

Report of the  
Permitted Interaction Group

On Proposals  
Relating to Open Government

May 16, 2016

Members:

Pamela Witty-Oakland, Chair  
Judge Michael F. Broderick (Ret.)  
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The Honolulu Charter Review Commission formed a Permitted Interaction Group on March 17, 2016 for the purpose of investigating proposals and issues related to open government, including neighborhood boards, open records, and public participation.

The Open Government Permitted Interaction Group (Group) utilized electronic dialog to facilitate review, research and discussion of the sixteen proposals. The proposals were considered by subject matter.

Neighborhood Boards	Proposals 19, 30, 113, 126 and 129
Open Records	Proposals 23, 25, 26, 59, 125, 147 and 150
Public Participation	Proposals 24, 40, 99 and 123

This report provides the Charter Commission with recommendations for the proposals relating to open government.

## **I. OPEN GOVERNMENT - NEIGHBORHOOD BOARDS**

### **CHARTER PROPOSAL #19:**

**Summary:** The proposal seeks to reduce the number of Neighborhood Boards to one per City Council District.

### **CHARTER PROPOSAL #30:**

**Summary:** The proposal seeks to limit Neighborhood Boards' advisory rules to City and County matters, and consider abolishing the Neighborhood Boards by reviewing participation and other factors.

### **CHARTER PROPOSAL #113:**

**Summary:** The proposal seeks to elect members of Neighborhood Boards in the same cycle as council members of each district, and require nomination papers with at least 40 signatures of voters registered in the district.

### **CHARTER PROPOSAL #126:**

**Summary:** The proposal seeks to make various amendments to Article XIV Boards and Commissions to address significant issues regarding the relationship between the Executive Secretary and the Neighborhood Commission; their respective roles, powers, duties, and functions; and the organization of the neighborhood board system.

### **CHARTER PROPOSAL #129:**

**Summary:** The proposal seeks to confer civil service status on Neighborhood Commission staff except for the Executive Secretary.

**Research/analysis:** “Established in 1973, the mission of the Neighborhood Commission is to increase and assure effective citizen participation in the decisions of government through the establishment of policy, providing oversight and evaluation, as well as facilitating the efficient organization and operation of the Neighborhood Board System.”<sup>i</sup>

Section 2-13-102 of the Neighborhood Plan defines the powers, duties, and functions of the Neighborhood Boards.

- (a) The boards are responsible for actively participating in the functions and processes of government by identifying, addressing, communicating, and seeking solutions to neighborhood issues and concerns, both within and outside of their respective neighborhood areas. Their actions should reflect the needs, wants, and interests of the neighborhood. 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.
- (b) 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 13-2 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, development and sustainable communities plan, zoning, planning, permitting, and other land use issues within the city;
  - (3) Identify, prioritize, review, comment, and make recommendations concerning any government capital improvement proposal, plan, or project;
  - (4) Assist with evaluations of the efficiency and effectiveness of government services and programs, whether provided by government agencies or their contractors;
  - (5) Initiate, review, comment, and make recommendations concerning any other substantive issue reasonably related to the processes or decisions of government;
  - (6) Encourage understanding of the decision-making processes of government; and
  - (7) Encourage the role of the board as a public and informational forum on community and governmental issues.

Section 2-14-109 of the Neighborhood Plan provides that a (neighborhood) board shall hold a regular meeting not less than nine of the twelve months within a one year period, provided that at no time shall more than two consecutive months elapse between regular meetings.<sup>ii</sup>

Currently, the Neighborhood Commission Office supports 33 Neighborhood Boards with an average annual budget of \$931,784, or \$28,235 per board.

**NEIGHBORHOOD COMMISSION ANNUAL FUNDING**

<b>Ordinance</b>	<b>Fiscal Year</b>	<b>Number of Positions</b>	<b>Salaries</b>	<b>Current Expenses</b>	<b>Total Funds</b>	<b>Source of Funds</b>
Proposed <sup>iii</sup>	2017	17	\$ 657,212	\$ 442,410	\$ 1,099,622	GN
15-25 <sup>iv</sup>	2016	16	\$ 616,646	\$ 147,300	\$ 763,946	GN

Numerous efforts have evaluated the effectiveness of the Neighborhood Board System. Specifically, the Neighborhood Commission contracted an independent third-party to audit the system in 1979. The City Auditor conducted an audit in 2006. The City Council created a Task Force to provide further analysis of the 2006 audit. In 2008, the Neighborhood Commission published an evaluation of the Auditor’s 2006 audit and the City Council’s Task Force. The reports are available on the Neighborhood Commission’s website.

The majority of recommendations focused on the internal structure, lines of authority, sunshine law compliance, and budgetary inconsistencies related to the organization and operation of the Neighborhood Board System. All of the reports lacked evaluation or recommendations on methods “to increase and assure effective citizen participation in the decisions of government through the establishment of policy.”

In 1972 the venues available for citizen participation were limited to physical attendance of City Council meetings. Thus, the support of a system to bring government into one’s neighborhood after the work-day provided a practical venue for increasing community participation.

In 1972 testimony offered for consideration required oral testimony or written testimony either hand-delivered or mailed.

In 2016 the venues available for citizen participation include physical attendance, live video broadcast on television and streamed to the internet. Broadcasts are archived on websites for citizens to access on computers and smart phones at their own convenience. Re-broadcast of meeting are also aired during prime time.

In 2016 testimony offered for consideration may be delivered orally or written and transmitted via facsimile, electronic mail, hand-delivered or mailed.

Another advancement in technology includes the use of teleconferencing to facilitate citizen participation as demonstrated at the State of Hawaii Legislature.

Charter Commission Minutes of February 19, 2016 reflect support for the concept of promoting citizen participation, along with commentary on the decreasing attendance and lack of candidates. It was suggested that new technology should be implemented to bring the system into the 21<sup>st</sup> century.

Follow up conversation with Mr. Tom Heinrich explored the concept of redesigning the Neighborhood Commission Office.

**Recommendation:** Given the primary mission to increase citizen participation in the decisions of government and the vast growth in electronic mediums to support citizen participation, the Group recommends that by March 31, 2017 the Neighborhood Commission Office (NCO) develop a Strategic Plan with action plan and timeline to:

- a) restructure the delivery of information to community members through implementation of current communication technologies;
- b) promote the NCO as a resource for information;
- c) provide community education on citizen participation options;
- d) collect and report citizen feedback on proposed developments to meet Department of Planning and Permitting requirements;
- e) measure and report citizen participation in the annual report;
- f) sunset the neighborhood board system, and;
- g) reduce the annual budget by at least 50% through implementation of the strategic plan.

Therefore, the following question is recommended for voters to decide on the future of the Neighborhood Board system.

**Charter Question:** *Should the City increase citizen participation in the decisions of government through the use of electronic communication, such as television, Internet and email, and eliminate the Neighborhood Board system?*

## II. OPEN GOVERNMENT - OPEN RECORDS

### **CHARTER PROPOSAL #23:**

**Summary:** The proposal seeks to conform the county public records law to state requirements to ensure greater access to public records.

### **CHARTER PROPOSAL #25:**

**Summary:** The proposal seeks to require city agencies to assist the public in getting public records and make the process more efficient.

### **CHARTER PROPOSAL #26:**

**Summary:** The proposal seeks to prohibit charging for copies of public records when obtaining copies is in the public interest.

**Research/analysis:** Hawaii Revised Statutes Uniform Information Practices Act §92F-3 General Definitions defines applicable agencies as “any unit of government in this State, any county, or any combination of counties, department, institution, board, commission.....owned, operated, or managed by or on behalf of this State or any county....”

In compliance with HRS §92F, the City and County of Honolulu (City) utilizes the State of Hawaii, Office of Information Practices Form OIP-1 to manage requests for public records.

The City is currently subject to existing state requirements and does not require changes to the Honolulu Charter to facilitate greater access to public records.

**Recommendation:** No further action.

### **CHARTER PROPOSAL #59:**

**Summary:** The proposal seeks to open the Municipal Library at least one day a week.

**Research/analysis:** Established in 1929, the Municipal Reference Center (MRC) houses publications issued by and for City agencies. Many items are available both online in electronic format and as hard copy in the reference center collection.<sup>v</sup>

Prior to the 1998 reorganization by Mayor Harris, the MRC was a stand-alone department and depository for City publications offering daily public access. The reorganization moved the former Municipal Records and Reference Center to the newly created Department of Customer Services. Subsequent budget constraints have limited staffing and resulted in online access or pre-scheduled appointments.

The City's Makiki District Park is home to another library - the Makiki Library, which despite the library's location within a City and County building, it is not a City run operation; it is managed by the Friends of Makiki Community Library.<sup>vi</sup>

City leaders have chosen to fund other core services rather than support the MRC, and an amendment to the Honolulu Charter will not mandate funding of the function. Rather the MRC might consider donating the City's collection to the State of Hawaii Library System to facilitate public access to the documents.

**Recommendation:** No further action

**CHARTER PROPOSAL #125:**

**Summary:** The proposal seeks to add historical citations, case note annotations, and tables of disposition to the City Charter.

**Research/analysis:** Effective February 5, 2016 the City's Corporation Counsel uploaded a current version of the Revised Honolulu Charter including historical citations.<sup>vii</sup>

**Recommendation:** No further action.

**CHARTER PROPOSAL #147:**

**Summary:** The proposal seeks to allow public access to Ethics Commission rulings, decisions and reasoning.

**Research/analysis:** The Honolulu Ethics Commission (HEC) advances the standards of ethical conduct in government as expressed in the Revised Charter and the Revised Ordinances of Honolulu. The purpose of these laws and the Commission's work is to improve and maintain public confidence in government officials and employees.<sup>viii</sup>

In support of the HEC's purpose, a portal of Advisory Opinions from current year to 1967 are available to the public at [www.honolulu.gov/ethics/opinions.html](http://www.honolulu.gov/ethics/opinions.html). Each Advisory Opinion provides a summary, factual background, discussion, analysis, conclusion and recommendation.

In addition, the HEC website offers publications and guidelines to the City's ethics laws, along with answers to Frequently Asked Questions about the complaint process and procedures.

**Recommendation:** No further action.

**CHARTER PROPOSAL #150:**

**Summary:** The proposal seeks to require live Olelo telecasts for all Charter Commission meetings, and consider using the latest technology and teleconferencing.

**Research/analysis:** Effective December 30, 2015 the Charter Commission meeting are aired live on Olelo. In addition, the Charter Commission's website provides a library of meeting videos for public viewing.

**Recommendation:** No further action.

**III. OPEN GOVERNMENT – PUBLIC PARTICIPATION**

**CHARTER PROPOSAL #24:**

**Summary:** The proposal seeks to require boards and commissions to have an internet presence and use electronic communications to distribute board information to provide ready access to information, reduce barriers to and encourage public engagement with government, build trust in government, and encourage a paperless government.

**CHARTER PROPOSAL #40:**

**Summary:** The proposal seeks to provide for the sunset of every board and commission and review the necessity of every board and commission at least every five years.

**Research/analysis:** The boards and commissions of the City are established by City charter and City ordinance, or in some cases mandated by federal legislation, state statute or state constitution. The respective boards are attached to the subject matter departments for funding, staffing and management.

The proposal to provide an internet presence is a matter of fiscal support. Although the proposal does have merit, an amendment to the Honolulu Charter will not mandate funding of the function.

The proposal to review the necessity of every board has merit. However, before a blanket proposal is considered, a coordinated effort is required to identify those boards and commissions that are mandated versus those created by the jurisdiction of the City.

Exhibit A provides a draft summary of Honolulu Boards and Commissions not mandated by state or federal law. Preliminary research discovered that some boards and commissions do not meet regularly and others create a drain on government resources, while many boards and commissions are required and necessary to support the core services of the City. To be clear, the Group is not recommending that boards and commissions that are necessary to support the core services of the City such as the Board of Water Supply be eliminated.



The City Council, under its broad legislative powers pursuant to Article III, Chapter 2, of the Charter, may create, amend, or repeal any board or commission, established in the ROH, unless specifically mandated by federal or state law. The City Council, pursuant to Article XV, Chapter 15, of the Charter, may also propose to the electorate amendments to the Charter, which includes any Charter established boards or commissions, unless specifically mandated by federal or state law.

In addition, the Auditor, pursuant to Article III, Chapter 5, of the Charter has broad powers to conduct both “[p]erformance and financial audits of the funds, programs, and operations of any agency or operation of the city.”

Research found that similar legislation was enacted by the Lakewood City Council in Ohio, whereby Councilmembers met to review all boards and commissions sanctioned by Lakewood, with the goal of eliminating those that were clearly obsolete.<sup>ix</sup>

**Recommendation:** Given the importance of eliminating waste and promoting efficient government, it is recommended that the Honolulu City Council utilize its legislative authority to:

- a) initiate an evaluation by March 31, 2017 of all boards and commissions that were created by City jurisdiction;
- b) initiate legislation to eliminate by December 31, 2017 those boards and commissions that are outdated or redundant as determined by the Honolulu City Council, and;
- c) mandate a five-year review period to continuously evaluate the need and effectiveness of City boards and commissions.

Therefore, the following question is recommended for voters to decide on the implementation of a plan to regularly evaluate the necessity of City created boards and commissions.

**Charter Question:** *Should the City Council eliminate outdated and redundant City boards and commissions by December 31, 2017, and impose a five-year review period on all remaining boards and commissions to continuously evaluate the need and effectiveness of those remaining boards and commissions?*

**CHARTER PROPOSAL #99:**

**Summary:** The proposal seeks to increase the number of elected officials in city government, and increase government accountability by making more positions elected, such as the City Auditor, Corporation Counsel, Board of Water Supply, Director of the Board of Water Supply, Board and Executive Director of the Honolulu Authority for Rail Transit, Fire Commission, Police Commissions, Parks Commission and Transportation Commission.

**Research/analysis:** Efforts to increase the number of elected officials within the City represents a major change to status quo and should include considerable analysis and discussion. Therefore the Group suggests that the City Council consider this proposal via council resolution to provide for ample citizen participation.

**Recommendation:** No further action.

### **CHARTER PROPOSAL #123:**

**Summary:** The proposal seeks to require the Charter Commission to specify the purpose of Charter amendments or revisions, to use metrics to measure past performance or amendments or revisions, and require the City Auditor to report annually to the City Council on the results and findings of a yearly examination of the performance metrics and progress toward the stated goal of the amendments or revision.

**Research/analysis:** The proposal suggests good management techniques that are currently utilized and reported in the annual Department and Agency Reports.<sup>x</sup>

**Recommendation:** No further action.

**EXHIBIT A**  
**Draft of Honolulu Boards and Commissions**  
*(Not mandated by state or federal law)*

<b>Name</b>	<b>Department or Branch</b>	<b>Established By</b>
Audit Committee	Legislature	Section 3-503, RCH
Board of Department of Water (Board of Water Supply)	BWS	Section 7-104, RCH (Created by Territorial Statute in 1929)
Board of Parks and Recreation	DPR	Section 6-1404, RCH
Board of Trustees of the Police Officers, Fire Fighters, and Bandmembers Pension Fund	BFS	Section 6-205, RCH
Building Board of Appeals	DPP	Section 27-10.4, ROH
Citizens Advisory Commission on Civil Defense	DEM	Section 6-104, RCH
Civil Service Commission	DHR	Section 6-1110, RCH
Commission on Culture and the Arts	MOCA	Chapter 3, Article 2, ROH
Council Reapportionment Commission	Legislature	Section 3-103, RCH ---every ten years
Ethics Board of Appeals	BFS	Section 3-14.1 ROH; Chapter 3, Article 14, ROH
Ethics Commission	COR	Section 11-107, RCH; Chapter 3, Article 6, ROH
Fire Commission	HFD	Section 6-1005, RCH
Grants-in-Aid Advisory Commission	DCS	Section 9-205, RCH
HART Board of Directors	HART	Section 17-105, RCH
Mayor's Advisory Committee on Bicycling	DTS	ad hoc
Neighborhood Commission	NCO	Section 14-102, RCH
Oahu Historic Preservation Commission	DPP	Section 3-10.3, ROH
Pension Board – <i>not active</i>	BFS	Section 6-206, RCH
Planning Commission	DPP	Section 6-1505, RCH
Police Commission	HPD	Section 6-1605, RCH
Real Property Boards of Review	BFS	Section 8-12.6 ROH
Salary Commission	Legislature	Section 3-122, RCH; Chapter 3, Article 7, ROH
Transportation Commission	DTS	Section 6-1704, RCH; Chapter 3, Article 11, ROH
Zoning Board of Appeals	DPP	Section 6-1516, RCH

HRS – Hawaii Revised Statutes  
RCH – Revised Charter of Honolulu  
ROH – Revised Ordinances of Honolulu

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<sup>i</sup> Mission of Neighborhood Commission, <http://www.honolulu.gov/nco/about.html>.

<sup>ii</sup> Neighborhood Commission, Rules and Procedures of the Neighborhood Commission, pg. 28, [http://www.honolulu.gov/rep/site/nco/nco\\_docs/2015-05\\_FINAL\\_Web.pdf](http://www.honolulu.gov/rep/site/nco/nco_docs/2015-05_FINAL_Web.pdf).

<sup>iii</sup> City and County of Honolulu, Bill 14, CD1 (2016)  
[http://www4.honolulu.gov/docushare/dsweb/Get/Document-179842/BILL014\(16\)%2c%20CD1.pdf](http://www4.honolulu.gov/docushare/dsweb/Get/Document-179842/BILL014(16)%2c%20CD1.pdf).

<sup>iv</sup> City and County of Honolulu, Ordinance 15-25,  
<http://www4.honolulu.gov/docushare/dsweb/Get/Document-167011/ORD15-025.PDF>.

<sup>v</sup> About the Municipal Reference Center, <http://www.honolulu.gov/csd/mrc.html>.

<sup>vi</sup> Makiki Community Library, <http://www.makiki.info/makiki-community-library/>.

<sup>vii</sup> Revised Charter of the City and County of Honolulu 1973 (2000 Edition) Updated with 2000-2015 Charter Amendments, [http://www.honolulu.gov/rep/site/cor/rch/Online\\_Charter\\_v02.25.16.pdf](http://www.honolulu.gov/rep/site/cor/rch/Online_Charter_v02.25.16.pdf).

<sup>viii</sup> Honolulu Ethics Commission, <http://www.honolulu.gov/ethics/default.html>.

<sup>ix</sup> "Lakewood City Council Set to Eliminate Seven Obsolete Volunteer Boards and Commissions", [http://www.cleveland.com/lakewood/index.ssf/2013/07/lakewood\\_city\\_council\\_set\\_to\\_e.html](http://www.cleveland.com/lakewood/index.ssf/2013/07/lakewood_city_council_set_to_e.html).

<sup>x</sup> Department and Agency Reports of the City and County of Honolulu,  
<http://www.honolulu.gov/cms-csd-menu/site-csd-sitearticles/20063-municipal-reference-center-department-reports.html>.