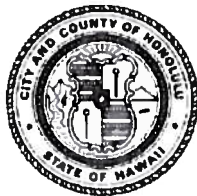


2015-2016
CHARTER COMMISSION
City and County of Honolulu

Honolulu Hale
530 South King Street, Room 501
Honolulu, Hawaii 96813

Telephone: 768-5093
Email: cccharter@honolulu.gov

Web Site:
honoluluchartercommission.org



MEMBERS
David W. Rae, Chair
Kevin Mulligan, Vice Chair
Judge Michael F. Broderick (Ret.)
Reginald V. Castanares, Jr.
Guy K. Fujimura
Donna Ikeda
Nathan T. Okubo
Paul T. Oshiro
Cheryl D. Soon
Edlyn S. Taniguchi
R. Brian Tsujimura
Governor John D. Waihee III
Pamela Witty-Oakland

MEETING NOTICE

THURSDAY, APRIL 14, 2016
3:30 P.M.
COMMITTEE MEETING ROOM
HONOLULU HALE

AGENDA

I. CALL TO ORDER

Roll Call

II. FOR APPROVAL

Minutes of the October 15, 2015, meeting.

Minutes of the March 24, 2016, meeting.

III. DISCUSSION AND ACTION

Deliberation and decision-making on the Report on the Findings and Recommendations by the Permitted Interaction Group established to review proposals relating to Planning pursuant to Hawaii Revised Statutes §92-2.5(b). See Attachment 1.

IV. DISCUSSION AND ACTION

Deliberation and decision-making on submitted proposals relating to Terms of Office. See Attachment 2.

V. DISCUSSION AND ACTION

Deliberation and decision-making on submitted proposal No. 39 to authorize the Salary Commission to set salary ranges for attorneys who work for the Ethics Commission which would set their actual salaries. See Attachment 3.

RECEIVED
CITY CLERK
C & C OF HONOLULU
2016 APR -8 PM 3:48

VI. DISCUSSION AND ACTION

Deliberation and decision-making on submitted proposal No. 153 to provide a clear standard of conduct provision in the ethics language about gifts from lobbyists. See Attachment 4.

VII. ANNOUNCEMENTS

Next meeting date.

VIII. ADJOURNMENT

WHERE TO FIND CHARTER PROPOSALS

All proposals are posted in PDF format on the Charter Commission website at <http://www.honolulu charter commission.org/submitted-proposals>. Hard copies are available for review at the Charter Commission office.

TESTIFIER REGISTRATION

Persons wishing to testify are requested to register as follows:

- a. By 12:00 noon of the day of the meeting, emailing to cclcharter@honolulu.gov your name, phone number, and the agenda item; or
- b. By filling out the registration form in person.

Persons who have not registered to testify will be given an opportunity to testify on an item following oral testimonies by the registered testifiers.

Each testifier shall not have anyone else read the testifier's statement. Each testifier is limited to three minutes per agenda item.

WRITTEN STATEMENT

Written testimony may be emailed by 12:00 noon of the day of the meeting to cclcharter@honolulu.gov for distribution at the meeting to the members of the Charter Commission.

If submitted, written testimony, including the testifier's address, email address, and phone number, may be posted and available to the public on the Honolulu Charter Commission website <http://www.honolulu charter commission.org>

ASSISTANCE

If you require auxiliary aids or services (i.e., ASL or foreign language interpreter, or wheelchair accessibility) to participate in the Charter Commission meetings, please call 768-5093 or send an email to cclcharter@honolulu.gov at least three working days prior to the meeting for arrangements. Prompt requests will help ensure the availability of services and reasonable accommodations.

**Report of the
Permitted Interaction Group
On Proposals Relating to
Planning and the
Department of Planning and Permitting
April 7, 2016**

Members:

**Cheryl D. Soon, Chair
Nathan Okubo, Esq.
The Honorable John Waihee**

PERMITTED INTERACTION GROUP REPORT ON:

PLANNING AND THE DEPARTMENT OF PLANNING & PERMITTING

The Honolulu Charter Review Commission formed a Permitted Interaction Group on February 19, 2016 for the purpose of investigating proposals and issues relating to planning in the City including but not limited to the Department of Planning and Permitting.

The Planning Permitted Interaction Group met three times, on February 26, March 16 and March 21, 2016. Eight proposals were reviewed, many having multiple provisions in them. This report provides Recommendations for further consideration by the Charter Commission.

I. RECOMMENDED FOR DISCUSSION & APPROVAL

Proposals #38, 54, and 120

Objective and Explanation:

Create a new requirement that twenty year functional plans be prepared for major infrastructure including water, wastewater, transportation, parks & recreation facilities, drainage & flood control.

These functional plans are meant to be sufficiently detailed, including maps, and current to serve as the basis for funding requests over \$2 million in the annual Capital Budget (Section 9-103).

The Functional Plans would be submitted to the Planning Commission which would review them for conformity to the General Plan, Development Plans and TOD Plans. Functional Plans would be adopted (or amended) by the City Council by Resolution.

The adopted functional plans would provide comprehensive and contextual information to the responsible agencies, Council and others.

Charter Changes to achieve this Objective:

- Chapter 8 Department of Environmental Services, Section

(g) Prepare a Functional Plan for Solid Waste and Wastewater with appropriate maps and list of projects to support requests in the annual capital budget; such projects should include actions necessary to address the effects of climate change

- Chapter 9 Department of Facility Maintenance, Section 6-902. Powers, Duties and Functions

ATTACHMENT 1

(d) Prepare a Drainage and Flood Control Functional Plan with appropriate maps and list of projects to support requests in the annual capital budget; such projects should include actions necessary to address the effects of climate change.

- Chapter 14 Department of Parks and Recreation, Section 6-1403

(e) Prepare a Parks Functional Plan with appropriate maps and list of projects to support requests in the annual capital budget; such projects should include actions necessary to address the effects of climate change.

- Chapter 15 Department of Planning and Permitting, Section 6-1506 of the Planning Commission powers, duties, and functions

(c) Review Functional Plans prepared by the Departments of Environmental Services, Parks and Recreation, Transportation Services, Facility Maintenance and the Board of Water Supply as to their conformity with the General Plan, Development Plan, and TOD Plans. Provide a report and recommendation to the Council regarding the appropriateness of their adoption.

- Chapter 17 Department of Transportation Services, Section 6-1703

(f) Prepare a Multi-Modal Functional Plan with appropriate maps and list of projects to support requests in the annual capital budget; such projects should include actions necessary to address the effects of climate change.

- Article VII Board of Water Supply, Section 7-103

(e) Prepare a Drainage and Flood Control Functional Plan with appropriate maps and list of projects to support requests in the annual capital budget; such projects should include actions necessary to address the effects of climate change

- Article IX Financial Administration, Chapter 1 Budgeting Section 9-103 Scope of the Annual Executive Budget

(c) (4) An explanation of the relationship of the capital program and budget to the general plan and development plans of the City as well as the Functional Plans prepared by infrastructure agencies and adopted by resolution by the Council.

II. RECOMMENDED FOR FURTHER DISCUSSION BY THE FULL CHARTER COMMISSION

The Planning Permitted Interaction Group found merit in Proposal 81 Establish dimensional zoning variance criteria. This Administration proposal was introduced to address the large number of variances applied for on a regular basis by small landowners who experience hardship. Current variance changes are limited to Use, not dimensions

ATTACHMENT 1

(height, set back). However, the PIG also feels this proposal would be controversial because of recent case which would make it appear to apply to large landowners and attempt to benefit a single entity. On balance, the PIG makes no specific recommendation, but leans towards a HOLD. However, we recommend further discussion among Commission members might determine if there is consensus to move this proposal forward.

III. PROPOSALS AND ISSUES INVESTIGATED WITH RECOMMENDATION FOR NO FURTHER CONSIDERATION

Proposal # 1 Require the Planning Commission members and Corporation Counsel assigned to the Planning Department to take APA training; and to have the sunshine law apply to the Planning Commission.

Comments/Analysis: However meritorious training might be, this does not rise to being a Charter level change and can be accomplished in other ways. Regarding the Sunshine law, Planning Commission is subject to it already.

Proposal # 38 This proposal would make several so-called housekeeping amendments to the duties of the Director of DPP.

Comments/Analysis:

- Drop the requirement for the Bi-Annual Report (Section 6-1503(d) Do not concur; the bi-annual report is meant as benchmarking for the General plan and should remain a requirement.
- Add duties assigned by the State of Hawai'i. (Section 6-1506). Meritorious, but not significant enough to warrant a charter amendment, unless there is a more omnibus measure where it can be included.
- Content of Development Plans to include objectives [standards]. No objection, but not significant enough to warrant a charter amendment, unless there is a more omnibus measure where it can be included.
- In reviewing the General Plan and Development Plans, Consult the people of the city in the formulation, evaluation and amendment. No need for this amendment as it is currently practiced.
- Revisions to Comprehensive Zoning Code to address how it meets the general plan and development plans. No objections but not significant enough to warrant a charter amendment, unless there is a more omnibus measure where it can be included.

Proposal #118 Change Planning Districts to the six Hawaiian moku.

Comments/Analysis:

ATTACHMENT 1

This proposed change has cultural perspective; but it appears to have some implementation challenges. Recommend that instead of a Charter change, this be considered by the DPP and others.

Proposal #123 Charter Commission to use performance metrics for charter amendments with annual reporting to be assigned to the City Auditor.

Comments/Analysis

The Permitted Action Group did not agree with this proposal and found it cumbersome. It could be considered again when other proposals relating to the Charter Commission are considered.

Issue: Eliminate the Planning Commission

The PIG finds the Planning Commission serves an important purpose in reviewing planning documents and activities and allowing for active public participation. The PIG does not recommend any change.

Issue: Add Shoreline Management Area to the authorities of the Planning Commission. This is an authority that Neighbor Island Planning Commissions have, but currently in Honolulu the authority lies with the Council. No change recommended.

Issue: Add Climate Change to the duties of the Department of Planning & Permitting. While there is some merit to this idea from a policy perspective, the duties for action would be better vested in an Office under the Mayor of MD as discussed by the full Charter Commission.

Issue: Have DPP under the Mayor rather than the Managing Director.

This idea would return to the status of the department as it was prior to the 2003 charter changes. It would reflect an overarching position for grounding policy direction for all departments and agencies. While the idea has some merit, it is not recommended at this time because the current system is working sufficiently well.

ATTACHMENT 1
PROPOSALS IN THE PERMITTED INTERACTION GROUP ON PLANNING

#1. Vincent Shigekuni

The proposal is to:

- Include a direct reference to the State Sunshine Law in the Charter section creating the Planning Commission (Section 6-1505, Revised Charter of Honolulu); and
- Require the Planning Commission staff to provide American Planning Association training for the Planning Commissioners and every Corporation Counsel assigned to the Planning Commission.

#8. Kent Fonoimoana Kahuku Community Organization

The Kahuku Community Association (KCA) respectfully requests that Sec. 21-5.700 of the Land Use Ordinance (LUO) regarding Wind machines be amended to allow impacted communities the opportunity to be heard via a hearing process. Currently, issuance of permits for wind machines of any height is a discretionary or ministerial process where no community input is received by the city.

KCA would like Sec. 21-5.700 (c) of the LUO to be amended to allow for public comment. Sec. 21-5.700 (c) currently states "In the agricultural and country zoning districts, accessory wind machines shall have a rated capacity of no more than 100 kilowatts. Wind machines with a rated capacity of more than 100 kilowatts shall require a conditional use permit (minor). A conditional Use Permit (minor) does not provide for community input. KCA respectfully requests that the previous statement above be amended to read "(c) In the agricultural and country zoning districts, accessory wind machines shall have a rated capacity of no more than 100 kilowatts. Wind machines with a rated capacity of more than 100 kilowatts shall require a conditional use permit (major). Amending the permit classification would allow citizenry the opportunity to comment on wind farms that impact our collective well-being.

#32. Larry Bartley for Save Oahu's Neighborhoods

Honolulu history has clearly shown that putting a professional planner in charge of the DPP has consistently resulted in ineffective enforcement. Degreed Planners are not trained in enforcement, rules of evidence, case law, and by their nature are not aggressive—proven by statements of some of Honolulu's recent DPP Directors that enforcement tools should only be used to bring about compliance after-the-fact and should not be used as a deterrent to land use abusers.

Currently, USE violations are not even treated as enforcement, residing in the Code Compliance Branch. Read the DPP's description of the Code Compliance Branch below to understand that it is not about enforcement. But in reality USE violations DO require effective enforcement to have any effect. History shows that "Compliance" usually means that offenders

that are caught promise to come into compliance after-the-fact with little or no penalty or incentive to prevent them, or other potential offenders watching, that there is any downside to offending.

Planners, by their nature, are thoughtful, kind, reserved, and tend to avoid confrontation. Their nature is typically not suited to the tough-but-fair image that must always be the face of effective enforcement.

For example, building without a permit and getting caught at it results in the offender paying double the original permit fee. But for USE violations, fines are typically reduced to a meager 5% to 10% of their face value, which turns out to be just part of the cost of doing business for USE violators.

In general, government agencies thrive in their effectiveness when professionally trained talent is occasionally brought in from outside, as would be required by the proposed charter amendment.

A sense of autonomy will be realized and the status quo of failed methods, rigid schedules, apathy, and the don't-rock-the-boat mentality will be challenged by a new leader.

From the DPP website:

>>Code Compliance Branch (Terry Hildebrand)

The primary objective of the code enforcement program is to obtain compliance for all violations. Enforcement measures are either Administrative (Civil Fines) or Judicial (Prosecuting Attorney's Office). When appropriate, a Notice of Violation (NOV) is issued by an inspector for infractions, including any violations to the shoreline and special management area ordinances. If the NOV's are not corrected within a required period of time, a Notice of Order (NOO) is issued to these violators. Considered the first phase of this Branch's code enforcement initiatives, past due NOO's and NOV's are referred by inspectors to this Branch and civil fines are assessed. The Branch conducts research, gathers evidence, and prepares documentation to enforce the civil fine. Except for rare occasions, administrative measures are preferred to judicial means. In rare cases, the second phase of this Branch's code enforcement initiatives are utilized to ensure compliance: the referral of cases to the City's Corporation Counsel (COR) for legal action; attachment of the assessed civil fines to taxes, additional fees, and charges administered by the City; and administrative lien of the assessed civil fines placed on the property. Although not used recently, the cases may be referred to the City's contracted collection agency.

The Code Compliance Branch is responsible for conducting field inspections to continually update the seawall inventory and shoreline construction with photographic archives to use for future permit applications where the property is placed near to the shoreline area to determine applicability of shoreline setback regulations.

This Branch is also responsible for processing and renewing Nonconforming Use Certificate (NUC) applications. The NUC's are issued to allow the continuance of legal short-term rental units. The NUC's are renewed on even-numbered calendar years with the last NUC renewal completed on October 15, 2008.

>>Residential Code Enforcement Branch

The Residential Code Enforcement Branch conducts inspections of existing dwellings and structures in residential, country, and agricultural districts in response to customer complaints and requests for investigation for possible violations of the housing code, zoning code, building code, vacant lot, sidewalk, driveway, litter, graffiti, house number, posters, and relocation assistance regulations.

#38 APA

REVISE THE DUTIES OF THE DPP

Proposed revisions primarily reflect housekeeping updates, deleting or simplifying overly detailed provisions, and strengthening ties between planning and implementation.

- Sec. 6-1503(d) Delete the biennial report requirement- excessive amount of reporting; already required to file annual reports and annual review of city budget proposals
- Sec. 6-1503(k) Consolidate language; require review of infrastructure plans against adopted city policies, as well as standards
- Sec. 6-1506 Add reference to mandates from the State of Hawai'i
- Sec. 6-1509 Replace "standards" with "objectives" with respect to contents of development plans
- Sec. 6-1510 Delete details on how general plan and development plans are formulated, but add references to public participation.
- Drop provision that DPP director can assign studies to other agencies; not realistic or practical.
- Drop mandatory review of General Plan every ten years, as the policy statements tend to be timeless, and historically is reviewed only when significant changes to population forecasts are made by the State. Highlight evaluation of plan implementation through review of regulations and budgets (performance metrics), and drops references to biennial report.
- Sec 6-1513 Add requirement that zoning ordinance changes proposed by city council must include discussion on compliance with general plan and applicable development plan and adopted neighborhood plan.

#54. Cheryl Soon

The purpose of this propose Charter amendment is to require the preparation of functional plans by the agencies responsible for infrastructure. It connects the Functional Plans to the planning system by requiring that they be submitted to the Planning Commission. The proposal is silent on whether they are to be adopted and if so, by whom. But that could become part of future conversations.

Functional plans are routinely prepared in most jurisdictions, but our Charter is silent as to their existence, purpose and relationship to each other. This amendment serves to correct that.

- Chapter 8 Section 6-803
 - Chapter 9 Section 6-903
 - Chapter 14 Section 6-1403
 - Chapter 15 Section 6-1509
 - Chapter 17 Section 6-1703
- Article VII Section 7-103

In Article VI Managing Director, add the following the Powers, Duties, and Functions for various agencies.

Chapter 8 Department of Environmental Services
Section 6-803

Delete existing [a) Advise the director of design and construction concerning the planning and design of wastewater facilities.]

Add new duties

- a) Prepare a functional plan for wastewater to emphasize source reduction and reuse where appropriate. The plan shall be for a thirty years horizon with five year updates. The wastewater functional plan shall be sent to the Planning Commission for a review of consistency with the General Plan and Sustainable Community Plans.
- b) Oversee design and construction of wastewater and solid waste facilities constructed in accordance with the functional plans.
- c) Prepare a proactive and sustainable approach and functional plan for materials management including but not limited to reduction and recycling to meet GHG reduction goals. The plan shall be for a thirty year horizon with five year updates. The solid waste functional plan shall be sent to the Planning Commission for a review of consistency with the General Plan and Sustainable Community Plans.

Chapter 9 Department of Facilities Maintenance
Section 6-903
Add new duties.

- d) Prepare and implement an energy efficiently plan to reduce GHG emissions and meet clean energy goals of the State and City & County. Update annually.

Chapter 14 Department of Parks and Recreation
Section 6-1403
Add new duties

- a) Prepare a functional plan for parks and recreation on O’ahu and update it every five years. The plan shall be for a thirty year horizon with five year updates. The parks and recreation functional plan shall be sent to the Planning Commission for a review of consistency with the General Plan and Sustainable Community Plans.

Chapter 15 Department of Planning & Permitting
Amend Section 6-1509 Development Plans to add new opening sentence.

Development Plans shall promote the formation of smart and sustainable communities.

Chapter 17 Department of Transportation Services

Section 6-1703

Add f) Prepare a proactive and sustainable approach and plan for city transportation systems to meet GHG reduction goals and clean energy goals. The plan shall be for a thirty year horizon with five year updates. The energy conservation and emissions reduction plan shall be sent to the Planning Commission for a review of consistency with the General Plan and Sustainable Community Plans.

In Article VII Board of Water Supply add the following to Section 7-103, new item 2, others to be re-numbered accordingly.

2. Prepare a functional plan for water supply, including water conservation planning. The plan shall be for a thirty year horizon with five year updates. The water supply plan shall be sent to the Planning Commission for a review of consistency with the General Plan and Sustainable Community Plans.

#81. City and County of Honolulu, Office of the Managing Director

Establish a dimensional zoning variance, with criteria based on practical difficulties, rather than relying on unnecessary hardship as the exclusive grounds for granting a variance to the Land Use Ordinance. Current applicable Charter provisions only provide for the “hardship” criteria, which is typically (i.e., in most U.S. municipalities) applicable only to use-type zoning variances. Traditionally, dimensional/bulk variances are reviewed on the basis of practical difficulties tests. Establishing a dimensional variance, including the appropriate criteria needed for the Director of the Department of Planning and Permitting (DPP) to determine whether practical difficulty exists for non-use variance requests, will provide a more appropriate mechanism for the consideration of the majority of zoning variance requests received by the DPP.

Section 6-1517. Zoning Variances

The director shall hear and determine petitions for varying the application of the zoning code with respect to a specific parcel of land and may grant such a variance upon: (a) the ground of unnecessary hardship for use variances if the record shows that (1) the applicant would be deprived of the reasonable use of such land or building if the provisions of the zoning code were strictly applicable; (2) the request of the applicant is due to unique circumstances and not the general conditions in the neighborhood, so that the reasonableness of the neighborhood zoning is not drawn into question; and (3) the request, if approved, will not alter the essential character of the neighborhood nor be contrary to the intent and purpose of the zoning ordinance[.]³⁰; or (b) the ground of practical difficulties for non-use or dimensional variances if the record shows that (1) the applicant proposes to use the property in a reasonable manner permitted by the zoning code; (2) the applicant’s plight is due to circumstances unique to the property not created by the applicant; and (3) the variance will not alter the neighborhood’s essential character or be injurious to the public health, safety and general welfare of the

community. Prior to the granting of any variance, the director shall hold a public hearing thereon. The director shall specify the particular evidence which supports the granting of a variance.

#106. Paulette Tam

I support the proposed charter amendment, which would create a Land Use Enforcement Officer position based on the following 3 pdf web links:

[PDF] ko'olaupoko watershed management plan - Board of Water ...

[www.boardofwatersupply.com/.../KPWMP Public Review Draft Full No...](http://www.boardofwatersupply.com/.../KPWMP_Public_Review_Draft_Full_No...)

the Ko'olau Poko Sustainable Communities Plan (KPSCP), which was first enacted in Source: Ko'olaupoko Watershed Restoration Action Strategy, June 2007 2014. Anoi Road Water System Improvements. (Kíne ohe). \$6.56. 2013.

You've visited this page many times. Last visit: 10/27/15

[PDF]Adoption of the 2012 Ko'olaupoko Watershed ... - Hawaii.gov

files.hawaii.gov/dlnr/cwrm/submittal/2012/sb201209F1.pdf

by N ABERCROMBIE - 2012 - Related articles

Sep 19, 2012 - Source: Ko'olaupoko Watershed Management Plan, 2009 2014. Ewa. FY 2012, 2013. 2014. Central Oahu. FY 2013, 2014 8 Development Plan (DP) and Sustainable Community Plan (SCP) land use planning regions.

You've visited this page 3 times. Last visit: 10/27/15

KPWMP_Public_Review_Draft_Full_Nov2010(2).pdf

Ko'olaupoko Sustainable Communities Plan City and County of Honolulu Department of Planning and Permitting October 2014 Modified Ramseyer Report to Chapter 8: Environmental Services and Chapter 9: Department of Facility Maintenance:

3.5 Agricultural Use/3.5.1 Overview Lines 19 to 28; Page 3-38 Lines 8 to 12; Page 3-40 Lines 1 to 4 and 7 to 8 and 13 to 18 and 28 to 32; Page 3-41 Lines 16 to 19 ; Page 3-42 Lines 25 to 26.

#108. Paulette Tam

Note: The corrective measure of a mistake are these add on City and County of Honolulu's web links that supports my first Proposal Form entry. Thank you.

Public Review Draft of the revised Ko'olaupoko Sustainable Communities Plan

Public Review Draft of the revised Ko'olaupoko Sustainable Communities Plan (Ramseyer version)

Ramseyer 2014 Complete Revised Covers.pdf (14,054K)

202 Total Print Pages

I support the proposed charter amendment, because in the Ko'olaupoko Sustainable Communities Plan (Ramseyer version) in 3.5 Agricultural Use 3.5.1 Lines 19 to 28 "The system for rating the relative productivity of agricultural lands, known as Agricultural Lands of Importance to the State of Hawaii (or ALISH), classified approximately 2,300 acres of agricultural lands in the "Prime" category, and 200 acres in the "unique" category when the system was classification system...Other" agricultural lands in this rating system are those whose limiting characteristics require certain investments - such as added fertilizer or other soil amendments, drainage improvements, erosion control practices and flood control - to increase their productivity. The location of these lands and classifications relative to the State Agricultural District boundary is shown in Exhibit 3.5." (Exhibit 3.5 is Crop Farms and ALISH Classifications in the State Agricultural District from MAKAPU'U through KA'O'IO Points within the Ahupua'a o Ko'olaupoko.

The need to create a Land Use Enforcement Officer position would to implement these:

[PDF]Adoption of the 2012 Ko'olaupoko Watershed ... - Hawaii.gov

PDF] ko'olau poko watershed management plan - Board of Water .

Public Review Draft of the revised Ko'olaupoko Sustainable Communities Plan (Ramseyer version) to protect from non agricultural uses and development on the perimeter properties of the Wetlands that could disrupt the health of the ecological systems within the Wetlands that could be restored for sustainable food farming and other aquaculture such as fish ponds and other commercial ocean seafood production sites to meet the Environmental Climate Changes.

I support the proposed charter amendment, which would create a Land Use Enforcement Officer position based on the following pdf web links:

[PDF]Adoption of the 2012 Ko'olaupoko Watershed ... - Hawaii.gov
sb201209F1.pdf

(1,504K)

35 Total Print Pages support the proposed charter amendment, which would create a Land Use Enforcement Officer position based on the following 3 pdf web links:

PDF]ko'olaupoko watershed management plan - Board of Water ...
KPWMP_Public_Review_Draft_Full_Nov2010(2).pdf

525 Total Print Pages

#118. Mahealani Cypher; Ko'olaupoko Hawaiian Civic Club

To support better stewardship and sustainability of our island, this amendment would change the planning districts of O'ahu for the sustainable communities plans to the six traditional moku - or districts - organized from ancient times. These moku include:

- Ko'olaupoko
- Kona
- `Ewa 8

- Wai`anae
- Waialua
- Ko`olauloa

#119. APA

ADD A DPP DEPUTY DIRECTOR

This proposal provides for an additional Deputy for the Department of Planning and Permitting. The 1998 reorganization of the Executive Branch created the Department of Planning and Permitting. The new department assumed the functions of the former Department of Land Utilization and Department of General Planning, as well as some functions performed by the former Building Department, Department of Housing and Community Development, Department of Parks and Recreation, Public Works, Department of Transportation, and Department of Wastewater Management. Combining the functions previously performed by several disparate Departments into a single Department was, and continues to be, beneficial since it recognizes the close relationship between planning, permitting, and development functions, and the efficiency gained by placing these functions under one "roof". However, the scope of the Department of Planning and Permitting's functions can be overwhelming for a Director and single Deputy. In particular, Planning functions may become of secondary importance as there is always a pressing need to address time-sensitive permitting and development functions. Having a second Deputy to assist with the Department's administration will help to ensure that all of the Department's functions are fulfilled.

Section 6-1103 ("Civil Service and Executive Branch Exemptions"):

"(i) Positions of one first deputy; and for the Honolulu Police Department and Department of Planning and Permitting one additional deputy; private secretaries to heads of departments and their deputies; and the position of managing director, one first deputy and private secretaries to each; but private secretarial positions shall be included in the position classification plan. The first deputy in the department of human resources, however, shall not be exempt from civil service."

#120 APA

FUNCTIONAL PLANNING CHARTER AMENDMENT PROPOSAL

The purpose of this proposal is to require the preparation of functional plans for wastewater facilities, transportation systems, and parks and recreational facilities. The functional plans would be required to cover a period of at least twenty years and be consistent with the pattern of growth specified by the General Plan and Development Plans. The Charter presently does not require the preparation of functional plans.

This Charter amendment is necessary because Oahu's pattern of growth and development is highly dependent on the availability of infrastructure. Functional plans can be an effective tool to accommodate growth in certain areas of the city, while constraining growth in others. While the General Plan and Development Plans specify a desired pattern of growth, infrastructure systems and public services must be planned in advance to accommodate planned development.

The director of design and construction shall:

- (a) Direct and perform the planning, engineering, design, construction and improvement of public buildings.
- (b) Direct and perform the planning, engineering, design and construction of public streets, roads, bridges and walkways, and drainage and flood improvements.
- (c) In consultation with the respective departments, [direct and perform] implement the project planning, engineering, design and construction of wastewater facilities, parks and recreational facilities, and transportation systems specified in the respective functional plans.

Section 6-803. Powers, Duties and Functions

The director of the department of environmental services shall:

- (a) Prepare a long-range functional plan for wastewater facilities of the city, covering a period of at least twenty years, and consistent with the pattern of growth specified in the General Plan and Development Plans.
- [(a)] (b) Advise the director of design and construction concerning the project planning and design of wastewater facilities.
- [(b)] (c) Oversee the operation and maintenance of sewer lines, treatment plants and pumping stations.
- [(c)] (d) Monitor the collection, treatment and disposal of wastewater.
- [(d)] (e) Provide chemical treatment and pumping of defective cesspools.
- [(e)] (f) Develop and administer solid waste collection, processing and disposal systems.
- [(f)] (g) Promulgate rules and regulations as necessary to administer and enforce requirements established by law.
- [(g)] (h) Perform such other duties as may be required by law.

Section 6-1403. Powers, Duties and Functions

The director of parks and recreation shall:

- (a) Prepare a long-range functional plan for parks and recreational facilities of the city, covering a period of at least twenty years, and consistent with the pattern of growth specified in the General Plan and Development Plans.
- [(a)] (b) Advise the director of design and construction on the project planning and design of the parks and recreational facilities of the city, and maintain and operate all such facilities.
- [(b)] (c) Develop and implement programs for cultural, recreational and other leisure-time activities for the people of the city, except as otherwise provided by law.

[[c)] (d) Beautify the public parks, facilities and streets of the city, including, but not limited to, the planting, trimming and maintaining of all shade trees, hedges and shrubs on such city parks, facilities and streets.

[[d)] (e) Process permit applications to use city parks and recreational facilities for free or affordable child day care programs for consideration by the council pursuant to Section 3-123 of this charter, provided that the director finds that such use does not interfere with the public's use of the property for park and recreational purposes.

Section 6-1503. Powers, Duties and Functions

The director of planning and permitting shall:

- (a) Prepare a general plan and development plans, and revisions thereof, for the improvement and development of the city.
- (b) Establish procedures for adopting and revising the general plan and development plans and amending state land use district boundaries. The director's procedures shall include provisions for the processing of any proposed revision to the general plan or development plans which is submitted with the prescribed level of supporting documentation, regardless of whether the proposal is supported by the director or the council. However, a proposal lacking such support shall be processed as an "unendorsed proposal" under the provisions of this chapter.
- (c) Review the executive operating and capital program and budget for conformance to the purposes of the general and development plans and make a written report of findings to the council within thirty days after receipt of such program and budget.
- (d) Prepare and submit to the council on at least a biennial basis a report on the condition of the city in terms of the general plan and development plans. In addition, the director shall prepare and submit to the council an annual report on the current status of land use and other data pertaining to the development plans.
- (e) Undertake studies and prepare plans for special planning areas and issues.
- (f) Perform other functions that will promote comprehensive planning, public participation and an efficient planning process.
- (g) Prepare zoning ordinances, maps and rules and regulations and any amendments thereto.
- (h) Prepare the land subdivision code and rules and regulations and any amendments thereto.
- (i) Establish procedures for the review of land utilization applications.
- (j) Be charged with the administration and enforcement of the zoning, subdivision, park dedication, building and housing ordinances, and rules and regulations adopted thereunder, and any regulatory laws or ordinances which may be adopted to supplement or replace such ordinances.
- (k) Review the following for conformance to city standards:
 - (1) Plans for wastewater facilities for other than city projects;
 - (2) Plans for construction, reconstruction, widening and maintenance of public streets and roads, including utilities, landscaping, street lighting, traffic control and related items;
 - (3) Plans for the construction, reconstruction and maintenance of bridges and walkways and drainage and flood control systems.

(l) Review the following for conformance to the general plan and development plans:

- (1) Wastewater functional plan;
- (2) Parks and recreational facilities functional plan;
- (3) Transportation systems functional plan.

Section 6-1703. Powers, Duties and Functions

The director of transportation services shall:

- (a) [Plan] Prepare a long-range functional plan for the city's transportation systems covering a period of at least twenty years, operate and maintain transportation, including transit, systems to meet public transportation needs, in accordance with the general plan and development plans, and advise on the design and construction thereof.
- (b) Locate, select, install and maintain traffic control facilities and devices.
- (c) Provide educational programs to promote traffic safety.
- (d) Promulgate rules and regulations pursuant to standards established by law.

#154. Ken Hirata

I am a private citizen who is submitting a proposal to modify the City Charter to guard against unwarranted attempts to conduct referenda that serve special interests, rather than the public's best interests. I have not been able to conform it to the Ramseyer format, so I am simply submitting it as a rough draft.

A PROPOSAL TO CREATE PROJECT-REVIEW BOARDS FOR THE CITY'S HIGH-TICKET PUBLIC-WORKS PROJECTS AND TO PROVIDE SAFEGUARDS AGAINST IMPROPERLY CONDUCTED REFERENDA APPROVING SUCH PROJECTS

(1) Since no members of the City Council possess, or are required to possess, expertise in transportation engineering, project management, environmental law, public relations, financial analysis, or the aspects of Hawaiian culture which relate to iwi, it should not attempt to assume the responsibilities of HART. Instead, upon receiving notice from the mayor's office that the city plans to pursue a multibillion-dollar public-works project, the Council shall create a project-review board consisting of at least three members, who shall scrutinize and evaluate the technical, legal, and financial merits and demerits of the proposed project. The board shall not only review the project itself, but shall also gather information relating to all feasible alternatives to the project and shall evaluate the extent to which the alternatives can more cost-effectively accomplish the project's stated objectives. The board will independently evaluate the project, irregardless of any recommendations relating to the project which were either already made, or are expected to be made, by entities which may have a vested interest in that project.

Each member of a project-review board shall be a bona fide expert in one or more of the topics which are germane to the project that the board is to review. Since high-ticket projects are going to vary in nature and may call for expertise in different subject areas, a project-review board's composition will not be fixed but may change over time.

Nominees to a review board shall be proposed by the City Council, which shall vet them and narrow down the list of nominees to an odd-numbered minimum of at least three bona fide experts, who will be paid consultants to the Council (compensation to be determined), and whose names will be submitted to the public for comments prior to their final acceptance by the Council as review-board members.

The duty of these experts will be to assist the Council in determining whether a high-ticket public-works project serves the best interests of the public, rather than the interests of deep-pocketed, politically powerful entities who seek to feed at the public trough. From time to time the Council will review the experts' work. Upon determining that their performance has been satisfactory, the Council will approve their continuation as members of the review board to which they were assigned, until the board's work on that project has been completed.

To decrease the likelihood that a member of the board may be unduly influenced by a proposed project, each member must have no vested interest in it. This means that no member of the board, or his or her spouse, or a member of his or her immediate family, shall be employed by, or otherwise receive monetary or non-monetary compensation from, any entity which may significantly benefit from that project's implementation or its cancellation.

The board's findings shall be reported in writing to the mayor and to the City Council. The City Council will then arrange to have a summary of those findings made available to the public through the print and broadcast media. Those findings and the summary shall also be made directly accessible over the Internet.

(2) No referendum seeking the voters' approval to proceed with a multibillion-dollar project shall be conducted unless the city has provided full and widespread disclosure of its anticipated benefits, costs, and disadvantages, as well as full and widespread disclosure of the pros and cons of all technically and financially feasible alternatives to the project, at least 10 months in advance of the referendum, so that the voters will be afforded ample opportunity to understand its various aspects and implications.

Furthermore, the public shall be given the opportunity to vote on and thereby approve, not merely the project itself, but also each of those alternatives. No referendum shall limit the public to approving or disapproving only the project itself.

(3) Should members of the public inform the City Council that in conducting a referendum on a project, the city failed to comply with item (2) above, the Council shall confirm or disconfirm such reports. If the Council finds that the reports of non-compliance were justified, the results of that referendum shall be deemed null and void, and a new referendum which fully complies with item (2) above shall be conducted.

DISCUSSION: Governor Cayetano was correct when he said that the rail project is being driven, not by sound engineering, but by money and politics. It is moving "full speed ahead" to becoming the most outrageously costly and appallingly wasteful blunder the city has ever made.

A key element in this blunder was the 2008 referendum on rail, which was not preceded by full and timely disclosure of rail's pros and cons and the merits and demerits of alternatives to rail. Had such disclosure been made by the city, the voters could have rendered an informed vote on rail, the result of which would most likely have been disapproval of rail. Unfortunately, that referendum was

preceded by a one-sided promotional campaign to solicit public support for rail, which the city paid for with millions of taxpayer dollars. That is to say, the city used public funds to con the voters.

That referendum, which resulted in approval of rail by only a slim margin, was knowingly and willfully rigged so as to exploit the fact that the Federal Transit Administration would not make federal funds available for construction of rail without a showing that rail is the Locally Preferred Alternative for Honolulu's mass transit.

Not only did one mayor (Mufi Hannemann) arrange to manipulate the voters into choosing rail as the Locally Preferred Alternative, which thereby enabled "New Starts" funds to build rail to be obtained from the Federal Transit Administration, his two successors in the mayor's office followed in his footsteps. Meanwhile, the City Council rubber-stamped the rail project and failed to recognize the merits of, and give serious consideration to, Governor Cayetano's FAST plan, which could have been implemented more rapidly than rail and would have provided more relief from traffic congestion than rail can provide, at far less cost and with far less disruption during its (the FAST plan's) construction.

ATTACHMENT 2.
PROPOSALS RELATING TO TERMS OF OFFICE

#12. Kevin Mulligan

Under the current City Charter, Councilmembers are restricted to two 4-year terms. The complex challenges faced by the City Council require experienced and knowledgeable members. Without municipal government experience, most City Council members will begin to develop practical knowledge during the last part of their second term. Rather than encouraging members to seek other elective offices, this measure would help to retain experience at the City Council level.

#21. David Rae

To establish a uniform term of office for all elective offices in the City and County of Honolulu to be two consecutive terms of six years. This is meant to apply to Mayor, Council, Prosecuting Attorney, and Neighborhood Boards.

Given the complex issues of the day including housing and transit, four years is simply too short for an official to get up to speed. Neighborhood boards should churn and bring in new people

#27. Donna Ikeda

This proposed amendment will give the fire commission the authority to hire the fire chief on contract, for a five year term. This change would bring the fire chief's term in conformance with that of the police chief.

#37. Paul Oshiro

Establish a five year term for the Fire Chief.

Section 6-1003. Fire Chief[, Qualifications] --

1. The fire chief shall be appointed by the fire commission for a term of five years. [The chief may be removed by the fire commission only after being given a written statement of the charges and a hearing before the commission.] The chief shall have had a minimum of five years of training and experience in a fire department, at least three years of which shall have been in a responsible administrative capacity. The chief shall not serve beyond the expiration of a term unless appointed again by the fire commission. If desiring to do so, the fire commission may appoint an incumbent chief to a new term without first engaging in an applicant solicitation and selection process.

#44. Paul Oshiro

Term Limits: Section 3-102, Section 5-101, Section 8-102, Section 14-104, Section 14-New.

Section 3-102. Number, Election and Terms of Office of Councilmembers --

The council shall consist of nine members. One member shall be elected from each of the nine districts hereinafter provided. Except as provided in Section 16-122, the regular terms of office of councilmembers shall be four years beginning at twelve o'clock meridian on the second day of January following their election. The terms shall be staggered in accordance with Section 16-122. No person shall be elected to the office of councilmember for more than **[two] three** consecutive four-year terms.

Section 5-101. Election and Term of Office --

The electors of the city shall elect a mayor whose term of office shall be four years beginning at twelve o'clock meridian on the second day of January following the mayor's election. No person shall be elected to the office of mayor for more than **[two] three** consecutive full terms.

Section 8-102. Election and Term of Office --

The electors of the city shall elect a prosecuting attorney whose term of office **[of the prosecuting attorney]** shall **[commence] be four years beginning** at twelve o'clock meridian on the second day of January following the prosecuting attorney's election. **No person shall be elected to the office of prosecuting attorney for more than three consecutive full terms.**

Section 14-104. The Neighborhood Plan --

The neighborhood plan shall designate the boundaries of neighborhoods and provide procedures by which registered voters within neighborhoods may initiate and form neighborhoods and the manner of selection of the members of neighborhood boards, **their terms of office]** and their powers, duties and functions.

The plan may be amended by the commission, after public hearings to be held in various areas of the city, and amendments shall become effective upon filing with the city clerk.

Section 14-XXX. Term of Office --

The term of office for neighborhood board members shall be two years. No person shall be elected as a neighborhood board member for more than six consecutive full terms.

#134. Tom Heinrich

State the term of office duration of the prosecuting attorney in RCH Section 8-102.

The Revised Charter of the City & County of Honolulu 1973 (RCH) as published -- including the 1994 edition, the 2000 edition, and the Supplement for Charter Amendments 2002 through

2012 – does not state anywhere the duration of the term of office of the prosecuting attorney, which is four years.

Compare the format of RCH Sections 3-102 (terms of office of councilmembers – four years) and 5-101 (term of office of the mayor – four years). At present, RCH Section 8-102 only identifies when the term of office shall commence. The omission should be duly corrected.

Further stylistic changes should be made to the heading and text to conform RCH Section 8-102 to RCH Section 5-101 for consistency.

Section 8-102. Election and Term of Office –

The electors of the city shall elect a prosecuting attorney whose term of office [of the prosecuting attorney] shall [commence] be four years beginning at twelve o'clock meridian on the second day of January following the prosecuting attorney's election.

**ATTACHMENT 3
PROPOSAL #039**

**ETHICS COMMISSION
CITY AND COUNTY OF HONOLULU**

715 SOUTH KING STREET, SUITE 211 • HONOLULU, HAWAII 96813-3091
PHONE: (808) 768-7786 • FAX: (808) 768-7768 • EMAIL: ethics@honolulu.gov • INTERNET: www.honolulu.gov/ethics

KIRK CALDWELL
MAYOR



CHARLES W. TOTTO
EXECUTIVE DIRECTOR &
AND LEGAL COUNSEL

**2015-2016 Honolulu Charter Commission
Charter Amendment Proposal Form**

Response to #1

1. Provide a brief description of the: Propose Charter amendment; Purpose of the proposed Charter amendment; Issue or problem to the addressed by the proposal; and how the proposal would address the issue or problem.
 - The amendment would require that the Salary Commission establish a salary range for the attorneys who work for the Ethics Commission (EC). The salaries for the EC lawyers would be set by the EC.
 - The purpose of the amendment is to ensure that (1) the salary ranges for EC attorneys are set in the same way as the ranges for other City attorneys, and (2) the EC attorneys' salaries are set by the EC and not another agency.
 - Under the current Charter, the EC attorneys' salaries are not set through the same process as other City lawyers. This has led to significantly lower pay for the EC's attorneys compared with other City lawyers. This results in unfair pay for the EC lawyers and makes it difficult to hire and retain quality attorneys at the EC.
 - The amendment would use the same process for setting EC lawyers' pay as is used for other City attorneys.

**ATTACHMENT 3
PROPOSAL #039
ETHICS COMMISSION
CITY AND COUNTY OF HONOLULU**

715 SOUTH KING STREET, SUITE 211 • HONOLULU, HAWAII 96813-3091
PHONE: (808) 768-7786 • FAX: (808) 768-7788 • EMAIL: ethics@honolulu.gov • INTERNET: www.honolulu.gov/ethics

KIRK CALDWELL
MAYOR



CHARLES W. TOTTO
EXECUTIVE DIRECTOR
AND LEGAL COUNSEL

July 23, 2015

MEMORANDUM

TO: Ray Soon, Chief of Staff

VIA: Vice Chair Michael A. Lilly and Commissioner Riki May Amano
Honolulu Ethics Commission

FROM: Charles W. Totto, Executive Director and Legal Counsel

SUBJECT: White Paper for Charter Amendment Regarding Setting Salaries
for the Ethics Commission Attorneys

Summary

In recent years the salaries of the Executive Director and Legal Counsel (EDLC) and the Associate Legal Counsel (ALC) have lagged behind the salaries of other city attorneys. This is largely due to the fact that the EC's lawyers' salaries are not set in the same way that all other city lawyers' salaries are set. A Charter amendment should be sought to adopt a salary setting process that:

(1) Ensures comparable pay for EC lawyers who have similar years of relevant legal experience, work performance and responsibilities as other city lawyers;

(2) Enables the Commission to continue to hire and retain high quality lawyers;
and

(3) Fosters the Commission's independence and public confidence in the city ethics program by requiring that the EC set its lawyers' salaries.

A Charter amendment is needed to have the Commission set the pay for its lawyers in the same manner that other city lawyers' pay is determined – the Commission would use the salary range set by the Salary Commission.

**ATTACHMENT 3
PROPOSAL #039**

Ray Soon, Chief of Staff
July 23, 2015
Page 2

Present Problems – Different Salary Setting Processes have Resulted in Inequitable Salaries to the Detriment of the Ethics Commission and the Public.

The pay for the EC's lawyers is not set through the same process or criteria used to set the salaries of attorneys who work for the Departments of Corporation Counsel (COR), Prosecuting Attorney (PAT) or the Office of Council Services (OCS). The pay ranges for COR and PAT deputies are set by the Salary Commission after a review of relevant information. RCH Sec. 3-122.1. The salaries for OSC lawyers are set on a par with COR and PAT deputies' pay under ROH Sec. 5-3.3(c).

In contrast, the EDLC's salary is set on the pay range for Exempt Managers-7. This range allows for pay significantly higher (up to \$147,000) than the maximum pay for other city lawyers (roughly \$136,000). The pay for the ALC is set in the city's compensation plan as an SR-26. As a practical matter, the top pay for an ALC (\$85,416) with 10 years relevant legal experience is \$19,000 lower than the maximum pay for a COR deputy with the same years' experience as set by the Salary Commission. This type of pay discrepancy has led to inequitably low pay for the ALC. Moreover, if the ALC is paid significantly less than other city lawyers, the EC will not be able to attract or retain quality lawyers because they can make more money with another city law agency.

Salaries for EC counsel should be protected against changes being made by those whom the EC has jurisdiction over. An independent Commission needs to have control over the salaries of its attorneys.

The Solution – Have the Commission Lawyers' Salaries Set by the Commission within a Range Determined by the Salary Commission.

If the Commission uses the same process employed to set the pay for other city lawyers, it removes or at least minimizes the likelihood of pay inequality between the EC's lawyers and other city lawyers. In addition, using the same pay setting process would remove the disincentive for lawyers to apply for work at the EC as an associate legal counsel or to remain with the Commission.

The solution, then, is to have the EC set the salary of its lawyers within the range set by the Salary Commission. This is the same process used for COR and PAT deputies and OCS lawyers salaries.

Authorizing the EC to set its lawyers' salaries based on the range determined by the Salary Commission is critical. This safeguard will support the EC's independence by reducing the likelihood that a non-EC official could try to influence an EC lawyer or his/her work product through salaries.

**ATTACHMENT 3
PROPOSAL #039**

Ray Soon, Chief of Staff
July 23, 2015
Page 3

Required Charter Amendment to Current Law.

A Charter amendment is required for the Commission to have salary setting authority for its lawyers, subject to the range set by the Salary Commission. (COR has informally reached the same conclusion.) Specifically, the relevant language in RCH Sec. 11-107, para. 2, should read as follows (additions are underscored, deletions are in brackets):

The commission may appoint such staff and engage consultants as is necessary to assist it in the performance of its duties. Such staff and consultants may include attorneys who may advise the commission independently of the department of the corporation counsel. All staff positions shall be exempt from the provisions of Chapter 11 of Article VI of this charter, but such staff positions, except the positions of executive director and attorneys, shall be included in the position classification plan. The executive director shall be an attorney qualified to practice law in the State of Hawaii. The salary of the executive director and attorneys shall be [fixed by ordinance] set by the commission within a range adopted by the salary commission.

In addition, RCH Sec. 3-122.1 regarding the Salary commission will need to be amended in relevant part as follows:

1. There shall be an independent salary commission to establish the salaries of all elected officials, including the mayor, councilmembers, and prosecuting attorney, and the following appointed officials: managing director, deputy managing director, department head, deputy department head, and band director. The commission shall also establish schedules for salaries of deputies of the corporation counsel and prosecuting attorney and the attorneys of the ethics commission. The commission shall consist of seven members, who shall serve for staggered terms of five years and until their successors have been appointed and qualified. The initial appointments shall commence no later than January 15, 1993, and shall be as follows:

These changes will further the independence of the Commission, remove pay inequity compared to other city lawyers and enhance the EC's ability to hire and maintain high quality attorneys.

**ATTACHMENT 3
PROPOSAL #039**

Ray Soon, Chief of Staff
July 23, 2015
Page 4

CWT:lp

ATTACHMENT 4
PROPOSAL #153

Amend Article XI: Standards of Conduct. Section 11-102.1. (a) Conflicts of Interest
The current language uses the standard "it can reasonably be inferred that the gift is intended to influence...". This language is overly broad and when it is used in conjunction with the definition of a lobbyist, can and has been used by the Ethics Commission to determine that ANY gift from a lobbyist, regardless of its value, is a violation of law. I do not believe that prohibiting all gifts from lobbyists is the intent of Section 11-102. and so I propose that Section 11-102. 1 (a) be amended to establish a clear standard of conduct.

Article XI: Section 11-102.1 (a)

1. No elected or appointed officer or employee shall:

Solicit or accept any gift, directly or indirectly, whether in the form of money, loan, gratuity, favor, service, thing or promise, or in any other form, under circumstances [in which it can reasonably be inferred that the gift is] which are intended to influence the officer or employee in the performance of such person's official duties and which benefit the elected or appointed officer or employee personally, affect the financial interests of their family, or involve individuals or organizations with which the elected or appointed officer or employee has some past, present or future connection away from their official duties.