gulch to shoreline
 Southwest, west, north, northwest, southwest then northwest along shoreline to Lahaina-Wailuku
 District boundary (Manawainui Gulch)
 North along boundary to point of beginning
 6. The Makawao-Ha`ikū-Pā`ia residency area shall be described as follows:
 Beginning at shoreline and Kanahā Beach Park boundary
 Proceed east along shoreline to Kakipi Gulch
 South along Kakipi Gulch to Halehaku Gulch
 South along Halehaku Gulch to Pālama Gulch~~

~~Southeast along Pālama Gulch to unnamed jeep trail
 Northwest, then southwest along jeep trail to Opana Gulch
 South along Opana Gulch to Ka`ili`ili Road
 East on Ka`ili`ili Road to Waikamoi Stream
 South along Waikamoi Stream to Haleakalā National Park boundary
 Northwest, then southwest along Haleakalā National Park boundary to Kailua Gulch
 Northwest along Kailua Gulch to Lowrie Ditch
 Southwest along Lowrie Ditch to Haleakalā Highway
 Northwest along Haleakalā Highway to Kalialinui Gulch
 Northwest along Kalialinui Gulch to `Āmala Place
 Northwest along Kanahā Beach Park boundary to point of beginning
 7. The Upcountry (Pukalani-Kula-`Ulupalakua) residency area shall be described as follows:
 Beginning at Lowrie Ditch and Kailua Gulch
 Proceed southeast along Kailua Gulch to Haleakalā National Park boundary
 Southwest, southeast, east, then southwest along Haleakalā National Park boundary to Kahikinui
 Forest Reserve boundary
 Southwest along Kahikinui Forest Reserve boundary to Kepuni Gulch
 South along Kepuni Gulch to Pi`ilani Highway
 West on Pi`ilani Highway to Kanaio-Kalama Park Road (`Ulupalakua Road)
 Northwest along Kanaio-Kalama Park Road to jeep trail
 Northeast on jeep trail to Kula Highway (abutting Tiger 2000 line 85098642)
 Northeast along Kula Highway to unnamed stream
 Northwest, then west along unnamed stream to unnamed jeep trail
 North on unnamed jeep trail to unnamed road
 North on unnamed road to Kihei CDP boundary
 North on Kihei CDP boundary to Waiakoa Road
 North on Waiakoa Road to Pūlehu Gulch
 Northwest along Pūlehu Gulch to Lowrie Ditch
 North, then northeast along Lowrie Ditch to point of beginning]~~

Section 3-2. Election of Council and Term of Office.

1. Council members shall be elected by nonpartisan special elections. Such special elections shall be held in conjunction with the primary and general elections every two (2) years commencing in 2000. The special election held in conjunction with the primary election every two (2) years shall be known as the first special election. The special election held in conjunction with the general election every two (2) years shall be known as the second special election.

2. The names of all candidates for each council seat shall be placed on the ballot for the first special election; provided, that for any council seat with two or fewer candidates, the names of the candidates shall appear only on the ballot for the second special election.

3. For any council seat with three or more candidates, the names of the two candidates receiving the highest number of votes for each council seat in the first special election shall be placed on the ballot for the second special election; provided, that if two or more candidates tie for the highest number of votes received in the first special election, the names of the candidates tied for the highest number of votes shall be placed on the ballot for the second special election; and further provided, that if a single candidate receives the highest number of votes in the first special election and two or more candidates tie for the second-highest number of votes received, the names

of the candidate receiving the highest number of votes and the candidates tied for the second-highest number of votes shall be placed on the ballot for the second special election.

4. At the second special election, the candidates receiving the highest number of votes for each council seat shall be deemed elected. If there is no more than one candidate for a council seat, such person shall be deemed elected regardless of the number of votes received.

5. The term of office of council members shall be for two (2) years, beginning at twelve o'clock meridian on the second day of January following their election. No member of the county council shall serve more than five consecutive full terms of office.

Section 3-3. Qualifications. To be eligible for election or appointment to the council, a person must be a citizen of the United States, a voter in the county, a resident of the county and the district from which the person seeks to be elected for a period of ninety (90) days next preceding the filing of nomination papers [and at the time of filing of nomination papers a resident in the area from which the person seeks to be elected]. If a council member ceases to be a resident of the county, or ceases to be a resident of the council member's ~~[residency area]~~ district during the council member's term of office, or if a council member is adjudicated guilty of a felony, the council member shall immediately forfeit office and the seat shall thereupon become vacant.

Section 3-5. Procedure; Meetings; Rules and Journal; Voting.

1. The council shall meet in the council room at the county building for its organization at two o'clock p.m. on the second day of January following its election, or on the following Monday if the second day be a Saturday or Sunday, at which time it shall elect one of its members as chair and presiding officer of the council. Until such time as the chair shall be elected, the ~~[mayor] council member elected from the First Council District shall preside at such meeting~~, ~~provided that the mayor shall not have a vote~~. The council shall also elect a vice-chair who shall act as the presiding officer in the event of the chair's absence or disability. The council shall appoint a presiding officer pro tempore from its own members in the event of the absence or disability of both the chair and vice-chair.

2. The council shall meet regularly at least twice in every month at such times and places as the council may prescribe by rule. Special meetings may be held on the call of the mayor, chair or of five or more members and, whenever practical, upon no less than seventy-two (72) hours effective notice to each member.

3. The council shall determine its own rules and order of business, provided that all members shall have an equal, inalienable, independent right to propose to the council what they believe it should consider without need for a second, and shall provide for keeping a public journal of its proceedings.

4. Voting and all motions shall be in accordance with the rules of the council and shall be recorded in the journal of the council, provided, however, a roll call vote must be taken if requested by any one council member. Five members of the council shall constitute a quorum, but a smaller number may convene from time to time and compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the council. Unless otherwise provided for herein, no action of the council shall be valid or binding unless adopted by a vote of five or more members of the council.

Section 3-9. County Reapportionment Commission.

(a) There shall be a county reapportionment commission which shall establish the boundaries of the

council districts.

(b) The initial reapportionment commission shall consist of nine members one from each of the state House of Representative districts, except that the Thirteenth House District shall have three members, one from within that said district who is a resident of Maui, one from Moloka'i and one from Lana'i, and a chairperson who shall be a resident of any area of County. The members shall be appointed by the mayor and confirmed by the council. Not more than a bare majority of the members of the commission shall belong to the same political party.

(c) Each subsequent reapportionment commission shall consist of nine members appointed by the mayor and confirmed by the council. One member shall be a resident of each council district.

(d) The year of 2011 and every tenth year thereafter shall be reapportionment years. The reapportionment commission shall be appointed and confirmed by March 1 of the reapportionment year, and shall file a reapportionment plan with the county clerk by December 31 of the reapportionment year which shall be applicable to the next succeeding election at which council members are elected to regular terms. The reapportionment commission shall be dissolved after the filing of the reapportionment plan.

(e) The county clerk shall furnish all necessary technical and secretarial services for the reapportionment commission. The council shall appropriate necessary funds to enable the commission to carry out its duties.

(f) The reapportionment commission shall be guided by the following criteria in establishing the boundaries of the council districts:

(1) No district shall be drawn to unduly favor or penalize a person or political faction.

(2) Insofar as possible, districts should be contiguous and compact.

(3) Where possible, district lines shall follow permanent and easily recognized features, such as streets, streams and clear geographical features, and, when practicable, shall coincide with census tract boundaries.

(4) Districts shall have approximately equal resident populations as required by applicable constitutional principles.

(5) No single district shall include both any part of the island of Lana'i and any part of Moloka'i and consideration shall be given to provide the voters of the islands of Lana'i and Moloka'i effective representation.

(6) Except in the case of districts encompassing more than one island, districts shall be contiguous.

(7) Insofar as practicable, districts shall be compact.

(g) The district boundaries as established by the reapportionment commission shall be in effect at the first regularly scheduled council election following the filing of the plan and for any subsequent council election. The district boundaries in effect prior to the filing of the reapportionment plan shall remain in effect during the duration of the term of all councilmembers elected or appointed to represent such districts until the expiration of the full term of such councilmembers, including any election held to fill an unexpired term under section 3-4.

(h) Any registered voter may petition the proper court to compel, by mandamus or otherwise, the appropriate person or persons to perform their duty or to correct any error made in a reapportionment plan, or the court may taken such other action to effectuate the purpose of this section as it may deem appropriate. Any petition must be filed within calendar fifteen days after the filing the reapportionment plan.

QUESTION TO VOTERS:

“Shall the members of the county council be elected by representative districts?”

Proposal No. 2 – County Manager

Changing Administration of the County to a County Manager, Changing Mayor to Ceremonial Head, Non-Voting Chair of Council

TEXT OF THE AMENDMENT (New material underscored, deleted material bracketed)

Section 3-5. Procedure; Meetings; Rules and Journal; Voting.

1. The council shall meet in the council room at the county building for its organization at two o'clock p.m. on the second day of January following its election, or on the following Monday if the second day be a Saturday or Sunday, at which time it shall elect one of its members as chair and presiding officer of the council. ~~{Until such time as the chair shall be elected, t}~~The mayor shall preside ~~[at such]~~ all meetings, provided that the mayor shall not have a vote. The council shall also elect a vice-chair who shall act as the presiding officer in the event of the mayor's or [chair's] absence or disability. The council shall appoint a presiding officer pro tempore from its own members in the event of the absence or disability of both the ~~[chair]~~ mayor and vice-chair.
2. The council shall meet regularly at least twice in every month at such times and places as the council may prescribe by rule. Special meetings may be held on the call of the mayor, vice-chair or of five or more members and, whenever practical, upon no less than seventy-two (72) hours effective notice to each member.
3. The council shall determine its own rules and order of business and shall provide for keeping a public journal of its proceedings.
4. Voting and all motions shall be in accordance with the rules of the council and shall be recorded in the journal of the council, provided, however, a roll call vote must be taken if requested by any one council member. Five members of the council shall constitute a quorum, but a smaller number may convene from time to time and compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the council. Unless otherwise provided for herein, no action of the council shall be valid or binding unless adopted by a vote of five or more members of the council.

ARTICLE 6

EXECUTIVE BRANCH

Section 6-1. Executive Power. The executive power of the county shall be vested in and exercised by the executive branch, which shall be headed by the [mayor] County Manager, except as otherwise provided by this charter.

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

1. The administrative head of a department may not appoint more than the staff for which appropriations have been made by the council.
2. No appointing authority shall appoint any person to any office or position exempted from civil service until satisfied by proper investigation that the person to be appointed is fully qualified by experience and ability to perform the duties of the office or position.
3. The term of office of any administrative head of a department who is appointed by the [mayor] County Manager, including the corporation counsel and the prosecuting attorney, shall end with the term of office of the [mayor] County Manager, except that any such administrative head may be earlier removed as provided for in this charter. Such officers shall not hold over more than sixty (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. The [mayor] County Manager shall have the authority to appoint, on a temporary basis, an administrative head of any department, provided that such department is one where the administrative head is appointed by the [mayor] County Manager.

5. Within sixty (60) days of taking office, or within sixty (60) days after a vacancy is created, the [mayor] County Manager shall appoint the corporation counsel and prosecuting attorney with written notice of the appointment to the council. The council shall confirm or deny the confirmation within sixty (60) days after receiving notice of the appointment by the [mayor] County Manager. If the council does not act within the 60-day period, the appointment shall be deemed to be confirmed. The corporation counsel and prosecuting attorney shall take office upon appointment but shall not continue in office if the council denies confirmation. If the appointment is not confirmed by the council, the [mayor] County Manager shall make a new appointment within sixty (60) days of the council's denial, and the council shall confirm or deny within sixty (60) days after receiving notice of the new appointment by the [mayor] County Manager. If council does not act within the 60-day period, the appointment shall be deemed to be confirmed.

Section 6-3. Powers and Duties of Administrative Heads of Departments.

1. Pursuant to law the administrative heads of departments shall have the power to take all personnel actions.

2. The administrative head of a department shall perform such duties and exercise such powers as provided for herein or as may be assigned by the [mayor] County Manager.

3. The powers, duties and functions of the administrative head of any department may be assigned to any staff member or members of that department by the administrative head.

ARTICLE 7 OFFICE OF THE MAYOR

Section 7-1. Organization. The office of the mayor shall consist of a mayor and necessary staff.

Section 7-2. Election of Mayor and Term of Office.

1. The mayor shall be elected by nonpartisan special elections. Such special elections shall be held in conjunction with the primary and general elections every four (4) years commencing in 2002. The special election held in conjunction with the primary election every four (4) years shall be known as the first special election. The special election held in conjunction with the general election every four (4) years shall be known as the second special election.

2. The names of all candidates for mayor shall be placed on the ballot for the first special election; provided, that if there are two or fewer candidates, the names of the candidates shall appear only on the ballot for the second special election.

3. If there are three or more candidates, the names of the two candidates receiving the highest number of votes in the first special election shall be placed on the ballot for the second special election; provided, that if two or more candidates tie for the highest number of votes received in the first special election, the names of the candidates tied for the highest number of votes shall be placed on the ballot for the second special election; and further provided, that if a single candidate receives the highest number of votes in the first special election and two or more candidates tie for the second-highest number of votes received, the names of the candidate receiving the highest number of votes and the candidates tied for the second-highest number of votes shall be placed on

the ballot for the second special election.

4. At the second special election, the candidate receiving the highest number of votes shall be deemed elected. If there is no more than one candidate for mayor, such person shall be deemed elected regardless of the number of votes received.

5. The voters of the county shall elect a mayor whose term of office shall be four (4) years beginning at twelve o'clock meridian on the second day of January following the mayor's election. A mayor shall not serve more than two consecutive full terms of office. (Amended 1998)

Section 7-3. Qualifications. Any citizen of the United States who is a voter of the county and a resident of the county for a period of at least ninety (90) days next preceding the filing of nomination papers shall be eligible to be mayor. Upon removal of the mayor's residence from the county, the mayor shall by that fact be deemed to have vacated the office of mayor. If the mayor ceases to be a voter of the county or is adjudicated guilty of a felony, the mayor shall immediately forfeit the office of mayor.

Section 7-4. The Salary of the Mayor. The salary of the mayor shall be determined by the salary commission. (Amended 1986)

Section 7-5. Powers, Duties and Functions. The mayor shall be [the chief executive officer of the county] recognized as the official head of the County for all ceremonial purposes, by the courts for purpose of serving civil process, and by the Governor for civil defense and military purposes. The mayor shall serve as the presiding officer of the Council but shall have no vote in the Council. The mayor shall have the power to veto legislation as provided by this charter. [The mayor shall:

1. Exercise supervision directly or through the managing director over all departments enumerated in Article 8 of this charter and other agencies as provided by law.
2. Appoint the necessary staff for which appropriations have been made by the council.
3. Create positions for which appropriations have been made, or abolish positions, but a report of such actions shall be made to the council within fifteen (15) days of such actions.
4. Make temporary transfers of positions between departments or between subdivisions of departments.
5. Recommend to the council a pay plan for all county employees and officers whose pay is not otherwise provided for by law.
6. Prepare and submit an operating budget and a capital program annually to the council for its consideration pursuant to Article 9.
7. Control, manage and execute the annual operating budget and capital program.
8. Conduct a systematic and continual review of the finances, organizations, and methods of each department of the county to assist each department in achieving the most effective expenditure of public funds and to determine that such expenditures are in accordance with the budget laws and controls in force.
9. Prepare and process applications for state, federal or other governmental funds on behalf of the county.
10. Assign powers, duties, and functions that are not already assigned or enumerated in Article 8, to and between the departments.
11. Sign instruments requiring execution by the county, including deed and other conveyances, except those which the director of finance or other officer is authorized by this charter, ordinance or resolution, to sign.

12. Present messages or information to the council which, in the mayor's opinion, are necessary or expedient.
13. In addition to the annual report, make periodic reports informing the public as to county policies, programs and operations.
14. Approve or veto bills passed by the council.
15. Have a voice but no vote in the proceedings of all boards and commissions.
16. Enter into bilateral and multilateral contracts with other counties, the State, or the United States for the performance of any function or activity which the county is authorized to perform.
17. Enforce the provisions of this charter, the ordinances of the county and all applicable laws.
18. Exercise such other powers and perform such other duties as may be prescribed by this charter or by law.]

Section 7-6. Vacancy in Office.

1. A vacancy in the office of mayor shall be filled for the remainder of the unexpired term in the following manner:
 - a. If the unexpired term is less than one (1) year, the [managing director shall act as mayor] Council shall appoint an interim mayor to serve the remainder of the term. [If the office of managing director is vacant or during such periods that the managing director is unable to so act, the director of finance shall then act as mayor.]
 - b. If the unexpired term is one (1) year or more, the vacancy shall be filled by a special election to be called by the council within thirty (30) days and to be held within ninety (90) days after the occurrence of the vacancy. The electors of the county shall then elect a successor with requisite qualifications to fill the vacancy for the remainder of the term. In the event no candidate receives at least a majority of the votes cast to fill the vacancy then within fifteen (15) days after said election the council shall call for a run-off election to be held within forty-five (45) days of the first election. The candidates in said election shall be the two candidates receiving the most number of votes in the first election. If any special or general election is to be held in the county after thirty (30) days and within one hundred eighty (180) days after the occurrence of the vacancy, then the election shall be held in conjunction with such other election.
2. Pending the election of a mayor in the case of a vacancy or in the temporary absence of the mayor from the State, or a temporary disability of the mayor, the [managing director] County Manager shall act as mayor. If there is no [managing director] County Manager or if the [managing director] County Manager is unable to act, the finance director shall act as mayor. In the event of the temporary absence of the mayor from the county, or temporary leave, the mayor may designate the [managing director] County Manager or, in the [managing director's] County Manager's absence or unavailability, the finance director to act as mayor.

**ARTICLE 8
COUNTY DEPARTMENTS**

The county departments hereinafter described are hereby recognized and continued.

**CHAPTER 1
[DEPARTMENT OF MANAGEMENT] OFFICE OF COUNTY MANAGER**

Section 8-1.1. Organization. There shall be [a department of management] an office of the County Manager consisting of a [managing director] county manager and the necessary staff.

Section 8-1.2. [Managing Director] County Manager. The Council shall elect a County Manager

under this Charter, who shall be the chief administrative officer of the County. The Manager shall be chosen by the Council solely on the basis of his proven administrative qualifications. The Manager need not, when elected, be a resident of the City or State, but must be a citizen of the United States. He shall, upon his election, immediately become a resident of the City. No member of the Council shall, during the time for which he serves in office, or for two (2) years thereafter, be eligible to hold the position of County Manager. The County Manager shall be elected for an indefinite term, but may be removed at the pleasure of the Council; provided, however, that the Manager shall not be removed unless a majority of the members of the Council shall vote in favor of such removal. Before the Manager may be removed he shall, if he shall so demand, be given a written statement of the reasons alleged for his removal and the right to be heard publicly thereon at a meeting of the Council prior to the final vote on the question of his removal, but pending and during such hearing the Council may suspend him from office. At least two weeks shall be given the Manager between notice and hearing for the preparation of his answer to the reasons for removal. The action of the Council in suspending or removing the Manager shall be final and conclusive on everyone, it being the intention of this Charter to vest all authority and fix all responsibility for such suspension or removal in the Council. He shall receive a salary to be fixed in the annual budget. The salary set in the budget shall not be reduced while the Manager holds office, but may be subject to increase by the Council at its discretion. The Manager shall designate one of his subordinates as Assistant Manager, who shall serve as Manager in case of the absence or disability of the Manager.

In the event of a vacancy in the office of County Manager, the Council shall fill the same within sixty (60) days after the vacancy occurs; provided, however, that it shall require the affirmative vote of a majority of the members of the Council to elect a person to the office of County Manager.

Section 8-1.3. Powers, Duties and Functions. The [managing director] County Manager shall:

1. Act as the principal management aid to the mayor.
 2. Supervise the administrative functions of those agencies, departments, boards and commissions assigned by the mayor.
 3. Evaluate the management and performance of each agency.
 4. Prescribe standards of administrative practice to be followed by all agencies under his or her supervision.
 5. Supervise and coordinate those functions described in Subsections 7-5.6, 7-5.7 and 7-5.8.
 6. Perform all other duties and functions required by this charter or assigned by the mayor.]
1. Exercise supervision all departments enumerated in Article 8 of this charter and other agencies as provided by law.
 2. Appoint the necessary staff for which appropriations have been made by the council.
 3. Create positions for which appropriations have been made, or abolish positions, but a report of such actions shall be made to the council within fifteen (15) days of such actions.
 4. Make temporary transfers of positions between departments or between subdivisions of departments.
 5. Recommend to the council a pay plan for all county employees and officers whose pay is not otherwise provided for by law.
 6. Prepare and submit an operating budget and a capital program annually to the council for its consideration pursuant to Article 9.
 7. Control, manage and execute the annual operating budget and capital program.
 8. Conduct a systematic and continual review of the finances, organizations, and methods of each

department of the county to assist each department in achieving the most effective expenditure of public funds and to determine that such expenditures are in accordance with the budget laws and controls in force.

9. Prepare and process applications for state, federal or other governmental funds on behalf of the county.

10. Assign powers, duties, and functions that are not already assigned or enumerated in Article 8, to and between the departments.

11. Present messages or information to the council which, in the County Manager's opinion, are necessary or expedient.

12. In addition to the annual report, make periodic reports informing the public as to county policies, programs and operations.

13. Have a voice but no vote in the proceedings of all boards and commissions.

14. Enter into bilateral and multilateral contracts with other counties, the State, or the United States for the performance of any function or activity which the county is authorized to perform.

15. Enforce the provisions of this charter, the ordinances of the county and all applicable laws.

16. Exercise such other powers and perform such other duties as may be prescribed by this charter or by law.

CHAPTER 2

DEPARTMENT OF THE CORPORATION COUNSEL

Section 8-2.1. Organization. There shall be a department of the corporation counsel consisting of the corporation counsel and the necessary staff.

Section 8-2.2. Corporation Counsel. The corporation counsel shall be appointed by the [mayor] County Manager with the approval of the council and may be removed by the [mayor] County Manager with the approval of the council. The corporation counsel shall be an attorney licensed to practice and in good standing before the Supreme Court of the State and shall have engaged in the practice of law for at least three years.

Section 8-2.3. Powers, Duties, and Functions. The corporation counsel shall:

1. Appoint such deputy corporation counsel and necessary staff as shall be authorized by the council. Deputy corporation counsel shall be exempt from civil service and shall serve at the pleasure of the corporation counsel.

2. Be the chief legal advisor and legal representative of the County of Maui; of the council, the mayor, the County Manager, all departments, and all boards and commissions; and of all officers and employees in matters relating to their official duties.

3. Represent the county in all legal proceedings.

4. Perform such other duties and functions as may be incident to the department or required by law. (Amended 2002)

Section 8-2.4. Service of Legal Process. Legal process against the county shall be served upon the corporation counsel or any of the deputies.

CHAPTER 3

DEPARTMENT OF THE PROSECUTING ATTORNEY

Section 8-3.1. Organization. There shall be a department of the prosecuting attorney consisting of a prosecuting attorney and the necessary staff.

Section 8-3.2. Prosecuting Attorney. The prosecuting attorney shall be appointed by the [mayor]

County Manager with the approval of the council and may be removed by the [mayor] County Manager with the approval of the council. The prosecuting attorney shall be an attorney licensed to practice and in good standing before the Supreme Court of the State and shall have engaged in the practice of law for at least three years.

Section 8-3.3. Powers, Duties and Functions. The prosecuting attorney shall:

1. Appoint such deputy prosecuting attorneys and necessary staff as shall be authorized by the council. Deputy prosecuting attorneys shall be exempt from civil service and shall serve at the pleasure of the prosecuting attorney.
2. Attend all courts in the county and conduct, on behalf of the people, all prosecutions therein for offenses against the laws of the State and the ordinances and rules of the county.
3. Appear in every criminal case where there is a change of venue from the courts in the county and prosecute the same in any jurisdiction to which the same is changed or removed.
4. Institute proceedings, or direct the chief of police to do so, before a judge of a court of competent jurisdiction for the arrest of persons charged with or reasonably suspected of public offenses when the prosecuting attorney has information that any such offenses have been committed, and for that purpose take charge of criminal cases before a judge of a court of competent jurisdiction, either in person or by a deputy or by such other prosecuting officer as the prosecuting attorney shall designate.
5. Draw all indictments and attend before the grand jury whenever cases are presented to it for its consideration. Nothing herein contained shall prevent the conduct of proceedings by private counsel before a judge or courts of record under the direction of the prosecuting attorney.
6. Prosecute administrative violations of the liquor laws before the board of liquor adjudication.
7. Perform such other duties and functions as shall be assigned by the [mayor] County Manager.

CHAPTER 4

DEPARTMENT OF FINANCE

Section 8-4.1. Organization. There shall be a department of finance consisting of the director of finance and the necessary staff.

Section 8-4.2. Director of Finance. The director of finance shall be appointed and may be removed by the [mayor] County Manager with the approval of the council. The director of finance shall have had a minimum of five years of experience in a public or private financial position, at least three years of which shall have been in an administrative capacity.

Section 8-4.3. Powers, Duties and Functions. The director of finance shall:

1. Prepare bills for the collection of money due the county, or authorize the preparation thereof, by other departments of the county government, under the director's general supervision.
2. Collect and receive moneys due to or receivable by the county and issue receipts therefor, or authorize other departments to do so under conditions prescribed by the finance director.
3. Keep accurate and complete account of receipts and disbursements.
4. Maintain and manage the treasury and deposit moneys belonging to the county in depositories and instruments authorized by law which fulfill all conditions prescribed for them by law.
5. Contract for services of independent contractors, including contractors for public works and county physicians, and permit disbursements to be made pursuant to policies established by the council.
6. Be responsible for issuing and selling, paying interest on and redeeming bonds of the county.
7. Prepare and issue warrants and checks.
8. Prepare payrolls and pension rolls.

9. Sell real property upon which improvement assessments or real property taxes are not paid within the period prescribed and dispose of real property or personal property not needed by any department of the county pursuant to policies established by ordinance, provided that all deeds and other conveyances shall be executed by the [mayor] County Manager.
10. Rent or lease county property and award concessions pursuant to policies established by the council.
11. Prepare and maintain a perpetual inventory of all lands and equipment or other personally owned, leased, rented or controlled by the county.
12. Review assessment rolls for assessable public improvements prior to approval by the council and issue bills therefor after such approval has been given.
13. Have custody of all official's surety bonds, except the surety bond of the director of finance, which shall be in the custody of the county clerk.
14. Each quarter submit through the [mayor] County Manager to the council a statement of the revenues and expenditures for the preceding quarter and for the fiscal year up to and including the preceding quarter. Such statement shall be sufficiently detailed as to appropriations, allotments and funds to show the exact financial condition of the county and of each of its agencies and executive departments. A copy of the statement shall be filed with the county clerk and shall be a public record.
15. Administer the real property taxation function of the county.
16. Perform such other duties and functions as shall be assigned by the [mayor] County Manager. (Amended 1992)

CHAPTER 5

DEPARTMENT OF PUBLIC WORKS

Section 8-5.1. Organization. There shall be a department of public works consisting of a director and the necessary staff.

Section 8-5.2. Director of Public Works. The director of public works shall be appointed and may be removed by the [mayor] County Manager with the approval of the council. The director of public works shall have had a minimum of five years of experience in an administrative capacity, either in public service or private business, or both.

Section 8-5.3. Powers, Duties, and Functions. The director of public works shall:

1. Administer the building, housing, and subdivision ordinances and rules adopted thereunder.
2. Approve proposed subdivision plans, which are in conformity with the subdivision ordinance.
3. Plan, design, build, and maintain the county's highways, and drainage and flood control systems.
4. Perform such other duties and functions as shall be assigned by the [mayor] County Manager.

CHAPTER 6

DEPARTMENT OF PARKS AND RECREATION

Section 8-6.1. Organization. There shall be a department of parks and recreation consisting of a director of parks and recreation and the necessary staff.

Section 8-6.2. Director of Parks and Recreation. The director of parks and recreation shall be appointed and may be removed by the [mayor] County Manager with the approval of the council. The director of parks and recreation shall have had a minimum of five years of experience in an administrative capacity, either in public service or private business, or both.

Section 8-6.3. Powers, Duties and Functions. The director of parks and recreation shall:

1. Plan, design, construct, maintain and operate all parks and recreational facilities administered by

the county.

2. Develop and implement programs for cultural, recreational other leisure activities for the people of the county.

3. Perform such other duties and functions as shall be assigned by the [mayor] County Manager.

CHAPTER 7

DEPARTMENT OF FIRE AND PUBLIC SAFETY

Section 8-7.1. Organization. There shall be a department of fire and public safety consisting of a fire and public safety commission, a fire chief, and the necessary staff. (Amended 2002, 1986)

Section 8-7.2. Fire and Public Safety Commission. The fire and public safety commission shall consist of nine members appointed by the [mayor] County Manager with the approval of the council.

The fire and public safety commission shall:

1. Adopt such rules as it may consider necessary for the conduct of its business and regulation of the matters committed to its charge by law.

2. Review and submit to the [mayor] County Manager the department's request for an annual appropriation for the operation of the department.

3. Review the operations of the department of fire and public safety and the civil defense agency and make recommendations for changes that may be desirable to improve the performance of emergency functions and the provision of public safety services.

4. Receive, review, and investigate any charges brought forth by the public against the conduct of the department of fire and public safety or any of its members and submit a written report of its findings and recommendations to the fire chief for disposition.

5. Evaluate at least annually the performance of the fire chief and submit a report to the [mayor] County Manager and the council.

6. Submit an annual report to the [mayor] County Manager and the council on its activities.

7. Have such other powers and duties as may be provided by law.

Except for purposes of inquiry or as otherwise provided in this charter, neither the commission nor its members shall interfere in any way with the administrative affairs of the department. (Amended 2002)

Section 8-7.3. Fire Chief. The fire chief shall be appointed and may be removed by the fire and public safety commission. The fire chief may be removed by the fire and public safety commission only after being informed in writing of the charges that are resulting in the fire chief's dismissal, and after being given a hearing before the commission. The fire chief shall have had a minimum of five years of experience in fire control, at least three years of which shall have been in an administrative capacity. (Amended 2002)

Section 8-7.4. Powers, Duties, and Functions. The fire chief shall:

1. Be the administrative head of the department.

2. Provide and perform fire fighting, rescue, and first-responder emergency services in order to save lives and property from fires and other emergencies arising on land, sea, and hazardous terrain, including the mitigation and stabilization of hazardous materials and incidents relating to the same.

3. Provide public education programs related to fire prevention and public safety.

4. Train, equip, maintain, and supervise the force of fire fighting and emergency rescue personnel.

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

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

7. Monitor the standards for construction and occupancy of buildings for the purposes of fire

prevention and life safety and approve building plans as provided by law.

8. Exercise such other powers and duties as may be assigned by the commission or as may be provided by law.

CHAPTER 8 DEPARTMENT OF PLANNING

Section 8-8.1. Organization. There shall be a department of planning consisting of a Maui planning commission, a Moloka`i planning commission and a Lāna`i planning commission, a planning director, a board of variances and appeals and the necessary staff. (Amended 1996, 1992, 1988)

Section 8-8.2. Planning Director. The planning director shall be appointed and may be removed by the [mayor] County Manager with the approval of the council. The planning director shall have had five years of experience in the field of planning, three of which shall have been in an administrative capacity.

Section 8-8.3. Powers, Duties, and Functions. The planning director shall:

1. Be the administrative head of the department of planning.
2. Serve as the chief planning officer of the county and as the technical advisor to the [mayor] County Manager, council and planning commissions on all planning and related matters.
3. Recommend revisions of the general plan at least every ten (10) years to guide the development of the county.
4. Prepare, administer, and enforce long-range planning programs.
5. Prepare, administer, and enforce a cultural resource management program.
6. Prepare, administer, and enforce zoning ordinances, zoning maps and regulations and any amendments or modifications thereto.
7. Review the lists of proposed capital improvements projects contemplated by the county and recommend the order of their priority to the [mayor] County Manager.
8. Perform such other duties and functions as shall be required by law or as shall be assigned by the [mayor] County Manager. (Amended 2002, 1996)

Section 8-8.4. Planning Commissions. Each planning commission shall consist of nine members appointed by the [mayor] County Manager with the approval of the council. The members of each planning commission shall be residents of the island of the planning commission on which the member serves. The director of the department of public works and environmental management and the director of the department of water supply shall be non-voting ex-officio members of each commission.

Each planning commission shall exercise its powers, duties, and functions as follows:

1. The Maui planning commission shall be concerned with the area encompassing the islands of Maui and Kaho`olawe and all other islands lying within three nautical miles of the shores thereof, and the waters adjacent thereto.
2. The Moloka`i planning commission shall be concerned with the area encompassing the island of Moloka`i and all other islands lying within three nautical miles of the shores thereof, and the waters adjacent thereto, except that portion of the island known as Kalaupapa, Kalawao, and Waikolu and commonly known and designated as the Kalaupapa Settlement.
3. The Lāna`i planning commission shall be concerned with the area encompassing the island of Lāna`i and all other islands lying within three nautical miles of the shores thereof, and the waters adjacent thereto.

The appropriate planning commission shall:

1. Advise the [mayor] County Manager, council, and the planning director in matters concerning planning programs.
2. Review the general plan and revisions thereof prepared by the planning director or at the request of the council. The commission shall hold public hearings on such plans and revisions thereof and shall transmit them, with its findings and recommendations to the council for consideration and action no later than one hundred eighty (180) days after the final public hearing.
3. Review other proposed land use ordinances and amendments thereto prepared by the director or the council and, after public hearings, transmit such ordinances with its findings and recommendations thereon to the council for consideration and action no later than one hundred twenty (120) days after the final public hearing.
4. Act as the authority in all matters relating to the Coastal Zone Management law.
5. Adopt rules pursuant to land use ordinances or law.
6. Have such other powers and duties as may be provided by law. (Amended 2002, 1992, 1988)

Section 8-8.5. General Plan and Community Plans.

1. The general plan shall be developed after input from state and county agencies and the general public, and shall be based on sound policy and information.
2. The general plan shall indicate desired population and physical development patterns for each island and region within the county; shall address the unique problems and needs of each island and region; shall explain the opportunities and the social, economic, and environmental consequences related to potential developments; and shall set forth the desired sequence, patterns, and characteristics of future developments. The general plan shall identify objectives to be achieved, and priorities, policies, and implementing actions to be pursued with respect to population density, land use maps, land use regulations, transportation systems, public and community facility locations, water and sewage systems, visitor destinations, urban design, and other matters related to development.
3. The planning director shall issue a report annually providing a detailed explanation of the implementation and enforcement of the general plan and the community plans to the [mayor] County Manager and the council.
4. There shall be a citizen advisory committee for each community plan area. Each citizen advisory committee shall consist of thirteen members, with nine appointed by the council and four appointed by the [mayor] County Manager. Each citizen advisory committee is charged with reviewing and recommending revisions to the community plan for its community plan area. Each citizen advisory committee shall remain in existence until its revisions are adopted, modified, or rejected by the council and until such action is approved, modified, or rejected by the [mayor] County Manager.
5. The community plans created and revised by the citizen advisory committees shall set forth, in detail, land uses within the community plan regions of the county. The objectives of each community plan shall be to implement the policies of the general plan. Each community plan shall include implementing actions that clearly identify priorities, timelines, estimated costs, and the county department accountable for the completion of the implementing actions.
6. The community plans generated through the citizen advisory councils and accepted by the planning commission, council, and [mayor] County Manager are part of the general plan. (Amended 2002)

Section 8-8.6. Adoption of General Plan and Other Land Use Ordinances.

1. The county shall adopt revisions to the general plan by ordinances.
2. Any revisions of the general plan, zoning ordinance or other land use ordinance may be proposed by the council and shall be reviewed by the appropriate planning commission as if prepared by the

planning director. Any such revision shall be referred to the appropriate planning commission by resolution. If the planning commission disapproves the proposed revision or recommends a modification thereof, not accepted by the council, or fails to make its report within a period of the hundred twenty (120) days after receipt of the referral, the council may nevertheless pass such revision, but only by the affirmative vote of at least two thirds of the council's entire membership.

3. Revisions to the general plan proposed by the planning director shall be reviewed and acted upon by the council no later than one (1) year after receipt of the transmittal from the planning director.

4. Revisions to zoning and land use ordinances proposed by the planning director shall be reviewed and acted upon by the council no later than one hundred eighty (180) days after receipt of the transmittal from the planning director. (Amended 2002)

Section 8-8.7. Board of Variances and Appeals. The board of variances and appeals shall consist of nine members appointed by the [mayor] County Manager with the approval of the council.

In accordance with such principles, conditions and procedures prescribed by the council, the board of variances and appeals shall:

1. Hear and determine applications for variances from the strict application of any zoning, subdivision or building ordinances. The board shall hold a public hearing prior to ruling on a variance application and shall issue findings of fact and conclusions of law on decisions granting or denying variance applications.

2. Hear and determine appeals alleging error from any person aggrieved by a decision or order of any department charged with the enforcement of zoning, subdivision, and building ordinances; provided, that the council may by ordinance confer to another county agency the authority to hear and determine appeals from the decisions of the building official in the administration of the county of Maui building code, plumbing code, electrical code, and housing code, and from any order made by the county fire chief in the administration of applicable state law and the county of Maui fire code, and the director of water supply in the administration of the rules and regulations of the department of water supply relating to matters involving any denial of the use of new or alternate materials, types of construction, equipment, devices or appliances.

3. Hear and determine all other matters which the board may be required to pass on pursuant to ordinances.

4. Adopt rules of procedure for the conduct of the board's business. (Amended 1996)

CHAPTER 9

DEPARTMENT OF PERSONNEL SERVICES

Section 8-9.1. Organization. There shall be a department of personnel services consisting of a civil service commission, a director of personnel services, and the necessary staff.

Section 8-9.2. Director of Personnel Services. The director of personnel services shall be appointed and may be removed by the civil service commission. The director may be removed by the civil service commission only after being informed in writing of the charges that are resulting in the director's dismissal, and after being given a hearing before the commission. The director of personnel services shall be thoroughly familiar with the principles and methods of personnel administration and shall believe in applying merit principles and scientific administrative methods to public personnel administration. (Amended 2002)

Section 8-9.3. Powers, Duties and Functions. The director of personnel services shall:

1. Be the administrative head of the department of personnel services.

2. Be responsible for the personnel management program of the county.

3. Perform such duties as are established under the civil service laws of the State.

Section 8-9.4. Civil Service Commission. The civil service commission shall consist of five members appointed by the [mayor] County Manager with the approval of the council.

The civil service commission shall:

1. Adopt rules having the force and effect of law to carry out the provisions of the civil service laws of the State.
2. Request an annual appropriation for the operation of the department.
3. Hear appeals, in accordance with law, by any officer or employee aggrieved by any action by the director of personnel services or by an appointing authority.
4. Advise the [mayor] County Manager and director of personnel services on problems concerning personnel administration.
5. Have such other powers and duties as may be provided by law.

CHAPTER 10

DEPARTMENT OF HOUSING AND HUMAN CONCERNS

Section 8-10.1. Organization. There shall be a department of housing and human concerns which shall consist of a director and the necessary staff. (Amended 1992)

Section 8-10.2. Director of the Department of Housing and Human Concerns. The director of the department of housing and human concerns shall be appointed and may be removed by the [mayor] County Manager with the approval of the council. The director of the department of housing and human concerns shall have a minimum of five years of experience in an administrative capacity, either in public service or private business, or both. (Amended 1992)

Section 8-10.3. Powers, Duties and Functions. The director of housing and human concerns shall:

1. Develop a comprehensive approach to the effective administration and coordination of programs and plans of action designed to meet human needs in the county.
2. Develop, supervise and coordinate such programs and projects as shall be assigned by the [mayor] County Manager.
3. Perform such other duties and functions as may be assigned by the [mayor] County Manager.

CHAPTER 11

DEPARTMENT OF WATER SUPPLY

Section 8-11.1. Organization. There shall be a department of water supply consisting of a board of water supply, a director, a deputy director and the necessary staff. (Amended 1988)

Section 8-11.2. Functions of the Department.

1. The department of water supply shall manage and operate all water systems owned by the county.
2. In order to protect and manage the water resources in the county, the department of water supply shall make studies, surveys, and investigations relating to the locations and sources of water supply within the county, the amounts available for current and prospective uses, the water resources which may be available for such uses and the maximum sustainable yield of such sources.
3. The department of water supply shall implement the county's general plan and community plans in the administration of its affairs. The department of water supply shall prepare and annually update a long-range capital improvement plan and an updated water use and development plan, which shall be subject to the approval of the council, as provided by law. (Amended 2002, 1988)

Section 8-11.3. Board of Water Supply. The board of water supply shall consist of nine members who shall be appointed by the [mayor] County Manager with the approval of the council. The director of the department of planning and the director of the department of public works and

environmental management shall be non-voting ex-officio members of the board of water supply. The board of water supply shall act as advisor to the director of the department of water supply, the [mayor] County Manager and the council in all matters concerning the county's water system. (Amended 2002, 1988)

Section 8-11.4. Powers, Duties and Functions. The board of water supply shall:

1. Review and submit to the [mayor] County Manager the department of water supply's request for an annual appropriation for operations and capital improvements.
2. Recommend the establishment and adjustment of rates and charges for furnishing water; such rates and charges shall be submitted to the [mayor] County Manager for review and approval. If approved by the [mayor] County Manager, proposed rates and charges shall be submitted to the council for enactment by ordinance.
3. Perform such other duties and functions as shall be prescribed by law. (Amended 2002, 1992, 1988)

Section 8-11.5. Director and Deputy Director of Water Supply. The director of the department of water supply shall be appointed by the [mayor] County Manager with the approval of the council, and may be removed by the [mayor] County Manager with the approval of the council. The director of the department of water supply shall have a minimum of five years of experience in a management capacity, either in public service or private business, or both. The deputy director of the department of water supply shall be appointed by the [mayor] County Manager and may be removed by the [mayor] County Manager. The director or deputy of the department of water supply shall be a registered engineer. (Amended 2002, 1988)

Section 8-11.6. Powers, Duties and Functions. The director of the department of water supply shall:

1. Administer the affairs of the department of water supply, and be responsible for the day-to-day management and control of all water systems of the county.
2. Prepare long-range capital improvement plans and up-to-date water use and development plans for review by the board of water supply and enactment by the council by ordinance.
3. Implement enacted long-range capital improvement plans and water use and development plans.
4. Prepare an annual operating and capital budget for the board of water supply's review and submit the department of water supply's request for an annual appropriation to the [mayor] County Manager.
5. Perform such other duties and functions as shall be prescribed by law. (Amended 2002, 1988)

Section 8-11.7. Revenues. The revenues of the department of water supply shall be kept in a separate fund and shall be such as to make the department of water supply self-supporting, provided that the council may issue general obligation bonds on behalf of the department of water supply and may provide capital improvement appropriations for the department of water supply. (Amended 2002, 1988)

CHAPTER 12 DEPARTMENT OF POLICE

Section 8-12.1. Organization. There shall be a department of police consisting of a police commission, a chief of police, and the necessary staff.

Section 8-12.2. Police Commission. The police commission shall consist of nine members appointed by the [mayor] County Manager with the approval of the council.

The police commission shall:

1. Adopt such rules as it may consider necessary for the conduct of its business and regulation of the matters committed to its charge by law.

2. Review and submit to the [mayor] County Manager the department's request for an annual appropriation for the operation of the department.

3. Receive, review and investigate any charges brought forth by the public against the conduct of the department or any of its members and submit a written report of its findings and recommendations to the chief of police for the chief's disposition.

4. Have such other powers and duties as may be provided by law. (Amended 1992)

Section 8-12.3. Chief of Police. The chief of police shall be appointed and may be removed by the police commission. The chief may be removed by the police commission only after being informed in writing of the charges which are resulting in the chief's dismissal, and after being given a hearing before the commission. The chief of police 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 8-12.4. Duties and Functions of the Chief of Police. The chief of police shall:

1. Be the administrative head of the department of police.

2. Be responsible for the preservation of the public peace, prevention of crime, detection and arrest of offenders against the law, protection of rights of persons and property, and enforcement and prevention of violations of all laws of the State and ordinances of the county and all rules made in accordance therewith.

3. Be responsible for traffic safety and traffic safety education.

4. Train, equip, maintain and supervise the force of police officers and employees of the department.

5. Have such other powers and duties as may be assigned by the [mayor] County Manager or as may be provided by law.

CHAPTER 13

DEPARTMENT OF LIQUOR CONTROL

Section 8-13.1. Organization. There shall be a department of liquor control consisting of a liquor control commission, a liquor control adjudication board, a director of liquor control, and the necessary staff.

Section 8-13.2. Liquor Control Commission. The liquor control commission shall consist of nine members appointed by the [mayor] County Manager with the approval of the council.

The liquor control commission shall:

1. Prepare and submit a request for an annual appropriation for the operation of the department.

2. Adopt rules 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, including, but not limited to, the fixing of liquor license fees.

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.

Section 8-13.3. Liquor Control Adjudication Board. The liquor control adjudication board shall consist of nine members appointed by the [mayor] County Manager with the approval of the council. The liquor control adjudication board shall hear and determine administrative complaints of the director regarding violations of the liquor control laws of the State or of rules of the liquor control commission, and impose penalties for violations thereof as may be provided by law.

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 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] County Manager or as may be provided by law.

CHAPTER 14

DEPARTMENT OF TRANSPORTATION

Section 8-14.1. Organization. There shall be a department of transportation consisting of a director and necessary staff. (Amended 2002)

Section 8-14.2. Director of Transportation. The director of transportation shall be appointed and may be removed by the [mayor] County Manager with the approval of the council. The director of transportation shall have a minimum of five years of experience in an administrative capacity, either in public service or private business, or both. (Amended 2002)

Section 8-14.3. Powers, Duties, and Functions. The director of transportation shall:

1. Be the administrative head of the department of transportation.
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] County Manager. (Amended 2002)

CHAPTER 15

DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

Section 8-15.1. Organization. There shall be a department of environmental management consisting of a director and the necessary staff.

Section 8-15.2. Director of Environmental Management. The director of environmental management shall be appointed and may be removed by the [mayor] County Manager with the approval of the council. The director of environmental management shall have had a minimum of five years of experience in an administrative capacity, either in public service or private business, or both.

Section 8-15.3. Powers, Duties, and Functions. The director of environmental management shall:

1. Supervise waste management and control of pollution, including recycling, litter control, and protection of the unique beauty of Maui County.
2. Plan, design, build, operate, and maintain solid waste collection, processing and disposal systems, including recycling programs.
3. Plan, design, build, operate, and maintain the county's sewer treatment plants, pump stations, sewer lines, reclaimed water distribution systems, and related programs.
4. Perform such other duties and functions as shall be assigned by the [mayor] County Manager. (Effective 07/01/07; Amended 2006)

CHAPTER 16
COST OF GOVERNMENT COMMISSION

Section 8-16.1. 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 8-16.2. Cost of Government Commission. For the purpose of carrying out the policy set forth herein the [mayor] County Manager 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] County Manager 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] County Manager and council not later than eleven months after its appointment. (Amended 1988)

Section 8-16.3. 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. (Amended 1994)

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] County Manager 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 9

FINANCIAL PROCEDURES

Section 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. All fiscal affairs of the county during any fiscal year shall be

controlled by a budget ordinance and a capital program ordinance for that fiscal year.

Section 9-2. Preparation and Submission of Budget and Capital Program.

1. On or before the fifteenth day of March before the ensuing fiscal year begins, the [mayor] County Manager shall submit to the council (a) an operating budget for the ensuing fiscal year, including an executive operating budget and a legislative operating budget, (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 county clerk and shall be open to public inspection. The [mayor] County Manager shall at the same time make available copies of the budget, the capital program and the message for distribution to interested persons. (Amended 1992)

Section 9-3. Scope of Budget and Message.

1. The budget shall present a complete financial plan for the operations of the county and its departments for the ensuing fiscal year, showing all county funds on hand whether encumbered or unencumbered and estimated reserves and revenues. It shall be set up as provided by the council after consultation with the [mayor] County Manager.

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

3. The [mayor's] County Manager'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 major changes in financial policies and in expenditures, appropriations and revenues as compared with the fiscal year currently ending, and shall set forth the reasons for the changes. The message shall include a list of pending and proposed capital improvements together with the [mayor] County Manager's comments on such list. The message shall also include such other supporting or explanatory material as the [mayor] County Manager deems desirable.

Section 9-4. Budget and Capital Program: Notice and Hearing. A public hearing shall be held by the council on the proposed budget and capital program no sooner than the first day of April and no later than the thirtieth day of April of the year of submission. At this hearing all persons interested shall have an opportunity to be heard. At least two (2) weeks before the hearing, the council shall publish in a newspaper of general circulation in the county general summaries of the budget and capital program and a notice setting out the time and place for public hearing. (Amended 1986)

Section 9-5. Budget: Council Action.

1. After the public hearing, the council may pass the budget with or without amendment. In amending, it may add new items or increase items in the budget. It may decrease or delete items, except appropriations required by law and appropriations to pay any indebtedness. In all cases the estimated revenues, proposed expenditures and total appropriations for the ensuing fiscal year shall be equal in amount.

2. The council shall pass the budget on or before the thirty-first day of May of the fiscal year currently ending. If it fails to do so, the budget submitted by the [mayor] County Manager shall be deemed enacted as the budget for the ensuing fiscal year.

3. The enacted budget shall be in effect on and after the first day of the fiscal year to which it applies. By virtue of the adoption of the budget, the several amounts listed in the budget column entitled "Appropriations" shall be appropriated to the specified departments and programs.

Section 9-6. Capital Program: Scope; Council Action.

1. The capital program shall contain at least the following:
 - a. A simple, clear general summary of the detailed contents of the program.
 - b. The capital improvements pending or proposed to be undertaken within the ensuing fiscal year, together with the estimated cost of each improvement and the pending or proposed method of financing it.
 - c. The capital improvements proposed for the five (5) years next succeeding the ensuing fiscal year, together with the estimated cost of each improvement and the proposed method of financing it.
2. Capital expenditures to be financed from current revenues in the ensuing fiscal year shall be included in the budget as well as in the capital program. Appropriations for such expenditures shall be included in the budget.
3. After the public hearing on the capital program, the council may pass the program with or without amendment.
4. The council shall pass the capital program on or before the thirty-first day of May of the fiscal year currently ending. If it fails to do so, the program submitted by the [mayor] County Manager shall be deemed enacted as the program for the ensuing fiscal year. The enacted program shall be in effect on and after the first day of that fiscal year.
5. At any time during a fiscal year the capital program may be amended by ordinance. (Amended 1986)

Sections 9-7. Restrictions on Budget and Capital Program; Revenue Rates.

1. Any condition, limitation or restriction to be controlled by the council with respect to the disbursement of any appropriation shall be set forth in the budget or in the capital program, as the case may be.
2. With the exception of bond retirement, capital programs and provisions of subsection 9-9.2, all appropriations and expenditures of the county shall be made from revenues derived from sources other than borrowing, the issuance of bonds or interest paid on bond revenues.
3. Unless otherwise specifically provided for in this charter, all fees, rates, assessments and taxes imposed by the county shall be set in the annual budget.

Section 9-8. Budget and Capital Program: Public Record. [~~Three~~] Four copies of the budget and capital program as enacted shall be certified by the [mayor] County Manager and the county clerk. One of these copies shall be filed in the office of the [mayor] County Manager, and one each in the offices of the County Manager, director of finance and the director of planning. A summary of the budget and capital program as so certified shall be published once in a newspaper of general circulation in the county within three (3) weeks after enactment and copies thereof shall be made available to the county departments and to interested persons.

Section 9-9. Appropriations and Changes.

1. If during any fiscal year the [mayor] County Manager certifies that there are available for appropriation (a) revenues received from sources not anticipated in the budget for that year, or (b) revenues received from anticipated sources but in excess of the budget estimates therefor, or (c) estimated revenues to be reimbursed by federal or state agencies to the county, the county may by ordinance make supplemental appropriations for that year up to the amount of the additional revenues so certified.
2. To meet a public emergency threatening life, health, or property, the council, upon written request by the [mayor] County Manager, may pass emergency appropriations. Such appropriations shall be made by ordinance which shall take immediate effect and must be approved by not less than seven

members of the council. To the extent that there are no available unappropriated revenues to meet such appropriations, the county may, by ordinance, authorize the issuance of emergency notes. These notes shall be paid not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made. The total of emergency appropriations in any fiscal year shall not exceed one percent (1%) of the total operating appropriations (excluding those for debt service) made in the operating budget for that year.

Section 9-10. Appropriations: Reduction and Transfer.

1. If at any time during the fiscal year it appears probable to the [mayor] County Manager that the revenues available will be insufficient to meet the amount appropriated, the [mayor] County Manager shall report to the council without delay, indicating the estimated amount of the deficit, any remedial action taken by the [mayor] County Manager, and recommendations as to any further action to be taken. The council shall then take such further action as it deems necessary to prevent or minimize any deficit. For that purpose it may pass a bill reducing one or more appropriations; but no appropriation to pay any indebtedness may be reduced, and no appropriation may be reduced by more than the amount of the unencumbered balance thereof or below any amount required by law to be appropriated.

2. Upon written request of the [mayor] County Manager part or all of any unencumbered appropriation balance may be transferred within a department by resolution or from one department to another by ordinance. No transfer, however, shall be made from an appropriation to pay any indebtedness, and no appropriation may be reduced below any amount required by law to be appropriated.

3. The [mayor] County Manager or the council may initiate changes to their respective operating budgets.

Section 9-11. Lapse of Appropriations. Every appropriation, except an appropriation for a capital improvement or for the open space fund established in Section 9-19, 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 (6) months after the close of the fiscal year to the extent that it has not been expended or encumbered by a written contract. (Amended 2002, 1984)

Section 9-12. Payments and Obligations.

1. With the exception of debt service charges, no payment shall be authorized or made and no obligation incurred against the county, except in accordance with appropriations duly made and under such procedures and policies as may be established by ordinance. Every obligation incurred and every authorization of payment in violation of the provisions of this charter shall be void. Every payment made in violation of the provisions of this charter shall be illegal, and all county officers who knowingly authorize or make such payment or any part thereof shall be jointly and severally liable to the county for the full amount so paid or received. If any county officer or employee knowingly authorizes or makes any payments or incurs any obligation in violation of the provisions of this charter, or in violation of the provisions of the procedures and policies established by ordinance, or takes part therein, that action shall be cause for removal from office.

2. Nothing contained in any section of this charter shall be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds.

3. Nothing contained in any section of this charter shall prevent the county from entering into service contracts, equipment purchase contracts or leases which extend beyond the fiscal year in which they are signed; provided, however, such service contracts or leases shall provide for the payment for services during the fiscal year in which such services are provided to the county and any equipment purchase contract shall provide for equal payments not to extend beyond the anticipated service life of the equipment. Any such contract or lease requiring the payment of funds from the appropriations of more than one (1) fiscal year shall be approved by ordinance.

Section 9-13. Audit of Accounts. Within six (6) months after the beginning of each fiscal year, the county council shall provide for an independent audit of the accounts and other evidences of financial transactions of the county and of all operations for which the county is responsible. The audit shall be made by a certified public accountant or firm of certified public accountants, designated by the council, who have no personal interest, direct or indirect, in the fiscal affairs of the county or any of its operations. The audit shall include both financial accountability and adequacy of the financial and accounting system. If the State makes such an audit, the council may accept it as satisfying the requirements of this section. The scope of the audit shall be in accordance with the terms of a written contract to be signed by the [council chair] mayor, which contract shall encourage recommendations for better financial controls and procedures and shall provide for the completion of the audit within a reasonable time after the close of the previous fiscal year. A copy of the audit reports shall be filed with the county clerk and shall be a public record.

In case of the death, resignation or removal of the director of finance, the council shall cause an independent audit to be made of the finance director's accounts. (Amended 1988)

Section 9-14. Surplus and Reserves. Any unappropriated surplus and any unencumbered balances of any appropriations in any fund at the end of any fiscal year shall be available for appropriation for the succeeding fiscal year or years. All or a portion of the surplus may be transferred to any emergency fund or to a capital improvement reserve fund by ordinance. The funds in an emergency reserve fund may be used to meet any emergency. Funds transferred to a capital improvement reserve fund shall be expended only for the specific improvements designated, provided that the purposes for which such capital improvement reserve fund may be expended may be amended by ordinance passed upon a vote of not less than seven members of the council. No amounts transferred into an emergency reserve fund or a capital improvement reserve fund shall be deducted from amounts to be raised by taxes for ensuing years.

Section 9-15. Centralized Purchasing. The [mayor] County Manager may, at the [mayor's] County Manager's discretion, establish procedures for the purchase of all materials, supplies, equipment and services required by any department of the county through the department of finance or such other department as the [mayor] County Manager may designate.

Section 9-16. Insurance. The director of finance may procure insurance from companies licensed to do business in the State for the protection of all properties and all activities of the county in such amounts and under such conditions as the county shall, by ordinance, prescribe.

Section 9-17. Surety Bonds. Except as otherwise provided, the council shall determine which officers and employees shall be required to furnish surety bonds and shall determine the kind and amount of each individual or blanket bond. All officers concerned with the receipt, collection, custody or disbursement of public funds shall be bonded. The director of finance shall procure all such surety bonds from companies licensed to do business in the State. All such bonds shall be in favor of and the premiums thereon shall be borne by the county.

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] County Manager, except that contracts for purchase of materials, supplies, equipment, personal services, and public works contracts shall be signed by the director of finance and those contracts required to be executed by the County Manager as provided for in this charter.

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

Section 9-19. Open Space, Natural Resources, Cultural Resources, and Scenic Views Preservation Fund.

1. In adopting each fiscal year's budget and capital program, the council shall appropriate a minimum of one percent (1%) of the certified real property tax revenues to a fund known as the open space, natural resources, cultural resources, and scenic views preservation fund. The revenues in this fund shall be utilized for purchasing or otherwise acquiring lands or property entitlements for land conservation purposes in the county of Maui for the following purposes: public outdoor recreation and education; preservation of historic or culturally important land areas; protection of significant habitat or ecosystems, including buffer zones; preserving forests, beaches, coastal areas and agricultural lands; protecting watershed lands to preserve water quality; conserving land for the purpose of reducing erosion, floods, landslides, and runoff; and improving disabled and public access to, and enjoyment of, public land, open space, and recreational facilities.

2. Any balance remaining in this fund at the end of the fiscal year shall not lapse, but shall remain in the fund, accumulating from year to year. The revenues in this fund shall not be used for any purpose except those listed in paragraph one of this section.

3. The council shall by ordinance establish procedures for the administration and expenditure of the revenues in this fund. The appropriations to this fund shall not substitute, but shall be in addition to, those appropriations historically made.

Section 9-20. Affordable Housing Fund.

1. In adopting fiscal years 2008 through 2011 annual operating budgets and capital improvements programs, the council shall appropriate a minimum of two percent (2%) of the certified real property tax revenues to a fund known as the affordable housing fund. In any fiscal year, the Council may make appropriations to the fund in addition to the minimum required appropriations. The revenues in this fund shall be utilized for the provision and expansion of affordable housing and suitable living environments for persons of very low to moderate income, which may include the rehabilitation of existing structures, land purchase or other acquisition of land or property entitlements, planning, design, and construction.

2. On an annual basis, no more than three percent (3%) of this fund shall be used for administrative expenses.

3. Any balance remaining in this fund at the end of each fiscal year shall not lapse, but shall remain in the fund, accumulating from year to year. The revenues in this fund shall not be used for any purpose except those listed in Subsection 9-20.1. or as defined by ordinance.

4. The council shall by ordinance establish procedures for the administration and expenditure of the

revenues in this fund. The appropriations to this fund shall not substitute, but shall be in addition to, those appropriations historically made for the purposes stated in this section.

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] County Manager 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] County Manager 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] County Manager, with approval of the council, may be removed for cause upon recommendation of such removal by the [mayor] County Manager 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] County Manager shall submit to the council the name of the [mayor] County Manager'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] County Manager of its action. The [mayor] County Manager 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] County Manager 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] County Manager shall submit to the council the name of the [mayor] County Manager'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] County Manager of its action. The [mayor] County Manager 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] County Manager 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.

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] County Manager in such form as the [mayor] County Manager may prescribe. Copies of such reports shall be filed in the office of the county clerk.

Section 13-8. Acceptance of Gifts or Donations. The council, on behalf of the county may accept gifts or donations of money, securities or other personal property or of real estate or any interest in real estate.

Section 13-9. Records and Meetings Open to Public.

1. All books and records of every department shall be open to the inspection of any person at any time during business hours, except as otherwise provided by law. Certified copies or extracts from such books and records shall be given by the officer having custody of the same to any person demanding the same and paying or tendering a reasonable fee to be fixed by ordinance for such copies or extracts.

2. All meetings of boards and commissions shall be held in the county building or other publicly owned place. In the event that a publicly owned building is not available or appropriate for the meeting, the meeting can be held in another facility that is accessible to the public. (Amended 2002)

Section 13-10. Penalties. The council shall, by ordinance, provide for the punishment of violations of any provisions of this charter and may provide for punishment of violations of ordinances and rules having the force and effect of law, but no penalty shall exceed the amount of \$1,000.00, or one (1) year's imprisonment, or both.

Section 13-11. County Elections. County elections shall be conducted in accordance with the election laws of the State.

Section 13-12. Oaths of Office. Before entering upon the duties of office, each officer elected or appointed shall take and subscribe to such oath or affirmation as shall be provided by law.

Section 13-13. Impeachment of officers. Appointed or elected officers may be impeached for malfeasance, misfeasance or nonfeasance in office or violation of the provisions of Article 10. Such impeachment proceedings shall be commenced in the Circuit Court of the Second Circuit, State of Hawai'i. The charge or charges shall be set forth in writing in a verified petition for impeachment signed by not less than five percent (5%) of the voters registered in the last general election. A charge or charges alleging violation of Article 10 may be set forth in writing in a verified petition for impeachment signed by a majority of the members of the board of ethics. If the court sustains the

charge or charges, such officer shall be deemed removed from office. The officer sought to be impeached and the petitioners seeking the impeachment other than the board of ethics shall bear their own attorney's fees and other costs of such proceedings.

Section 13-14. Cooperation with Other Organizations. In the performance of its functions, each department shall cooperate with private organizations and with organizations of the governments of the United States, the State, and any other state, and with any of their political subdivisions having similar functions.

Section 13-15. Titles, Subtitles, Personal Pronouns; Construction. Titles and subtitles shall not be used for purposes of construing this charter.

Section 13-16. Severability. If any provision of this charter is held invalid, the other provisions of this charter shall not be affected thereby. If the application of the charter, or any of its provisions, to any person or circumstance is held invalid, the application of the charter and its provisions to other persons or circumstances shall not be affected thereby.

QUESTION TO VOTERS:

“Shall there be established a County Manager who shall hold the administrative functions of the Mayor who is appointed by the Council, and the office of Mayor remain as the ceremonial head of the county, including serving as the non-voting presiding officer of the Council?”

Proposal No. 3 – Elected Community Boards

Changing Planning & Variance Process to Include Elected Community Boards for Every Community Plan Area on Maui, Molokai and Lanai Planning Commissions Become Directly Elected

TEXT OF THE AMENDMENT (New material underscored, deleted material bracketed)

CHAPTER 8 DEPARTMENT OF PLANNING

Section 8-8.1. Organization. There shall be a department of planning consisting of a Maui planning commission, a Moloka`i planning commission and a Lāna`i planning commission, a planning director, a board of variances and appeals and the necessary staff.

Section 8-8.2. Planning Director. The planning director shall be appointed and may be removed by the mayor. The planning director shall have had five years of experience in the field of planning, three of which shall have been in an administrative capacity.

Section 8-8.3. Powers, Duties, and Functions. The planning director shall:

1. Be the administrative head of the department of planning.
2. Serve as the chief planning officer of the county and as the technical advisor to the mayor, council and planning commissions on all planning and related matters.
3. Recommend revisions of the general plan at least every ten (10) years to guide the development of the county.
4. Prepare, administer, and enforce long-range planning programs.
5. Prepare, administer, and enforce a cultural resource management program.
6. Prepare, administer, and enforce zoning ordinances, zoning maps and regulations and any amendments or modifications thereto.
7. Review the lists of proposed capital improvements projects contemplated by the county and recommend the order of their priority to the mayor.
8. Perform such other duties and functions as shall be required by law or as shall be assigned by the mayor.

Section 8-8.4. Planning Commissions. [Each] The Maui planning commission shall consist of [nine] seven members appointed one from each Community Board, on the island of Maui, from among their membership and one member appointed [by the mayor with the approval of the council] to represent Kaho'olawe who shall serve for not more than one term of four years and shall not have a vote. The Molokai planning commission shall consist of the nine members of the Molokai Community Board. The Lanai planning commission shall consist of the nine members of the Lanai Community Board. [The members of each planning commission shall be residents of the island of the planning commission on which the member serves. The director of the department of public works and environmental management and the director of the department of water supply shall be non-voting ex-officio members of each commission.]

Each planning commission shall exercise its powers, duties, and functions as follows:

1. The Maui planning commission shall be concerned with the area encompassing the islands of Maui and Kaho'olawe and all other islands lying within three nautical miles of the shores thereof,

and the waters adjacent thereto.

2. The Moloka`i planning commission shall be concerned with the area encompassing the island of Moloka`i and all other islands lying within three nautical miles of the shores thereof, and the waters adjacent thereto, except that portion of the island known as Kalaupapa, Kalawao, and Waikolu and commonly known and designated as the Kalaupapa Settlement.

3. The Lāna`i planning commission shall be concerned with the area encompassing the island of Lāna`i and all other islands lying within three nautical miles of the shores thereof, and the waters adjacent thereto.

The appropriate planning commission shall:

1. Advise the mayor, council, and the planning director in matters concerning planning programs.
2. Review the general plan and revisions thereof prepared by the planning director or at the request of the council. The commission shall hold public hearings on such plans and revisions thereof and shall transmit them, with its findings and recommendations to the council for consideration and action no later than one hundred eighty (180) days after the final public hearing.
3. Review other proposed land use ordinances and amendments thereto prepared by the director or the council and, after public hearings, transmit such ordinances with its findings and recommendations thereon to the council for consideration and action no later than one hundred twenty (120) days after the final public hearing.
4. Act as the authority in all matters relating to the Coastal Zone Management law.
5. Adopt rules pursuant to land use ordinances or law.
6. Have such other powers and duties as may be provided by law.

Section 8-8.5. General Plan and Community Plans.

1. The general plan shall be developed after input from state and county agencies and the general public, and shall be based on sound policy and information.

2. The general plan shall indicate desired population and physical development patterns for each island and region within the county; shall address the unique problems and needs of each island and region; shall explain the opportunities and the social, economic, and environmental consequences related to potential developments; and shall set forth the desired sequence, patterns, and characteristics of future developments. The general plan shall identify objectives to be achieved, and priorities, policies, and implementing actions to be pursued with respect to population density, land use maps, land use regulations, transportation systems, public and community facility locations, water and sewage systems, visitor destinations, urban design, and other matters related to development.

3. The planning director shall issue a report annually providing a detailed explanation of the implementation and enforcement of the general plan and the community plans to the mayor and the council.

4. [There shall be a citizen advisory committee for each community plan area. Each citizen advisory committee shall consist of thirteen members, with nine appointed by the council and four appointed by the mayor.] Each [citizen advisory committee] Community Board is charged with reviewing and recommending revisions to the community plan for its community plan area. Each citizen advisory committee shall remain in existence until its revisions are adopted, modified, or rejected by the council and until such action is approved, modified, or rejected by the mayor.

5. The community plans created and revised by the [citizen advisory committees] Community Boards shall set forth, in detail, land uses within the community plan regions of the county. The objectives of each community plan shall be to implement the policies of the general plan. Each

community plan shall include implementing actions that clearly identify priorities, timelines, estimated costs, and the county department accountable for the completion of the implementing actions.

6. The community plans generated through the [citizen advisory councils] Community Boards and accepted by the planning commission, council, and mayor are part of the general plan.

Section 8-8.6. Adoption of General Plan and Other Land Use Ordinances.

1. The county shall adopt revisions to the general plan by ordinances.
2. Any revisions of the general plan, zoning ordinance or other land use ordinance may be proposed by the council and shall be reviewed by the appropriate planning commission as if prepared by the planning director. Any such revision shall be referred to the appropriate planning commission by resolution. If the planning commission disapproves the proposed revision or recommends a modification thereof, not accepted by the council, or fails to make its report within a period of the hundred twenty (120) days after receipt of the referral, the council may nevertheless pass such revision, but only by the affirmative vote of at least two thirds of the council's entire membership.
3. Revisions to the general plan proposed by the planning director shall be reviewed and acted upon by the council no later than one (1) year after receipt of the transmittal from the planning director.
4. Revisions to zoning and land use ordinances proposed by the planning director shall be reviewed and acted upon by the council no later than one hundred eighty (180) days after receipt of the transmittal from the planning director.

Section 8-8.7. Board of Variances and Appeals. The board of variances and appeals shall consist of [nine] eight members appointed one from each Community Board on the island of Maui and one from Molokai and one from Lanai [by the mayor with the approval of the council]. In accordance with such principles, conditions and procedures prescribed by the council, the board of variances and appeals shall:

1. Hear and determine applications for variances from the strict application of any zoning, subdivision or building ordinances. The board shall hold a public hearing prior to ruling on a variance application and shall issue findings of fact and conclusions of law on decisions granting or denying variance applications.
2. Hear and determine appeals alleging error from any person aggrieved by a decision or order of any department charged with the enforcement of zoning, subdivision, and building ordinances; provided, that the council may by ordinance confer to another county agency the authority to hear and determine appeals from the decisions of the building official in the administration of the county of Maui building code, plumbing code, electrical code, and housing code, and from any order made by the county fire chief in the administration of applicable state law and the county of Maui fire code, and the director of water supply in the administration of the rules and regulations of the department of water supply relating to matters involving any denial of the use of new or alternate materials, types of construction, equipment, devices or appliances.
3. Hear and determine all other matters which the board may be required to pass on pursuant to ordinances.
4. Adopt rules of procedure for the conduct of the board's business.

CHAPTER 18
COMMUNITIES AND COMMUNITY BOARDS

Section 8-18.1. Communities and Community Boards. Communities and community boards, to increase and assure effective citizen participation in the decisions of government, shall be established.

Section 8-18.2. Community Boards; Composition, Qualification. Every community, as defined by the boundaries of the several community plans except Kaho'olawe, shall have a Community Board composed of nine at-large members elected by the voters of the community that the Board represents. To be eligible for election or appointment to a Community Board, a person must be a resident of the community from which the person seeks to be elected. If a person ceases to be a resident of the community area or is adjudicated of a felony, the Board member shall immediately forfeit office and the seat shall thereupon become vacant.

Section 8-18.3. Community Board Elections and Terms of Office.

1. Community Board members shall be elected by nonpartisan special elections conducted with the regular special elections for Council.

2. First special election. Two candidates receiving the most votes for each available seat shall be advanced the second special election. If, after the close of filing of nomination papers, there are only two qualified candidates for any seat, the Clerk shall declare those two candidates advanced for the second special election. The names of those two candidates shall not appear on the first special election ballot.

3. Each voter in the second special election shall be entitled to vote for the number of Board seats available for their respective Community Board.

4. In the event that the number of qualified candidates is equal or less than the number of such seats to be filled, after the close of filing of nomination papers, the Clerk shall declare such candidates to be duly and legally elected.

5. The term of office of Community Board member shall be for four (4) years, beginning at twelve o'clock meridian on the second day of January following their election. The terms shall be staggered so that the five highest vote getting candidates in the first election for Community Board shall serve a four year term and the remaining candidates elected shall serve a term of two years – all of which shall be considered full terms. No member of a Community Board shall serve more than two consecutive full terms of office.

Section 8-18.4. Vacancies in Office. A vacancy in the office of any Community Board member shall be filled for the remainder of the unexpired term in the following manner:

1. If the unexpired term is less than twenty seven (27) months, the remaining members of the Community Board shall appoint a person by resolution adopted by a majority of its remaining members to fill the vacancy for the current unexpired term. Should the Community Board fail to fill any vacancy within thirty (30) days after its occurrence, the mayor shall appoint a person to fill the vacancy for the current unexpired term. The person appointed by the Community Board or mayor shall have the same qualifications required of a candidate elected by the voters.

2. If the unexpired term is more than twenty seven (27) months, the vacancy shall be filled by a special election to be held in conjunction with the regular second special election. The electors of the Community shall then elect a successor to fill the vacancy for the remainder of the term. At the special election, the candidate receiving the highest number of votes shall be deemed elected.

Section 8-18.5. Procedure; Meetings, Rules, Voting. Each Community Board shall meet at their regular meeting place at two o'clock p.m. on the second day of January following its election, or on the following Monday if the second day be a Saturday or Sunday, at which time it shall elect one of its members as chair and presiding officer of the Community Board. Until such time as the chair shall be elected, the Community Board member having received the highest number of voters shall preside at such meeting. Community Boards shall follow the newest edition of Robert's Rules of Order except for such other uniform and general procedures applicable to all Community Boards adopted by ordinance.

Section 8-18.6. Powers of the Board. (a) The Community Boards are responsible for actively participating in the functions and processes of government by identifying, addressing, communicating, and seeking solutions to community issues and concerns, both within and outside of their respective community plan areas. Their actions should reflect the needs, wants, and interests of the community. Boards may take the initiative in selecting and prioritizing their activities, and provide reasonable means to increase and assure effective citizen participation in the decisions of government. The powers, duties, and functions of boards shall include:

1. Increase and assure effective citizen participation in the decisions of government by providing additional and improved opportunities for public input and interaction, and communicating that input to the appropriate persons and agencies;
2. Initiate, review, comment, and make recommendations concerning any general plan, communities plan, zoning, planning, permitting, and other land use issues within the county and each respective community;
3. Review and recommend revisions to the community plan for its community plan area as the citizen advisory committee;
4. Identify, prioritize, review, comment, and make recommendations concerning any government capital improvement proposal, plan, or project;
5. Assist with evaluations of the efficiency and effectiveness of government services and programs, whether provided by government agencies or their contractors;
6. Initiate, review, comment, and make recommendations concerning any other substantive issue reasonably related to the processes or decisions of government;
7. Encourage understanding of the decision-making processes of government; and
8. Encourage the role of the board as a public and informational forum on community and governmental issues.

(b) Boards may communicate and cooperate with each other, especially on a regional basis, to promote general awareness and understanding of issues of mutual concern, explore opportunities for collaboration, and foster beneficial relationships to further increase and assure effective citizen participation in the decisions of government. Each board may express its neighborhood's view, opinion, or advice on matters within the scope of the board's jurisdiction to properly fulfill its duty. No deference is required of a board to any other board. Boards may cooperate and collaborate with persons, agencies, and community organizations so long as the cooperation and collaboration does not exceed the powers, duties, and functions of boards as allowed by law.

(c) Each Community Board on the island of Maui shall appoint among themselves, by majority vote, one member of the Maui Planning Commission. The Community Board member on

the Maui Planning Commission shall remain a member of the Maui Planning Commission until the end of the Community Board member's current term of office, or until the adoption of a resolution of no confidence, by two thirds of the Community Board members. The Maui Island community boards shall be afforded ninety (90) days after official transmission to said board or boards to review and comment on all matters properly before the Maui Planning Commission that affect or touch upon the community plan areas under the Community board's purview.

(d) The Molokai Community Board shall be the Molokai Planning Commission. The Lanai Community Board shall be the Lanai Planning Commission.

(e) Each Community Board shall appoint among themselves, by majority vote, one member of the Board of Variances and Appeals. The Community Board member on the Board of Variances and Appeals shall remain a member of the Board of Variances and Appeals until the end of the Community Board member's current term of office unless the member first resigns or otherwise vacates the office.

QUESTION TO VOTERS:

Shall there be established Community Boards for each community plan area elected by the residents therein to increase public participant and advocate for their community; for Molokai, the elected Community Board shall be the Molokai Planning Commission, and for Lanai, the elected Community Board shall be the Lanai Planning Commission; and for Maui, each elected Community Board shall appoint one of its members each to sit on the Maui Planning Commission and one member shall continue to be appointed by the Mayor to represent Kahoolawe but shall have no vote; and that each elected Community Board shall appoint one of its members each to sit on the Board of Variances and Appeals; and these Community Boards shall replace the Citizen Advisory Committees in the Community Plan process?

Proposal No. 4 – Abolishing Liquor Adjudication Board

Abolish the Liquor Control Adjudication Board and Transfer Its Function to the Liquor Control Commission

TEXT OF THE AMENDMENT (New material underscored, deleted material bracketed)

**ARTICLE 8
CHAPTER 13
DEPARTMENT OF LIQUOR CONTROL**

Section 8-13.1. Organization. There shall be a department of liquor control consisting of a liquor control commission, ~~[a liquor control adjudication board,]~~ a director of liquor control, and the necessary staff.

Section 8-13.2. Liquor Control Commission. The liquor control commission shall consist of nine members appointed by the mayor with the approval of the council.

The liquor control commission shall:

1. Prepare and submit a request for an annual appropriation for the operation of the department.
2. Adopt rules 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, including, but not limited to, the fixing of liquor license fees.
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.]~~

~~**Section 8-13.3. Liquor Control Adjudication Board.** The liquor control adjudication board shall consist of nine members appointed by the mayor with the approval of the council. The liquor control adjudication board shall~~ Hear and determine administrative complaints of the director regarding violations of the liquor control laws of the State or of rules of the liquor control commission, and impose penalties for violations thereof as may be provided by law.

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

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 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.

QUESTION TO VOTERS

“Shall the Liquor Control Adjudication Board be abolished and its function to the Liquor Control Commission?”

Proposal No. 5 – Creating County Hearings Officers

Create an Independent Office of County Hearings Officers to Conduct All Contested Case Proceedings and Make Findings and Recommended Action to Officials, Boards and Commissions

TEXT OF THE AMENDMENT (New material underscored, deleted material bracketed)

COUNTY HEARINGS OFFICER

Article ***

Section 1. There shall be established an Office of the County Hearings Officers which shall be an independent office administered by the Department of Finance. There shall be two or more hearings officers nominated by the mayor and approved by the council in the same manner and qualifications as Corporation Counsel. The term of office shall be eight years. The first hearings officer approved by the council shall have an initial term of four years. The terms of hearings officers shall be staggered. The longest serving hearings officer shall be the chief administrative officer of the Office of the County Hearings Officer and shall serve as the first among equals.

Section 2. Whenever any contested case proceeding or hearing determining the rights of private individuals comes before any county officer, board or commission pursuant to any law, charter provision or ordinance, the hearings officer or officers shall hear and recommend decisions in all such contested cases. The hearings officer or officers shall have power to issue subpoenas, administer oaths, hear testimony, find facts, and make conclusions of law and a recommended decision; provided that the conclusions and decisions shall be subject to review and redetermination by the officer, board, or commission which would have heard the case in the first instance in the absence of a hearings officer within ninety days of transmission of the findings, conclusions and recommended decision to said officer, board or commission. If no action is taken within said ninety days, the recommended decision shall become final and appealable. The review shall be conducted in accordance with chapter 91.

QUESTION TO VOTERS

“Shall there be established an independent office of county hearings officers, administratively attached to the Department of Finance, who shall hear evidence and argument and make recommendations to all county officers, boards or commissions whenever a contested case is required by law?

Proposal No. 6 – Separate Attorneys for Council & Boards and Commissions
Create Legislative Attorney and Independent Counsel For Separate Legal Advice, Counsel and
Representation For County Council and Boards and Commissions

TEXT OF THE AMENDMENT (New material underscored, deleted material bracketed)

ARTICLE 3

Section 3- . Office of legislative attorney. There shall be an office of the legislative attorney consisting of the legislative attorney and the necessary staff. The legislative attorney shall be appointed and may be removed by the council. The legislative attorney shall be an attorney licensed to practice law and in good standing before the Supreme Court of the State and shall have engaged in the practice of law for at least three years. The legislative attorney shall be the chief legal advisor and legal representative of the County Council and all of its officers and employees in matters related to their official duties and shall represent the County Council in all legal proceedings in which its interest is different than that represented by the department of the corporation counsel. Legal process against the County Council or its officers shall be served upon the county attorney or any of the deputies.

ARTICLE 8

CHAPTER 2

DEPARTMENT OF THE CORPORATION COUNSEL

Section 8-2.1. Organization. There shall be a department of the corporation counsel consisting of the corporation counsel and the necessary staff.

Section 8-2.2. Corporation Counsel. The corporation counsel shall be appointed by the mayor with the approval of the council and may be removed by the mayor with the approval of the council. The corporation counsel shall be an attorney licensed to practice and in good standing before the Supreme Court of the State and shall have engaged in the practice of law for at least three years. (Amended 1992)

Section 8-2.3. Powers, Duties, and Functions. The corporation counsel shall:

1. Appoint such deputy corporation counsel and necessary staff as shall be authorized by the council. Deputy corporation counsel shall be exempt from civil service and shall serve at the pleasure of the corporation counsel.
2. Be the chief legal advisor and legal representative of the County of Maui; ~~[of the council]~~ the mayor, and all departments, ~~[and all boards and commissions;]~~ and of all officers and employees in matters relating to their official duties except as otherwise provided in this charter.
3. Represent the county in all legal proceedings except as otherwise provided in this charter.
4. Perform such other duties and functions as may be incident to the department or required by law. (Amended 2002)

Section 8-2.4. Service of Legal Process. Legal process against the county shall be served upon the corporation counsel or any of the deputies.

CHAPTER

Section 8- . Office of Independent Counsel. There shall be an office of the independent counsel

consisting of the independent counsel and the necessary staff. The independent counsel shall be appointed and may be removed by the council. The independent counsel shall be an attorney licensed to practice and in good standing before the Supreme Court of the State and shall have engaged in the practice of law for at least three years. The independent counsel shall be the chief legal advisor and legal representative of all county boards and commissions and all of their officers and employees in matters related to their official board and commission duties and shall represent all boards and commissions in all legal proceedings in which their interest is different than that represented by the department of the corporation counsel.

QUESTION TO VOTERS:

“Shall the functions of the Department of Corporation Counsel be divided so that the Maui County Council and county boards and commissions have independent legal advice and are represented separately when the interest of the Maui County Council or the interest of a county board or commission is different than that represented by Department of Corporation Counsel?”