

COUNTY COUNCIL
BILL "KAIPO" ASING, CHAIR
JAMES KUNANE TOKIOKA, VICE-CHAIR
JAY FURFARO
SHAYLENE ISERI-CARVALHO
DARYL W. KANESHIRO
MEL RAPOZO
JOANN A. YUKIMURA



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OFFICE OF THE COUNTY CLERK
Council Services Division
Elections Division
Records Division
PETER A. NAKAMURA, County Clerk
ERNESTO G. PASION, Deputy County Clerk
Telephone: (808) 241-6371
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April 4, 2005

The Honorable Barbara Robeson, Chair
& Members of the Kaua'i County Charter Commission
Lihu'e, Kaua'i, Hawai'i

Re: Charter Review Commission Reports of 1974, 1984, and 1996

Dear Chair Robeson & Members of the Charter Commission:

Attached please find the reports from the previous three (3) Charter Review Commissions of 1974, 1984, and 1996, and a summary of what is contained in those reports. The results of votes cast for these and other Charter amendment ballot questions will be transmitted in a separate memorandum to the Charter Commission.

1974 Charter Review Commission

The 1974 Charter Review Commission report consisted of a proposed revised Charter that was submitted to the electorate for approval at the November 5, 1974, General Election. The results of votes cast for the 1974 General Election show the question of whether to adopt a revised Charter failing by a vote of 5,827 to 5,004.

1984 Charter Review Commission

The 1984 Charter Review Commission report transmitted fifteen (15) proposed Charter amendment ballot questions.

1996 Charter Review Commission

The 1996 Charter Review Commission report transmitted ten (10) proposed Charter amendments.

Thank you for the opportunity to provide this information to the Charter Commission. Please feel free to contact me at the Council Services office if you may have any further questions.

Sincerely,

PETER A. NAKAMURA
County Clerk

Attachments

copy: Council Chair Bill "Kaipo" Asing & Councilmembers
Lani Nakazawa, County Attorney

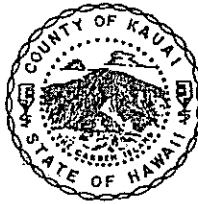
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ATTACHMENT "A"

Report of the 1974 Charter Review Commission

FRANCIS M. F. CHING
MAYOR

CLINTON I. SHIRAISHI
CHAIRMAN



MEMBERS:

GEORGE HIYANE
CLAY KAGAWA
CAESAR PORTUGAL
HARUO NAKAMOTO
ARTHUR FUJITA
WAYNE ELLIS

COUNTY OF KAUAI
CHARTER REVIEW COMMISSION
P. O. BOX 111
LIHUE, KAUAI, HAWAII 96766

August 14, 1974

Honorable Shigeomi Kubota, Chairman
and Members of the Council
County Council
County of Kauai
Lihue, Hawaii 96766

Gentlemen:

The Charter Review Commission transmits to you seven copies of the proposed revised charter for the County of Kauai which will be submitted to the electorate for approval or rejection in the general election on November 5, 1974.

The privilege of serving on the Charter Review Commission and the opportunity of drafting and revising the laws of the County of Kauai have been rewarding, and the members of the Commission express their sincere gratitude.

The Commission also thanks the Council members for their comments and suggestions in the drafting of the charter and asks the Council for its continued help in endorsing and supporting the approval of the charter.

Very truly yours,

CHARTER REVIEW COMMISSION

Clinton I. Shiraishi
Clinton I. Shiraishi, Chairman

mt

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PROPOSED REVISED CHARTER

OF THE

COUNTY OF KAUAI

JULY, 1974

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ARTICLE I

THE COUNTY AND ITS GOVERNMENT

Section 1.01. Incorporation. The people of the county of Kauai are and shall continue to be a body politic and corporate in perpetuity under the name of "county of Kauai," referred to hereinafter as the "county."

Section 1.02. Geographical Limits. The islands of Kauai and Niihau and all other islands lying within three nautical miles off the shores thereof, and the waters adjacent thereto, shall constitute the county of Kauai with its county seat at Lihue.

ARTICLE II

POWERS OF THE COUNTY

Section 2.01. Powers. To promote the general welfare and the safety, health, peace, good order, comfort and morals of its inhabitants, the county shall have and may exercise all powers necessary for local self-government, and any additional powers and authority which may hereafter be granted to it, except as restricted by laws of this State. The enumeration of express powers in this charter shall not be deemed to be exclusive. In addition to the express powers enumerated herein or implied thereby, it is intended that the county shall have and may exercise all powers it would be competent for this charter to enumerate expressly.

Section 2.02. Exercise of Powers. All powers of the county shall be carried into execution as provided by this charter, or, if the charter makes no provision, as provided by ordinance of the county council.

ARTICLE III
COUNTY COUNCIL

Section 3.01. Legislative Power. The legislative power of the county shall be vested in and exercised by the county council, except as otherwise provided by this charter.

Section 3.02. Composition. There shall be a council of seven members elected at-large.

OPTION 1A

Section 3.03. Terms. The terms of office of councilmen shall be for four years beginning at twelve o'clock meridian on the second day of January following their election.

OR

OPTION 1B

Section 3.03. Terms. The terms of office of councilmen shall be for two years beginning at twelve o'clock meridian on the second day of January following their election.

Section 3.04. Qualifications.

A. To be eligible for the council, a person must be a duly registered elector of the county immediately preceding his election or appointment.

B. Any councilman who removes his residence from the county or is convicted of a felony, shall immediately forfeit his office.

C. The council shall be the judge of the qualifications of its members and for that purpose shall have power to subpoena witnesses,

take testimony and require the production of records. Decisions made by the council in the exercise of the powers granted in this subsection shall be subject to review by the Fifth Circuit Court of the State of Hawaii.

IF OPTION 1A IS ADOPTED:

Section 3.05. Vacancy in Office. In the event a vacancy occurs in the council, the candidate receiving the greatest number of votes among the unsuccessful council candidates in the last general election, regardless of party affiliation, shall succeed to the vacancy until the next general election and assumption of office in January by the successful candidate. In the event the vacancy occurs prior to the mid-term general election, the person elected in the mid-term general election shall serve only for the unexpired term of the councilman whose seat he succeeded.

In the event the vacancy occurs later than three (3) days prior to the closing date for filing of nomination papers for the mid-term general election, the unsuccessful candidate receiving the greatest number of votes in the last general election regardless of party affiliation shall serve as councilman for the remainder of the term of the councilman he succeeded. The foregoing provisions shall apply in the event a person elected as councilman dies before taking office. Except in situations of obvious vacancy such as death, resignation or total disability, the council shall determine the existence of a vacancy.

IF OPTION 1B IS ADOPTED:

Section 3.05. Vacancy in Office. In the event a vacancy occurs in the council, the candidate receiving the greatest number of votes

among the unsuccessful council candidates in the last general election, regardless of party affiliation, shall succeed to the vacancy. The sequence shall be followed for all vacancies and in situations where the next in order is unavailable. The foregoing provisions shall apply in the event a person elected as councilman dies before taking office. Except in situations of obvious vacancy such as death, resignation or total disability, the council shall determine the existence of a vacancy.

Section 3.06. Compensation. The salary of each councilman and chairman shall be the current salary. The council may change the salaries of councilmen and chairman by ordinance, but no increase shall be effective during the term in which an increase is enacted. No ordinance changing the salaries of councilmen shall be enacted during the last ninety (90) days of a term.

Section 3.07. Organization of Council; Officers; Rules; Employees.

A. The council shall meet in the council room at the county building for its organization promptly after its inauguration and swearing-in ceremony at which time it shall elect one of its members as chairman and presiding officer of the council. Until such time as the chairman is elected, the mayor shall preside at the council meetings, provided that the mayor shall not have a vote. The council shall also elect one of its members as vice-chairman who shall act as the presiding officer in the event of the chairman's absence. The council shall appoint a presiding officer pro tempore from its members in the event of the absence of both the chairman and vice-chairman. A majority of the entire membership of the council shall constitute a quorum and, except as otherwise provided, the affirmative vote of a majority of the entire membership shall be necessary to take any action. The chairman and vice-chairman of the council shall serve at

the pleasure of the council.

B. The council shall adopt such rules as it may deem necessary for the organization of committees and the transaction of its business.

C. The council shall keep a journal of its proceedings.

D. The council may, upon an affirmative vote of at least two-thirds of its entire membership, suspend without pay for not more than one month any member for disorderly or contemptuous behavior in its presence. The presiding officer or the council by a majority vote may expel any other person who is guilty of disorderly, contemptuous or improper conduct at any meeting.

E. The council shall meet regularly at least twice in every month at such times as the council may prescribe by rule. Special meetings may be held on the call of the mayor, chairman or by five or more members. With the exception of deliberations relating to confirmation of appointees, or consultations with the county attorney on claims, all council and council committee meetings shall be open to the public.

F. Council Staff. The council may appoint the necessary personnel for the transaction of its business, and such appointments shall be subject to the civil service and classification requirements. The chairman of the council shall be the administrative officer for the staff employees.

Section 3.08. Mayor May Appear Before Council. The mayor may propose in writing any motion, resolution or ordinance, or amendments thereto, but shall have no right to vote thereon.

Section 3.09. Eminent Domain. The council shall by resolution determine and declare the necessity of taking property for public purposes, describing the property and stating the uses to which it shall be devoted.

Section 3.10. Annual Budget and Capital Program. The council shall enact an annual budget ordinance, which shall include both the operational and capital expenditures for the fiscal year and the method of financing same. The council shall provide sufficient revenues to assure a balanced budget.

Section 3.11. Adoption of Pay Plan. The council by ordinance shall fix the salaries of all department heads, officers and employees who are exempt from civil service. All other officers and employees shall be classified and paid in accordance with law.

Section 3.12. Audit. At least once every two years and at any other time as may be deemed necessary, the council shall cause an independent audit of all county funds and accounts to be made by a certified public accountant or firm of certified public accountants. The scope of the audit shall be in accordance with the terms of a written contract to be signed by the chairman which shall provide for the completion of the audit within a reasonable time. If the State makes such an audit, the council may accept it as satisfying the requirements of this section. The audit shall be a matter of public record.

Section 3.13. Creation of General Debt.

A. The council by the affirmative vote of at least five members may authorize the issuance of general obligation bonds in accordance with the Constitution and laws of the State of Hawaii.

B. Each bond authorization shall specify the purpose for which moneys are to be borrowed and the maximum amount of bonds to be issued for that purpose.

C. Notwithstanding any limitation contained in this charter, the council may accept and receive participating or non-participating

federal and state loans for public improvement projects or other purposes, the aggregate of which, together with any bonded indebtedness outstanding, shall not at any time exceed the total bonded indebtedness authorized by the Constitution of the State of Hawaii.

D. The council may provide for the refunding of general obligation bonds.

Section 3.14. Creation of Special Assessment Debt. The council may authorize the issuance of improvement bonds to finance assessable public improvements in the manner provided by law.

Section 3.15. Revenue Bond Indebtedness. The council may authorize the issuance of revenue bonds for the purpose of initiating, constructing, acquiring, extending, replacing or otherwise improving any revenue-producing facility as provided by law.

Section 3.16. Temporary Borrowing.

A. The council may borrow money in any fiscal year in anticipation of revenues to be derived from taxes for that year, and for any of the purposes to which the revenues are appropriated. No such borrowing shall be in excess of twenty-five per cent (25%) of the amount of the uncollected taxes of that year.

B. When any warrants are presented to the county for payment and the same are not paid for lack of funds, the director of finance shall issue a warrant note, equal in amount to the face value of the warrant or warrants so presented for payment. The warrant note shall be in a form and shall be due at a date prescribed by the director of finance. It shall bear interest at the lowest obtainable rate. The notes shall be a first charge on the moneys of any fund against which the warrants are issued.

C. The council upon recommendation of the mayor may authorize the director of finance to obtain temporary loans from the State.

Section 3.17. Investigation. The council or any authorized committee thereof shall have the power to conduct investigations of the operation of any agency or function of the county and any subject upon which the council may legislate. In investigations, the presiding officer shall have the right to administer oaths and in the name of the council to subpoena witnesses and compel the production of books and papers pertinent thereto. If any person subpoenaed as a witness, or to produce any books or papers called for by the process of the council or committee shall fail or refuse to respond thereto, the circuit court upon request of the council shall have power to compel obedience to any process of the council and require such witness to answer questions put to him as aforesaid, and to punish as a contempt of the court, any refusal to comply therewith without good cause shown therefor.

False swearing by any witness shall constitute perjury and be punished as such, and whenever the council is satisfied that a witness has sworn falsely in any hearing or investigation, it shall report same to the prosecuting attorney. In any investigation which concerns the alleged gross misconduct or alleged criminal action on the part of any individual, such individual shall have the right to be represented by counsel, the right of reasonable cross-examination of witnesses and the right to process of the council to compel the attendance of witnesses in his behalf.

Section 3.18. Restrictions on County Council and Council Members. The council and its members shall not interfere with the administrative processes delegated to the mayor.

Except for the purpose of investigative inquiries under Section 3.17, the council or its members, in dealing with county employees,

or with county officers who are subject to the direction and supervision of the mayor, shall deal solely through the mayor, and neither the council nor its members shall give orders to any such employee or officer either publicly or privately. Any willful violation of the provisions of this section by a member of the council shall be sufficient ground for any action for his removal from office.

ARTICLE IV
ORDINANCES AND RESOLUTIONS

Section 4.01. Actions of the Council. Every legislative act of the council shall be by ordinance except as otherwise provided. Non-legislative acts of the council may be by resolution. The enacting clause of every ordinance shall be "Be it ordained by the council of the county of Kauai:" and the enacting clause of every resolution shall be "Be it resolved by the council of the county of Kauai:"

Section 4.02. Introduction, Consideration and Passage of Ordinances and Resolutions.

A. Every proposed ordinance shall be initiated as a bill and shall be passed only after two readings on separate days. The vote on final passage shall be taken by ayes and noes and entered in the journal. Full readings of bill (s) may be waived by a vote of a majority of the council.

B. Every ordinance shall embrace but one subject, which shall be expressed in its title.

C. No bill shall be so amended as to change its original purpose. Every bill, as amended, shall be in writing before final passage.

D. When a bill fails to pass on final reading and a motion is made to reconsider, the vote on such motion shall not be acted upon before the expiration of twenty-four (24) hours.

E. Except as otherwise provided in this charter, resolutions may be adopted on one reading. The reading shall be in full except by a majority consent of all councilmen present, in which case the reading may be by title only.

F. Bills embracing (1) the fixing of special assessments for the cost of improvements, (2) the appropriation of public funds or

the authorization of the issuance of general obligation bonds or (3) the imposition of a duty or penalty on any person, shall pass first reading by ayes and noes, and digests of such bills shall be advertised once in a newspaper of general circulation published in the county, at least seven days before final reading by the council. Copies of such bills shall be filed for use and examination by the public in the office of the county clerk at least seven days prior to the final reading thereof.

G. Upon request of a majority of the council, a public hearing shall be held on any proposed ordinance or resolution. Notice of the public hearing shall be by publication in a newspaper of general circulation published in the county, and the public hearing shall be held at least five days prior to the final reading on the proposed ordinance or resolution.

H. All ordinances shall be promptly advertised once by title in a newspaper of general circulation published in the county with the ayes and noes after enactment. Unless otherwise provided, resolutions need not be advertised either before or after adoption.

I. Ordinances and resolutions shall take effect on the date specified therein, or, in the absence of such specification, upon approval thereof by the mayor as to ordinances and the date of adoption as to resolutions.

J. If any provision of any ordinance or resolution or the application thereof to any person or circumstances, is held invalid, the remainder of the ordinance or resolution, or the application of the provision to other persons or circumstances, shall not be affected thereby.

K. Resolution authorizing proceedings in eminent domain shall pass first reading by ayes and noes, and such resolutions shall be advertised once in a newspaper of general circulation published in the county at least seven (7) days before final adoption by the council. Copies of such resolutions shall be filed for use and examination by the public in the office of the county clerk at least seven (7) days prior to the adoption thereof. Upon adoption, every such resolution shall be presented to the mayor, and he may approve or disapprove it pursuant to applicable provisions governing the approval or disapproval of bills.

L. The council may adopt resolutions for the purpose of marking roads or regulating and adjusting parking and the movement of traffic and pedestrians in connection with traffic ordinances, and such resolutions need not be published; provided, that no person shall be punished for violating such resolutions so adopted unless the regulation, mark or adjustment sought to be effected is clearly indicated in the places where effective by legible markers or signs.

M. Emergency Ordinances. To meet a public emergency affecting life, health or property, the county council may adopt one or more emergency ordinances, but such ordinances may not be used to levy taxes, regulate the rate charged by any public utility for its services, or authorize the borrowing of money.

(1) Every emergency ordinance shall be plainly designated as such and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing the claimed emergency in clear and specific terms. Except as thus indicated, it shall be introduced in the form and manner prescribed for ordinances generally.

An emergency ordinance may be considered and may be adopted with or without amendment or rejected at the meeting at which it is introduced. The majority vote of all council members present, shall be required for adoption of such an ordinance. After adoption of an emergency ordinance, the council shall cause it to be printed and published as prescribed for other adopted ordinances.

(2) Every emergency ordinance, including any amendments made thereto after its adoption, shall automatically stand repealed as of the sixty-first (61st) day following the date on which it was adopted.

Section 4.03. Submission of Ordinances to the Mayor.

A. Every bill which has passed the council and has been duly authenticated by the county clerk and the presiding officer, shall be presented to the mayor for his approval. If he approves it, he shall sign it and it shall then become an ordinance. If he disapproves it, he shall specify his objections thereto in writing and return the bill to the county clerk with his objections within ten days, excluding Saturdays, Sundays and holidays after receiving it. If he does not return it with his disapproval within that time, it shall take effect as if he had signed it. The objections of the mayor shall be entered in the journal of the council and the council may, after five and within thirty (30) days after the bill has been so returned, reconsider the vote upon the bill. If the bill, upon reconsideration, is again passed by the affirmative vote of five members of the council, the presiding officer shall verify that fact on the bill and when so certified, the bill shall then become an ordinance with like effect as if it had been signed by the mayor. If the bill fails to receive the vote of at least five members of the council, it shall be deemed void.

B. If any bill is presented to the mayor appropriating money, he may veto any item or items or appropriations therefor by striking out or reducing the same. In case of such a veto, the mayor shall append to the bill at the time of signing it a statement of the item or items or portion or portions thereof to which he objects and the reasons therefor. Each item so vetoed may be reconsidered by the council in the same manner as bills which have been disapproved by the mayor.

Section 4.04. Amendment, Revision or Repeal; Adoption of Codes by Reference.

A. No ordinance shall be amended, revised or repealed by the council except by ordinance. No resolution shall be amended, revised or repealed except by resolution, but a resolution may be superseded by a subsequent ordinance.

B. Any ordinance or resolution may be repealed by reference to its number or section number. Revisions or amendments may be made in the same manner but the same, or the section, subsection or paragraph thereof, revised or amended, shall be re-enacted at length as revised or amended; but when the amendment consists of adding new sections, subsections, paragraphs, or substituting a word, term or number, it shall be sufficient to enact the new matter alone if reference thereto is made in the title.

C. Any code or portions thereof may be adopted by reference thereto by the enactment of an ordinance for that purpose. The code, or portions, need not be published in the manner required for ordinances, but not less than three copies thereof shall be filed for use and examination by the public in the office of the county clerk not less than fifteen (15) days prior to the final reading thereof, and notice of the availability of said copies shall be published by the clerk.

Section 4.05. Codification of Ordinances.

A. The council shall have the power to revise, restate, codify and recodify the general ordinances of the county into a code of ordinances. It shall have power to edit, revise, amend, restate, delete obsolete provisions, and compile all existing general ordinances in permanently bound or loose-leaf form to the end that a complete simplified code be made of all general ordinances currently in effect. The council may contract such codification to persons or organizations experienced in codification of ordinances.

B. The council in adopting a code shall provide by ordinance the effect of such codification as to all deletions, amendments and revisions to the original ordinances made in the codification, including reservation of vested rights, and its effect as to penalties paid, liabilities incurred and actions pending at the time of codification.

C. The code may be adopted by reference by passage of an ordinance for that purpose without the requirement of publication of the entire code. At least three (3) copies of the code shall be on file with the county clerk and copies made available to the public at reasonable cost.

D. The county clerk or the county attorney may arrange and renumber all sections of general ordinances passed subsequent to any codification to the end that the code may be updated and kept current at all times.

ARTICLE V
COUNTY CLERK

Section 5.01. Powers, Duties and Functions.

A. The council shall appoint and may remove and shall fix the salary of the county clerk, which position shall be exempt from Chapters 76 and 77 of the Hawaii Revised Statutes.

B. The county clerk shall:

(1) Be the clerk of the council.

(2) Take charge of, safely keep and dispose of all books, papers and records which may properly be filed in his office and keep in separate files all ordinances, resolutions and regulations and cumulative indices of the same, or exact copies thereof, enacted or adopted by the council.

(3) Have custody of the county seal, which shall be used to authenticate all official papers and instruments requiring execution or certification by the county clerk in the exercise of his office.

(4) Conduct all elections held within the county pursuant to this charter, the laws of the State of Hawaii and the United States of America.

(5) Perform other functions as required by this charter, by law or assigned by the council.

C. The county clerk may appoint the necessary staff for which appropriations have been made by the council with the same powers with respect to the personnel of his office as the department heads in the executive branch.

ARTICLE VI
EXECUTIVE BRANCH

Section 6.01. 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.

Section 6.02. Organization. The mayor shall recommend and the council shall by ordinance keep current an administrative code providing for a complete plan of administrative organization of the executive agencies of the county government consistent with the provisions of this charter. Upon recommendation of the mayor, and only upon such recommendation, the council may, by a vote of five members, change, abolish, combine or rearrange the executive agencies of the county government.

New functions may be assigned by the mayor to existing agencies, but to the extent that this is not practicable, the council by a vote of five members may upon the recommendation of the mayor create additional departments.

Section 6.03. Creation of Advisory Committees. The mayor or department heads, with the approval of the mayor, may each appoint advisory committees. Such advisory committees shall not exist beyond the term of office of the appointing authority. The members of advisory committees shall not be paid, but their authorized expenses shall be paid from appropriations of the appointing authority. Advisory committees shall have no employees but each appointing authority shall cause employees of the department to furnish such services as may be needed by the committees.

Section 6.04. Appointment and Removal of Officers and Employees.

A. The administrative assistant to the mayor and all department heads shall be appointed and may be removed by the mayor, except as otherwise provided by this charter.

B. Department heads may appoint the necessary staff for which appropriations have been made by the council. Department heads may take all personnel actions as may be desirable for the proper conduct of the departments subject to the classification and civil service laws.

Section 6.05. Powers and Duties of Heads of Executive Agencies.

A. Subject to applicable law, the heads of the executive agencies of county government are empowered to assign and reassign duties, supervise, manage and control all employees.

B. Each head of an executive agency of county government may, subject to the approval of the appointing authority, prescribe such rules as are desirable for the organization and internal administration of the respective executive agencies.

ARTICLE VII

MAYOR

OPTION 2A

Section 7.01. Election and Term of Office. The electors of the county 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 his election.

OR

OPTION 2B

Section 7.01. Election and Term of Office. The electors of the county shall elect a mayor whose term of office shall be two years beginning at twelve o'clock meridian on the second day of January following his election.

Section 7.02. Qualifications. Any duly registered elector of the county not less than thirty (30) years of age prior to his election shall be eligible for election to the office of mayor. Upon removal of his residence from the county, the mayor shall by that fact be deemed to have vacated his office.

Section 7.03. Compensation. The salary of the mayor shall be the current salary which shall be subject to change by the council. The salary of any incumbent shall be reduced only in the event that a general reduction in salaries of all county officers and employees is simultaneously effected.

Section 7.04. Contingency Fund. The council shall provide in

the annual budget a contingent fund of not less than \$5,000.00 to be expended by the mayor for such public purposes as he may deem proper.

Section 7.05. Powers, Duties and Functions. The mayor shall be the chief executive officer of the county. He shall have the power to:

A. Except as otherwise provided, exercise direct supervision over all departments and coordinate all administrative activities and see that they are honestly, efficiently and lawfully conducted.

B. Appoint the necessary members of his staff and other employees and officers whose appointments are not provided herein.

C. Create positions authorized by the council and for which appropriations have been made, or abolish positions, but a monthly report of such actions shall be made to the council. No permanent employee shall be hired unless there is a funded position available or specifically approved by the council.

D. Make temporary transfers or positions between departments or between subdivisions of departments.

E. Recommend to the council for its approval a pay plan for all department heads, officers and employees who are exempt from civil service and the position classification plans.

F. Submit operating and capital budgets, together with a capital program annually to the council for its consideration and adoption.

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

H. Present messages or information to the council which in his

opinion are necessary or expedient.

I. In addition to the annual report, make quarterly reports informing the public as to county policies, programs and operations through the news media.

J. Approve or veto ordinances and resolutions pertaining to eminent domain proceedings.

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

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

M. Declare the existence of a state of emergency or disaster or the existence of a disaster area within the county. The failure or refusal of the mayor to declare the existence of an emergency, disaster or disaster area shall not preclude the council from making such declaration based on its findings.

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

IF OPTION 2A IS ADOPTED:

Section 7.06. Vacancy in Office.

A. In the event of a vacancy in the office of the mayor, the council shall select, by majority vote, one of its members as mayor to serve until the next general election and assumption of office in January by the person elected mayor. The vacancy in the council shall be filled as provided for in Article III, Section 3.05 of the charter. In the event the vacancy occurs prior to the mid-term general election, the person elected mayor in the general election shall serve only for the unexpired term of the mayor elected in the prior election. In

the event the vacancy occurs later than three (3) days prior to the closing date for filing of nomination papers for the mid-term general election, the mayor selected by the council shall continue to serve for the remainder of the term of the person he succeeded. The foregoing provisions shall also apply in the event the person elected as mayor dies before taking office.

IF OPTION 2B IS ADOPTED:

Section 7.06. Vacancy in Office.

A. In the event of a vacancy in the office of the mayor, the council shall select, by majority vote, one of its members as mayor to serve until the next general election and assumption of office in January by the person elected mayor. The resulting vacancy in the council shall be filled as provided for in Article III, Section 3.05 of the charter. The foregoing provisions shall also apply in the event the person elected as mayor dies before taking office.

B. During the temporary absence from the county or temporary disability of the mayor, or in case of a vacancy in the office of the mayor, until a new mayor is appointed or elected, the administrative assistant shall act as mayor. In the event both the mayor and the administrative assistant are temporarily absent or disabled, the county attorney shall act as mayor during said period. Except in situations of obvious vacancy such as death, resignation or total disability, "vacancy" shall mean a substantial failure or inability to perform the duties of the office for a continuous period of six months or more.

(1) The mayor shall appoint and may remove an administrative

assistant whose qualifications shall be the same as for the position of councilman. The salary for the administrative assistant shall be fixed by ordinance. The administrative assistant shall serve as the mayor's principal administrative aide.

ARTICLE VIII

COUNTY ATTORNEY

Section 8.01. Organization. There shall be an office of the county attorney which shall be headed by the county attorney.

Section 8.02. Appointment and Removal. The county attorney shall be appointed and may be removed by the mayor, with the approval of the council.

Section 8.03. Qualifications. The county attorney shall be an attorney licensed to practice and in good standing before the Supreme Court of the State of Hawaii and shall have engaged in the practice of law for at least three years.

Section 8.04. Powers, Duties and Functions. The county attorney shall be the chief legal adviser and legal representative of all agencies, including the council, and of all officers and employees in matters relating to their official powers and duties, and he shall represent the county in all legal proceedings.

Section 8.05. Deputy County Attorneys. The county attorney shall have the power to appoint such deputy county attorneys and necessary staff as shall be authorized by the council and within the appropriation made therefor. Such deputies shall serve at the pleasure of the county attorney.

Section 8.06. Special Counsel. The council may, by vote of five members, authorize the employment of special counsel for any special matter necessitating such employment. Any such authorization shall specify the compensation, if any, to be paid for said services.

Section 8.07. Service of Legal Process. Legal process against the county shall be served upon the county attorney or any of his deputies.

ARTICLE IX
PROSECUTING ATTORNEY

Section 9.01. Election and Term of Office. The electors of the county shall elect a prosecuting attorney, whose term of office shall be four years beginning at twelve o'clock meridian on the second day of January following his election.

Section 9.02. Qualifications. The prosecuting attorney shall be an attorney licensed to practice and in good standing before the Supreme Court of the State of Hawaii and shall have engaged in the practice of law for at least three years. He shall also have been a duly registered elector of the county for at least one year immediately preceding his election.

Section 9.03. Powers, Duties and Functions. The prosecuting attorney shall:

A. 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 regulations of the county.

B. Prosecute offenses against the laws of the State under the authority of the Attorney General of the State.

C. 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. The expenses of such proceeding shall be paid by the county.

D. Institute proceedings, or direct the chief of police to do so, before the district judge for the arrest of persons charged with or reasonably suspected of public offenses, when he has information that any such offenses have been committed, and for that purpose take charge of criminal cases before the district judge, either in

person or by a deputy or by such other prosecuting officer as he shall designate.

E. Draw all indictments and attend before and give advice to 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 all courts of the State under the direction of the prosecuting attorney.

Section 9.04. Staff. The prosecuting attorney may appoint deputies, investigators, and other necessary staff. The deputy who is designated as first deputy shall, during the temporary absence or disability of the prosecuting attorney, assume the power and perform the duties of the prosecuting attorney.

Section 9.05. Vacancy in Office. In the event of a vacancy in the office of the prosecuting attorney, the deputy prosecuting attorney shall act as the prosecuting attorney until the next general election and assumption of office in January by the person elected prosecuting attorney. In the event the vacancy occurs prior to the mid-term election, the elected prosecuting attorney in the mid-term general election shall serve only for the unexpired term of the prosecuting attorney elected in the prior election. In the event the vacancy occurs later than three (3) days prior to the closing date for filing of nomination papers for the mid-term election, the acting prosecuting attorney shall continue to serve for the remainder of the term of the person he succeeded. The foregoing provisions shall also apply in the event the person elected as prosecuting attorney dies before taking office.

Section 9.06. Assignment of Duties and Functions. In the event of any conflict as to the performance of any duty or function between the county attorney's office and the prosecuting attorney's office, the council shall determine such assignment by ordinance.

ARTICLE X

DEPARTMENT OF FINANCE

Section 10.01. Organization. There shall be a department of finance consisting of the director of finance and the necessary staff.

Section 10.02. Appointment and Removal of Director of Finance. The director of finance shall be appointed and may be removed by the mayor.

Section 10.03. Qualifications. The director of finance shall have had a minimum of five years of training or experience in fiscal management or accounting, at least three years of which shall have been in a responsible administrative capacity.

Section 10.04. Powers, Duties and Functions. The director of finance shall be the chief accounting, fiscal and budget officer of the county and shall:

A. Prepare the annual budget ordinance under the direction of the mayor.

B. Supervise and be responsible for the disbursement of all moneys and have control over all expenditures to ensure that budget appropriations are not exceeded.

C. Maintain a general accounting system for the county government and each of its offices, departments and agencies; keep books for and exercise financial budgetary control over each office, department and agency, except as otherwise provided by this charter or by law; audit the books and accounts of all county offices, departments and agencies authorized or required by this charter or by law to maintain and keep books.

D. Prepare for the mayor for submission to the council a quarterly financial statement of all funds in sufficient detail to show

the financial condition of the county.

E. Prepare for the mayor at the end of each fiscal year a complete financial statement and report.

F. Maintain the treasury and deposit moneys belonging to the county in depositories authorized by law.

G. Be responsible for the management of county funds, including the short-term investment of cash which is in excess of immediate requirements.

H. Contract for services of independent contractors, purchase materials, supplies and equipment, and permit disbursements to be made pursuant to the provisions under this charter.

I. Be responsible for issuing and selling, paying interest on and redeeming bonds of the county.

J. Prepare and issue warrants.

K. Purchase, lease, rent or otherwise acquire or secure the use of real or personal property and manage, operate, encumber or dispose of the same as the interest of the county may require.

L. Rent or lease county property and award concessions pursuant to policies established by the council, except property controlled by the board of water supply.

M. Collect all moneys due the county or for the collection of which the county is responsible, and receive all moneys receivable by the county from any source.

N. Maintain an inventory of all lands, structures, transmission and distribution systems, streets and roadways and other permanent improvements owned, leased, rented or controlled by the county.

O. Maintain an inventory of all equipment owned or controlled by the county. Expendable supplies and materials shall be excluded from inventory.

P. Review assessment rolls for assessable public improvements prior to approval by the council and issue bills therefor after such approval has been given.

Q. Have custody of all official bonds.

R. Provide an audit and program of efficiency studies of any county activity and department where the mayor and/or council directs.

S. Review applications for state, federal and other funds on behalf of the county.

T. Perform such other duties and functions prescribed by law or assigned by the mayor.

Section 10.05. Cash Count. The director of finance or a designated assistant, and the county clerk shall jointly at least once a year and at such other times as may be deemed necessary, verify the amount of money in the treasury and make a certified report showing:

A. The amount of money that should be in the treasury.

B. The amount and kind of money actually therein.

A signed copy of such report shall be filed with the mayor and the council.

ARTICLE XI
POLICE DEPARTMENT

Section 11.01. Organization. There shall be a police department consisting of a police commission, a chief of police and the necessary staff.

Section 11.02. Statement of Policy. It is hereby declared to be the purpose of this article of the charter to establish in the county a system of law enforcement which shall be based on due regard for the constitutional rights of all persons, which shall promote the highest possible degree of mutual respect between law enforcement officers and the people of the county and which shall provide for the expeditious apprehension of those who violate the law.

Section 11.03. Chief of Police. The chief of police shall be appointed by the police commission. He may be removed by the police commission only after being given a written statement of the reasons for removal against him and a hearing before the commission. The chief of police shall have had a minimum of five years of training and experience in law enforcement, at least three years of which shall have been in a responsible administrative capacity. He shall make such reports from time to time as the commission shall require, and shall annually make a report to the commission of the state of affairs and condition of the police department.

Section 11.04. Powers, Duties and Functions. The chief of police shall be the administrative head of the police department and shall:

A. Be responsible for the preservation of the public peace, prevention of crime, detection and arrest of offenders against the law, preservation of life, protection of the rights of persons and property, and enforcement and prevention of violations of law.

B. Train, equip, maintain and supervise the force of police officers.

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

D. Take charge of and keep the county jail and all prisoners committed thereto.

E. Serve process both in civil and criminal proceedings.

F. Promulgate rules and regulations necessary for the organization and internal administration of the department.

G. Perform such other duties as may be required by law or as may be assigned by the commission.

Section 11.05. Police Commission. The police commission shall consist of five members appointed by the mayor with the approval of the council. The commission shall hold regular public meetings at a designated time and place.

Section 11.06. General Powers of the Commission. The police commission shall:

A. Adopt such rules as it may consider necessary for the conduct of its business and the regulation of matters relating to the goals and aims of the department.

B. Review the annual budget prepared by the chief of police, make recommendations thereon to the mayor and appear before the county council to request the annual appropriation for the operation of the department.

C. Receive, consider and investigate charges brought by the public against the conduct of the department or any of its members and submit a written report of its findings to the chief of police within sixty days.

D. Channel all matters relating to administration in which the commission or any of its members is concerned through the chief of police.

E. Adopt such rules to regulate political activities of the members of the police department.

Section 11.07. Discipline and Removal. The dismissal, suspension, or demotion of any police officer or employee in the police department shall be under procedures set forth by civil service laws and regulations.

Section 11.08. Appeals. Except for noncivil service employees, appeals from personnel actions shall be in accordance with the collective bargaining agreement executed pursuant to the provisions presently contained in Chapter 89 of the Hawaii Revised Statutes and Section 15.03 of this charter.

ARTICLE XII
FIRE DEPARTMENT

Section 12.01. Organization. There shall be a fire department consisting of a fire chief and the necessary staff.

Section 12.02. Fire Chief. The fire chief shall be appointed and may be removed by the mayor. He shall have had a minimum of five years of training and experience in fire prevention and control in private industry or government service, at least three years of which shall have been in a responsible administrative capacity.

Section 12.03. Powers, Duties and Functions. The fire chief shall be the administrative head of the fire department and shall:

- A. Appoint, train, equip, supervise and discipline the personnel of the fire department in accordance with department rules and civil service regulations.
- B. Provide an effective program and leadership for a county-wide fire prevention, fire control and rescue operations.
- C. Execute such other powers and duties as may be prescribed by law or assigned by the mayor.

ARTICLE XIII

DEPARTMENT OF PUBLIC WORKS

Section 13.01. Organization. There shall be a department of public works consisting of a director and chief engineer and the necessary staff.

Section 13.02. Director and Chief Engineer. The director and chief engineer shall be appointed and may be removed by the mayor. He shall be a registered professional civil engineer and shall have had a minimum of three years of training and experience in an engineering position, at least two years of which shall have been in a responsible administrative capacity.

Section 13.03. Powers, Duties and Functions. The director and chief engineer shall be responsible for the administration of the department of public works and shall:

A. Perform all engineering, designing, planning and construction of all public facilities and improvements undertaken by the county.

B. Maintain, repair and upkeep all county facilities and improvements.

C. Collect and dispose garbage and refuse.

D. Examine and enforce the construction requirements and standards of all public and private construction and improvements in accordance with the building code, subdivision code or such other regulations as may be in effect in the county.

E. Design, install, inspect, maintain and repair all traffic signs, traffic control facilities and devices and street lighting system.

F. Perform such other duties as may be assigned by the mayor or prescribed by law.

Section 13.04. Deputy Director and Deputy Chief Engineer.

There shall be a deputy director and deputy chief engineer who shall assist the director and chief engineer in administering all the functions of the department, except as to functions of the Parks and Recreation Division. He shall have the same qualifications as the director and chief engineer and assume his responsibilities in his absence.

Section 13.05. Director of Parks and Recreation. There shall be a director of parks and recreation who shall be responsible for all the administrative and operational functions of the Parks and Recreation Division and be directly responsible to the director and chief engineer. Minimum requirements for the position shall be three years of work experience in the field of parks, playground and recreation, two of which shall have been in administrative capacity.

Section 13.06. Status of Deputy Positions. The positions of deputy director and deputy chief engineer and director of parks and recreation shall be excluded from civil service and pay classification. The director of parks and recreation shall not be considered in the chain of command of the public works section of the department.

ARTICLE XIV

PLANNING DEPARTMENT

Section 14.01. Organization. There shall be a planning department consisting of a planning commission, a planning director and the necessary staff.

Section 14.02. Planning Commission Organization. The planning commission shall consist of seven members.

Section 14.03. Duties and Functions of the Planning Commission. The planning commission shall:

A. Advise the mayor, council and planning director in matters concerning the planning program for the county.

B. Review the general plan and development plans and modifications thereof developed and recommended by the planning director. The commission shall transmit such plans with its recommendations thereon, through the mayor, to the council for its consideration and action.

C. Review zoning and subdivision ordinances and amendments thereto developed and recommended by the planning director. The commission shall transmit such ordinances with its recommendations thereon, through the mayor, to the council for its consideration and action. The commission shall recommend approval or rejection of such ordinances in whole or in part and with or without modifications.

D. Hear and determine petitions for varying the application of the zoning ordinance with respect to a specific parcel of land and may grant such a variance pursuant to variance provisions established by the council in the zoning ordinance.

E. Adopt regulations having the force and effect of law pertaining to the responsibilities of the department.

F. Prepare a capital improvement program with the advice of the mayor, complementing and reflecting the state and federal programs for the county.

G. Perform such other related duties as may be necessary to fulfill its responsibilities under this charter.

OPTION 3A

Section 14.04. Director. The planning director shall be appointed and may be removed by the commission. He shall have a college degree in either planning, engineering or architecture, or he shall have had a minimum of five years of training and experience in a responsible planning position, at least three years of which shall have been in an administrative capacity in charge of major planning activities. He shall be the administrative head of the department.

OR

OPTION 3B

Section 14.04. Director. The planning director shall be appointed and may be removed by the mayor. He shall have a college degree in either planning, engineering or architecture, or he shall have had a minimum of five years of training and experience in a responsible planning position, at least three years of which shall have been in an administrative capacity in charge of major planning activities. He shall be the administrative head of the department.

Section 14.05. Powers, Duties and Functions of Director.

- A. Review and keep current a general plan and development plans for the improvement and development of the county.
- B. Be charged with the administration of the zoning and subdivision ordinance and the regulations adopted thereunder.
- C. Review and keep current zoning and subdivision ordinances, zoning maps and regulations and any amendments or modifications thereto for the council.
- D. Consolidate the lists of proposed capital improvements contemplated by the several departments in the order of their priority for the county.
- E. Advise the mayor, council and planning commission on matters concerning the planning programs of the county.

Section 14.06. General Plan. The council shall adopt and may, from time to time, modify a general plan setting forth in graphic and textual form policies to govern the future physical development of the county. Such plan may cover the entire county and all of its functions and services or may consist of a combination of plans covering specific functions and services or specific geographic areas which together cover the entire county and all of its functions and services. The general plan shall serve as a guide to all future council action concerning land use and development regulations, urban renewal programs and expenditures for capital improvements.

Section 14.07. Development Plan. "Development plan" means a relatively detailed scheme for the placement or use of specific facilities within the framework of and implements the general plan.

Section 14.08. Adoption of the General Plan and Development Plans. The council shall adopt the general plan or any development

plan by ordinance. The general plan and all development plans shall be kept on file in the office of the planning department. The current general plan as amended is ratified without further action of the council.

Section 14.09. Subdivision or Consolidation of Land.

A. Subdivision Ordinance. The council shall enact an ordinance governing the subdivision or consolidation of land pursuant to which subdivision regulations shall be promulgated.

B. Approval of Subdivisions. After the enactment of the ordinance governing subdivisions or consolidations of land, no land may be subdivided unless the proposed subdivision plans are in conformity with the subdivision ordinance and regulations and have been approved by the planning commission.

C. Regulations of the Board of Water Supply. The regulations of the board of water supply shall govern the extent to which water mains and all necessary appurtenances shall be installed to and within subdivisions.

Section 14.10. Zoning Ordinances. The council shall enact zoning ordinances which shall contain the necessary provisions to carry out the purpose of the general plan.

Section 14.11. Public Hearings.

A. Prior to the recommending of the general plan or any development plan or any zoning or subdivision ordinances or any amendment thereto, the planning commission shall hold a public hearing thereon at which interested persons shall be afforded a reasonable opportunity to be heard.

B. Prior to the granting of any variance, the planning commission shall hold a public hearing thereon at which interested persons

shall be afforded a reasonable opportunity to be heard.

Section 14.12. Appeals. Appeals from any decision of the planning commission shall be instituted in the circuit court within thirty (30) days after service of a certified copy of the decision of the commission. All commission proceedings and appeals shall be in conformity with the Hawaii Administrative Procedures Act.

ARTICLE XV

DEPARTMENT OF PERSONNEL SERVICES

Section 15.01. Organization. There shall be a department of personnel services consisting of a civil service commission, a director and the necessary staff for the purpose of establishing a system of personnel administration based upon merit principles, devoid of any bias or prejudice and providing a systematic and equitable classification of all positions through adequate job evaluation.

Section 15.02. Civil Service Commission Organization. The civil service commission shall consist of five members who shall be in sympathy with and who shall believe in the principles of the merit system in public employment. Of the members appointed, one shall be selected from among persons employed in private industry in either skilled or unskilled laboring positions as distinguished from executive or professional positions.

Section 15.03. Powers and Duties. The civil service commission shall:

A. Adopt rules and regulations to carry out the civil service and compensation laws of the State and county. Such rules and regulations shall distinguish between matters of policy left for the determination of the commission and matters of technique and administration to be left for execution by the director.

B. Hear and determine appeals made by any officer or employee aggrieved by any action of the director or by any appointing authority. Appeal from the decision of the commission shall be as provided by law.

C. Advise the mayor and director of personnel services on problems concerning personnel and classification administration.

D. Execute such powers and duties as may be provided by law.

Section 15.04. Director of Personnel Services. The director of personnel services shall have had a minimum of five years of training and experience in personnel administration either in public service or private business, or both, at least three years of which shall have been in a responsible administrative capacity and shall be in sympathy with the principles of the merit system. He shall be appointed and may be removed by the commission. The director shall be the head of the department of personnel services and shall be responsible for the proper conduct of all administrative affairs of the department, and for the execution of the personnel program prescribed in this charter and in the ordinances and regulations authorized by this charter.

Section 15.05. Civil Service and Exemptions. All positions in the county, except those exempted by law, shall be under civil service.

ARTICLE XVI

LIQUOR CONTROL COMMISSION

Section 16.01. Organization. There shall be a liquor control commission consisting of the liquor control commission, the executive secretary and the necessary staff.

Section 16.02. Liquor Control Commission. The liquor control commission shall consist of five members.

Section 16.03. Disqualifications of Liquor Control Commissioners. No person shall be a member of the liquor control commission who is or becomes engaged, or is directly or indirectly interested in any business for the manufacture or sale of liquor or who advocates or is or becomes a member, or is identified or connected with, any organization or association which advocates prohibition; who is an elected officer of the State or county government or who presents himself as a candidate for election to any public office during the term of his appointment hereunder. This provision shall be enforced by the mayor by the removal of the disqualified member whenever such disqualifications shall appear.

Section 16.04. Powers and Duties of Commission. The liquor control commission shall:

- A. Adopt rules and regulations having the force and effect of law for the administration of liquor control in the county and to enforce the liquor control laws.
- B. Grant, refuse, suspend and revoke any licenses for the manufacture, importation and sale of liquors.
- C. Appoint all employees subject to applicable civil service and classification laws.

D. Investigate violations of liquor control laws through its inspectors, hear and determine all complaints and citations regarding violations of liquor control laws and impose such fines or penalties as may be provided by law upon conviction thereof. Appeal from the decision of the commission may be made to the Fifth Circuit Court of the State of Hawaii. Further appeal by either party may be made as provided for in the Hawaii Administrative Procedures Act.

Section 16.05. Executive Secretary. The executive secretary shall be appointed and may be removed by the liquor control commission. The executive secretary shall have had a minimum of three years of business experience in an administrative capacity. He shall be the administrative head of the commission and shall be responsible for the management, supervision and control of all subordinate members of the commission's staff.

ARTICLE XVII

DEPARTMENT OF WATER

Section 17.01. Organization. There shall be a department of water supply consisting of a board of water supply, a manager and chief engineer and the necessary staff.

Section 17.02. Board of Water Supply Organization.

A. The board of water supply shall consist of nine members, six of whom shall be appointed by the mayor with the approval of the council. The State district engineer of the department of transportation and the director and chief engineer of the county and the planning director of the county or their designated representatives shall serve as ex-officio members with power to vote.

B. The board shall hold at least one regular meeting each month. It shall adopt rules and regulations necessary for the conduct of its business.

Section 17.03. Powers and Duties of the Board.

A. The board shall manage, control and operate the waterworks of the county and all property thereof for the purpose of supplying water to the public, and shall collect, receive, expend and account for all sums of money derived from the operation thereof and all other moneys and property provided for the use or benefit of such waterworks.

B. The board shall maintain account to show its complete financial status and the results of management and operation.

C. The board may provide for a reserve fund, issue revenue bonds, provide for payment of bonds, expend bond funds and other funds, establish rates and charges, acquire property, sue and be sued and engage in and undertake all other activities as provided for in Chapter 54,

Hawaii Revised Statutes, and as may be hereafter provided for by law.

D. The board may make and, from time to time, alter, amend and repeal rules and regulations relating to the management, control, operation, preservation and protection of the waterworks. Such rules and regulations shall have the force and effect of law. Penalties for the violation of any rule or regulation shall be set forth in the rules and regulations.

Section 17.04. Manager and Chief Engineer. The board shall appoint and may remove an engineer duly registered under Hawaii State laws pertaining to registration of engineers. He shall be known as the manager and chief engineer and shall be the head of the department. He shall have the powers and duties prescribed by the board.

ARTICLE XVIII

CIVIL DEFENSE AGENCY

Section 18.01. Organization. There shall be a civil defense agency consisting of an executive director and the necessary staff.

Section 18.02. Executive Director. The executive director shall be appointed by the mayor subject to approval of the State Director of Civil Defense.

Section 18.03. Powers, Duties and Functions. The executive director shall be the administrative head of the agency and shall:

- A. Prepare comprehensive plans and programs for civil defense of the county. The plans and programs shall be integrated into and coordinated with the civil defense plans of the State and Federal governments.
- B. Plan, implement and maintain the county radio communications systems, the county warning systems, the county radiation detection system, and the community fallout shelter systems.
- C. Train, equip, maintain and supervise the civil defense forces.
- D. Advise the mayor as to all civil defense functions.
- E. Prepare and process applications for State and Federal civil defense grants, and government surplus property.

ARTICLE XIX
FINANCIAL PROCEDURES

Section 19.01. 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.

Section 19.02. Preparation of the Operating Budget. The council and all agencies seeking appropriations from the council shall submit to the director of finance on forms prepared by him specifying appropriations for the ensuing fiscal year. The director shall then prepare a preliminary budget for the consideration of the mayor which shall include all budget requests and the recommendation of the finance director with respect to each request. The mayor shall review the preliminary budget and may hold formal or informal hearings thereon. The finance director shall thereupon prepare the operating budget under the direction of the mayor who will submit the proposed budget to the council on or before April 15 of each year.

Section 19.03. The annual operating budget shall be a balanced budget. The total appropriations and reserves shall not exceed the estimated revenues and other resources.

Section 19.04. The operating budget shall include salaries, materials and supplies, equipment and fixtures necessary for the upkeep, maintenance and operation of the departmental or agency functions and other expenses incident to the operations requirements of the department or agency.

Section 19.05. Budget Message. The mayor's budget message shall explain the budget 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.

Section 19.06. Consideration and Adoption by Council.

A. Upon receipt of the annual operating budget, the council shall immediately publish a notice in a newspaper of general circulation in the county, setting forth (1) a summary of the estimated revenues, including any new sources of revenues, and expenditures; (2) that copies of the budget are available at the office of the county clerk; (3) the date, time and place at which the council will commence its public hearings upon the proposed budget, which shall not be earlier than ten days after the date of the publication of such notice.

Upon the conclusion of the hearings, the council may reduce any item or items in the mayor's budget by a majority vote and may increase any item or items therein or add new items thereto by an affirmative vote of two-thirds of the entire membership. The council shall enact the annual budget ordinance not less than fifteen (15) days before the ensuing fiscal year begins. If final action is not taken on or prior to such day, the mayor's operating budget as submitted to the council shall be the budget for the coming fiscal year.

B. Amendments to the annual operating budget ordinance may be submitted by the mayor and approved by the council by ordinance, but no amendment shall increase the aggregate of authorized expenditures to an amount greater than the estimate of revenues and other resources for the fiscal year.

Section 19.07. Administration and Enforcement of the Annual Budget Ordinance.

A. The enactment of the annual operating budget ordinance shall constitute an appropriation of the sums specified therein for the purposes and from the funds indicated. Such appropriation shall be considered valid only for the fiscal year for which made, and any part of such appropriation which is not encumbered or expended shall lapse at the end of the fiscal year. Agencies authorized to make expenditures under the annual operating budget ordinance may proceed without other authority from the council to incur obligations or make expenditures for proper purposes to the extent that the moneys are available and as allotted.

B. Immediately following the enactment of the annual budget ordinance, the heads of all agencies shall submit to the director of finance schedules showing the expenditures anticipated for each quarter of the fiscal year.

C. The approval of an expenditure schedule by the mayor shall constitute a budgetary allotment which shall, unless a revision thereof is approved by the mayor, be binding upon such agencies and the director of finance shall approve or issue no requisition, purchase order, voucher or warrant that is not in accordance with such allotment.

D. The allotment herein provided may be altered at any time by the mayor. The mayor shall direct appropriate revisions in allotments to keep expenditures within the revenues received or anticipated.

E. Any part of an allotment, other than salary allotments, which is not expended or encumbered shall be deemed reallocated to the next allotment period. Unexpended or unencumbered salary allotments shall lapse unless the mayor approved otherwise.

F. The mayor may at any time transfer an unencumbered appropriation balance or portion thereof within a division and between divisions of the same department. Transfers between departments shall be made only by the council by ordinance upon recommendation of the mayor.

Section 19.08. Appropriations and Changes.

A. If, during any fiscal year, the mayor certified that there are available for appropriations (1) revenues received from sources not anticipated in the budget for that year or (2) revenues received from anticipated sources but in excess of the budget estimates, therefore, the council may make supplemental appropriations by ordinance for that year up to the amount of the additional revenues so certified. Such certification must be in writing before the council passes the ordinance.

B. To meet a public emergency affecting life, health or property, the council, upon written request by the mayor, may make emergency appropriations. Such appropriations shall be made by ordinance and must be approved by a majority of all council members present.

Section 19.09. Appropriations: Reduction and Transfer.

A. If, at any time during the fiscal year, it appears probable to the mayor that the revenues available will be insufficient to meet the amount appropriated, he shall report to the county council without delay indicating the estimated amount of the deficit, any remedial action taken by him and his 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, by ordinance, reduce one or more appropriations; but no appropriation for debt service 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.

Section 19.10. Lapse of Operating Appropriations. Every appropriation shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered.

Section 19.11. Loans to Finance Purchase of Major Types of Equipment. The county may secure loans from banks or other financial institutions for the purchase of equipment in excess of \$10,000.00. The amount of the indebtedness shall be included in the total obligations of the county in computing its statutory debt limit as provided by the Hawaii Revised Statutes.

Section 19.12. Surplus and Reserves. Any unappropriated surplus and any unencumbered balance of any appropriation in any fund at the end of any fiscal year shall be available for appropriation for the succeeding year except as herein provided. A reserve which is an account which records the portion of the fund balance segregated for some future use and which is, therefore, not available for further appropriation may be provided in the annual operating budget.

Section 19.13. Preparation of the Capital Program and Capital Budget.

A. The capital program shall include:

(1) Permanent public improvements, including planning, engineering and administrative costs, but not the repair or maintenance thereof.

(2) The acquisition of land or any interest therein for any permanent public improvements.

(3) The furnishings of fixtures and appurtenances of any permanent improvement when first constructed or acquired.

B. The planning commission shall prepare the capital program for each of the ensuing five fiscal years, based upon the finance director's statement of moneys likely to be available and the amount of bonds which the mayor believes would be proper for the county to issue.

C. The capital program shall be appended to the capital budget and submitted to the council for its approval. The council may adopt the capital program with or without amendments.

D. Bond fund proceeds shall be appropriated and expended in accordance with law.

E. The capital budget shall reflect and fund the capital program to be undertaken during the ensuing fiscal year from current revenues; provided, however, that any project or projects to be financed by bond fund proceeds to be undertaken during the fiscal year shall be included and reflected as part of the capital program.

F. Amendments to the capital budget shall constitute amendments to the capital program.

Section 19.14. Consideration and Adoption by the Council.

A. The mayor shall, on or before April 15 of each year, submit the annual capital budget to the council. Upon receipt of the annual capital budget, the council shall immediately publish a notice in a newspaper of general circulation in the county, setting forth (1) a summary of the estimated revenues, including any new sources of revenues, and expenditures; (2) that copies of the budget are available at the office of the county clerk; (3) the date, time and place at which the council will commence its public hearings upon the proposed budget, which shall not be earlier than ten (10) days after the date of the publication of such notice.

Upon the conclusion of the hearings, the council may reduce any item or items in the mayor's budget by a majority vote and may increase any item or items therein or add new items thereto by an affirmative vote of two-thirds of the entire membership. The council shall enact the annual capital budget ordinance not less than fifteen (15) days before the ensuing fiscal year begins. If final action is not taken on or prior to such day, the mayor's capital budget as submitted to the council shall be the budget for the coming fiscal year.

B. Amendments to the annual capital budget ordinance may be submitted by the mayor and approved by the council by ordinance, but no amendment shall increase the aggregate of authorized expenditures to an amount greater than the estimate of revenues and other resources for the fiscal year.

Section 19.15. Appropriation: Reduction and Transfer. All appropriations derived from current revenues and bond fund proceeds may be transferred to other projects upon council approval.

Section 19.16. Lapse of Capital Appropriation. Every appropriation balance that exists at the end of the fiscal year shall be deemed reappropriated for the ensuing year unless the project is considered abandoned. Any project for which a capital appropriation has been made shall be deemed abandoned if two years pass without any further expenditure from, or encumbrance of, the appropriation concerned. This does not preclude the council from transferring appropriations under Section 19.15 above.

Section 19.17. Surplus and Reserves. Any unappropriated surplus and any unencumbered balance of any appropriation and any capital fund at the end of the fiscal year shall be available for appropriation for the succeeding year.

Section 19.18. Deposit of Funds. Moneys received by officers and employees shall be deposited promptly to the county's account in depositories authorized by law. The depository account shall indicate the name of the fund, department or beneficiary to whom deposited.

Section 19.19. In addition to the funds and balance established by this charter, the mayor, with the approval of the council, may establish other funds when necessary and when no appropriate class of fund exists.

Section 19.20. Payments and Obligations.

A. 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 his removal.

B. Nothing contained in this section or other sections 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, nor shall it prevent the making, when permitted by law, of any contract or any lease providing for the payments of funds at a time beyond the end of the fiscal year in which the contract or lease is made. But any contract, lease or other obligation requiring the payment of funds from the appropriations of a later fiscal year or of more than one fiscal year shall be made or approved by ordinance.

Section 19.21. Centralized Purchasing.

A. The department of finance shall be responsible for the procurement of all materials, supplies, equipment and services required by any department, office or agency of the county.

B. Standardization. The department of finance shall classify all materials, supplies, equipment and services required by any department, office or agency of the county.

C. All purchases and contracts for materials, supplies, equipment and services shall be made by advertising for bids, except that such purchases and contracts may be negotiated without advertising if;

(1) The public necessity will not admit of the delay incident to advertising:

(2) The aggregate amount involved does not exceed \$4,000.00; however, any purchases or contracts involving sums between \$500.00 and \$4,000.00 shall be based on competitive bids which shall be in writing. Such amounts may be increased or decreased subject to the action of the legislature.

(3) For materials, supplies and equipment, including animals and plants, patented or proprietary articles, books and publications and professional services for which it is impracticable to secure competition.

(4) For procurement of equipment as determined by the director of finance as:

- (a) Technical or;
- (b) For the standardization of equipment and parts or;
- (c) Interchangeability of parts;

a call for bid shall not be necessary, if deemed to be in the best interest of the county.

(5) Bargain purchases for any equipment, services, materials or supplies may be made without bid by council action. Purchases of this nature shall be made in the best interest of the county. Bargain purchases shall mean any item or items which is 50% or below the current market price.

The advertisement for bids shall be made a sufficient time before the purchase or contract, and specification and invitations for bids shall permit such full and free competition as is consistent with the procurement of the types of materials, supplies, equipment and services necessary to meet the requirements of the department, office or agency concerned.

All bids shall be publicly opened at the time and place stated in the advertisement. Award shall be made with reasonable promptness by written notice to that responsible bidder whose bid conforming to the invitation for bids will be most advantageous to the county, price and other factors considered.

D. No purchase order shall be valid without the availability and designation of funds.

E. The director of finance shall, from time to time, secure from all agencies estimates of their needs for articles of common use and shall, when practicable, consolidate requisitions in order to secure

the benefits of quantity purchases and to that end, when authorized by the council, cooperate with other public agencies.

F. The director of finance may, by rules, provide for:

(1) Emergency purchases which might be required.

(2) Petty cash funds or blanket purchase orders, or both.

G. All county storerooms (other than departmental) shall be supervised and operated by the director of finance.

H. The director of finance shall require such guarantees of performance by vendors as in his opinion may be necessary or may be prescribed by ordinance.

Section 19.22. Disposition of Personal Property. All departments, offices or agencies having materials, supplies or equipment which are not useful to them, shall, from time to time and at least annually, furnish a list thereof to the director of finance who shall circulate such list to the various departments and agencies of the county; and, if the same is found to be usable, it shall be returned to the general storeroom or inventories for subsequent issue upon requisition. If it is found to be unusable for public purposes, the director of finance shall provide for the sale by informal sealed bid without advertising and the proceeds shall be placed in the fund from which the original purchase was made.

Section 19.23. Insurance. The director of finance shall procure insurance for the protection of designated properties of the county in such amounts and under such conditions as the council shall, by ordinance, prescribe from companies licensed to do business in the State. The council may also instruct the director of finance to procure insurance coverage for any of the county activities it deems should be covered by insurance.

Section 19.24. 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 paid by the county.

Section 19.25. Contracts.

A. Before execution, all written contracts to which the county is a party shall be approved by the county attorney as to form and legality. All such contracts shall be signed by the mayor, except that contracts for purchase of materials, supplies, equipment, personal services and public works contracts shall be signed by the director of finance.

B. Before execution, contracts involving financial obligations of the county shall also be approved by the director of finance as to the availability of funds in the amounts and for the purposes set forth therein.

ARTICLE XX
CODE OF ETHICS

Section 20.01. Standards of Conduct. In order to establish a high standard of integrity and morality in government service, a code of ethics is hereby established.

Section 20.02. No officer or employee of the county shall:

A. Solicit, accept or receive, directly or indirectly, any gift, whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or in any other form, under circumstances in which it can reasonably be inferred that the gift is intended to influence him in the performance of his official duties or is intended as a reward for any official action on his part.

B. Disclose information which, by law or practice, is not available to the public and which he acquires in the course of his official duties or use such information for his personal gain or for the benefit of anyone.

C. Acquire financial interest in business enterprises in which he may be directly involved in his official capacity.

D. Appear in behalf of private interests before any county, board, commission or agency.

E. Use his official position to secure a special benefit, privilege or exemption for himself or others.

F. Use county property or personnel for other than public activity or purpose.

Section 20.03. Contracts.

A. The county shall not enter into any contract with an officer or employee or with a firm in which an officer or employee has a substantial interest involving services or property of a value in excess

of \$500.00 unless the contract is made after competitive bidding.

B. The county shall not enter into a contract with any person or firm which is represented or assisted personally in the contract matter by a person who has been an officer or an employee of the county within the preceding six months and who participated while in county employment with the subject matter of the contract.

C. This section shall not apply to personal employment contract.

Section 20.04. Disclosure.

A. The mayor, councilmen, all department heads, members of boards and commissions and the purchasing agent shall, within thirty (30) days of assuming office, file with the board a list of all real property within the county in which he has any right, title or interest, a list of all business firms which contract for county business in which he has any interest, and all their places of employment, including part-time employment. Amendments to the list including additions, deletions or changes in title, interest or employment shall be made within thirty (30) days of the occurrence of the amendment. The list shall be a matter of public record.

B. Any elected or appointed officer or employee who possesses or acquires such interest as might reasonably tend to create a conflict with his duties or authority shall make full disclosure to his appointing authority, to the council, in the case of a member of the council, or to the board or commission on which he serves at any time such conflict becomes apparent. Any member of the council or of any board or commission who knows he has a personal or private interest, direct or indirect, in any proposal pending before the body of which he is a member shall disclose such interest to the body. No member shall vote on such pending matter unless his vote is required to establish a quorum to act on such matter.

C. Penalties.

(1) Any violation of any of the provisions of this section shall, at the option of the director of finance, render forfeit and void the contract, work, business, sale or transaction affected.

(2) Any violation of any of the provisions of this section shall constitute cause for fine, suspension or removal from office or employment.

D. The council shall, by ordinance, adopt and may from time to time, revise and amend such complementary provisions as may be necessary to supplement the code of ethics.

E. The mayor, the council and the board of ethics shall be responsible for the enforcement of provisions of this article.

Section 20.05. Board of Ethics. There shall be a board of ethics.

A. The board shall consist of five members.

B. The board shall annually select a chairman and a secretary from among its members and shall adopt rules necessary for the conduct of its meetings.

C. The board shall meet at least quarterly at the call of the chairman and a majority of its members. A majority of the membership shall constitute a quorum for the conduct of business, and the affirmative vote of at least a majority shall be necessary to take any action.

D. It shall be the function of the board:

(1) To initiate, receive, hear and investigate complaints or violations of the code of ethics and to transmit its findings to the council as to complaints involving county officers and to the civil service commission as to employees. It may also, on its own, file impeachment proceedings in the circuit court.

(2) To render advisory opinions or interpretations with respect to application of the code on request. All requests for advisory opinions shall be answered within thirty (30) days of its filing and failure to submit an advisory opinion within said thirty (30) days shall be deemed a finding of no breach of the code.

(3) To prescribe a form for the disclosure provided in this section and to implement the requirements of the disclosure provisions.

(4) To examine all disclosure statements filed and to comment on or advise corrective action as to any matters that may indicate a conflict of interest.

(5) To propose revisions of the code to assure its effectiveness.

E. In the course of its investigations, the board shall have the power to administer oaths and subpoena witnesses and to compel the production of books and papers pertinent thereto.

F. All hearings on complaints shall be closed to the public. Only findings of violations shall be referred to the council or the civil service commission. Upon referral to the council or civil service commission, the violations shall be treated as any other similar item of council or civil service commission business.

G. If any officer or employee, or former officer or employee, shall obtain an advisory opinion from the board and shall govern himself accordingly, or shall act in accordance with the opinions of the board, he shall not be held guilty of violating any of the provisions of the code.

H. Cooperation. The council and mayor shall cooperate and provide financing and personnel help required by the commission in the performance of its duties.

ARTICLE XXI

SPECIAL ASSESSMENT IMPROVEMENTS

Section 21.01. Improvements by Special Assessments. The county shall enact the provisions applicable to the County of Kauai relative to public improvements by assessment as set forth in Chapter 67, Hawaii Revised Statutes, as amended, as a county ordinance, together with such amendatory provisions as may be appropriate. No amendments, however, shall be made by the council regarding any matter under the control of the board of water supply without the prior approval of its board. Exemptions from special assessments and reimbursement of costs to the county shall be as provided by law.

ARTICLE XXII

RECALL OF ELECTED OFFICERS

Section 22.01. Recall of an Elected Official. Any official elected for a four-year term may be removed by recall which shall be initiated upon petition signed by registered voters equal in number to at least twenty per cent (20%) of the votes cast at the last preceding general election.

Section 22.02. Recall Petition; Recall Election.

A. Each elector signing a recall petition shall add to his signature his address, his voting precinct and the date of signing. Signatures on a recall petition may be on separate sheets but each sheet shall have appended to it the affidavit of some person, not necessarily a signer of the petition, that to the best of the affiant's knowledge and belief the persons whose signatures appear on the sheet are registered electors of the county, that they signed with full knowledge of the contents of the petition, and that their voting precincts are correctly given.

B. A recall petition shall be tendered for filing with the county clerk. The clerk shall examine it to see whether it contains a sufficient number of apparently genuine signatures of registered voters. The clerk may question the genuineness of any signature or signatures appearing on the recall petition and if he finds that any such signature or signatures are not genuine, he shall disregard them in determining whether the petition contains a sufficient number of signatures. He shall also disregard any signature dated more than sixty days before the petition was tendered for filing. The clerk shall complete his examination of the petition within ten days after the submission of

the petition to him and shall thereupon file the petition if valid or reject it if invalid.

C. As soon as the clerk has accepted a recall petition for filing, he shall notify the elected officer that the petition has been filed. Upon receipt of such notice, the elected officer may resign from his office and thereupon the recall proceedings shall terminate.

D. If the elected officer does not resign from his office within ten days after notice of the filing of such petition shall have been given to him, the clerk shall arrange a recall election to coincide with the mid-term general elections. The elected officer may resign at any time prior to the recall election and thereupon the election shall not be held. Recall elections shall only be held on the day of the mid-term general elections.

E. The following question shall be presented to each elector in a recall election: "Shall (name of elected officer) be recalled and removed from the office of (title of office)?"

F. If a majority of the registered electors who vote on the question at a recall election shall vote "Yes", the elected officer shall be deemed recalled and removed from office, otherwise he shall remain in office.

G. No person, who has been removed from his elected office or who has resigned from such an office after a recall petition directed to him has been filed, shall be eligible for election or appointment to any office of the county within two years after his removal or resignation.

H. No recall petition shall be filed against an elected officer during the remainder of his term after an unsuccessful recall election against him.

ARTICLE XXIII
GENERAL PROVISIONS

Section 23.01. Definitions.

- A. The term "agency" shall mean any office, department, board, commission or other governmental unit of the county.
- B. The term "employee" shall mean any person, except an officer, employed by the county or any department thereof, but the term shall not include any independent contractor.
- C. The term "law" shall mean any law of the State of Hawaii or any ordinance of the county of Kauai or any rule or regulation of any department having the force and effect of law.
- D. The term "officer" shall include the following:
- (1) Mayor and members of the council.
 - (2) Any person appointed as administrative head of any agency of the county or as a member of any board or commission.
 - (3) The first deputy appointed by the administrative head of any department.
 - (4) Deputies of the county attorney.
 - (5) Purchasing agent.
- E. The term "State" shall mean the State of Hawaii.

Section 23.02. Boards and Commissions. The council may create such other boards and commissions, not provided herein, by ordinance. All boards and commissions, including those which are specifically provided for herein, shall be organized, appointed and vested with the power and authority as provided hereunder which are not in conflict with the provisions of this charter.

- A. All boards and commissions shall consist of at least five members.

B. All members of boards and commissions shall be appointed and may be removed by the mayor, with the approval of the council. Any member of a board or commission who becomes a candidate for elective office shall forfeit his membership as of the date of his filing of nomination papers.

C. The members of all boards and commissions shall serve for staggered terms of five years and until their successors are appointed, but in no event longer than ninety (90) days after the expiration of their terms. The initial appointments of the members of a board or commission consisting of five members shall consist of one appointment for a term of one, two, three, four and five years, respectively. The initial appointments of the members of a board or commission consisting of seven members shall consist of one appointment for a term of one year, one for a term of two years, two for a term of three years, two for a term of four years, and one for a term of five years. The terms for members of larger boards or commissions shall be specified by ordinance.

D. Any appointment to fill a vacancy occurring on any board or commission other than by expiration of a term shall be for the unexpired term. The term of new members replacing members whose terms have expired shall run from the expiration date of his predecessor's term.

E. Nominations to fill vacancies shall be made by the mayor within thirty (30) days of the occurrence of the vacancy. The council shall act on the nominations within sixty (60) days of their submittal by the mayor. Failure to act within the time by the council shall constitute approval of the nominees. In the event the council disapproves any nominee, the sequence of nomination and action by the council shall follow the procedure for the initial nominee. In the event the mayor fails to submit nominations within the period set for nominations,

the council may appoint the new members.

F. Each commissioner shall be, at the time of his appointment, a duly registered elector of the county.

G. No more than a bare majority of the members of any board or commission shall belong to the same political party.

H. Each board or commission shall elect its chairman or other officers. The term of office of the chairmanship of any board or commission shall be one year and no member of any such board or commission shall succeed himself as chairman for the term immediately following the expiration of his term.

I. No member of any board or commission shall be eligible for a second appointment to the same board or commission or any other board or commission of the county prior to the expiration of one year. Any partial term or initial appointment for three years or more shall be considered a term as used herein. The limitations shall apply to any board or commission member who resigns his appointment.

J. Employees and officers of the State or county may be eligible to serve on boards or commissions, provided that such service does not result in a conflict of interest or is expressly prohibited by law.

K. A majority of all the members to which a board or commission is entitled shall constitute a quorum to do business, and the concurrence of a majority of all the members to which such board or commission is entitled shall be necessary to make any action of such board or commission valid.

L. All boards and commissions shall have the power to subpoena witnesses and administer oaths to witnesses as to all matters within the scope of such boards or commissions.

M. 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.

N. Except for purposes of inquiry, no board or commission, nor its members, shall interfere in any way with the routine administrative affairs of its department normally administered by the department head.

O. Each board or 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.

Section 23.03. Title to Property. Except as otherwise provided by law, title to all property acquired by any agency of the county shall be vested in the county.

Section 23.04. Acceptance of Gifts or Donations. The council may, for and in behalf of the county, accept gifts or donations of real property or personal property or any interest therein with or without conditions.

Section 23.05. Facsimile Signatures. Whenever any person is required to sign negotiable instruments or multiple bonds, the signature may be a facsimile.

Section 23.06. Expenses. All officers and employees of the county shall be entitled to their traveling or other necessary expenses incurred in the performance of their public duties.

Section 23.07. Claims. No action shall be maintained for the recovery of damages for death or 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 damages occurred, the extent thereof and the amount claimed therefor, has been filed by the claimant or his legal representative with the county clerk within six months after the date the death, injury or damages were sustained.

Section 23.08. Annual Reports.

A. Not later than ninety (90) days after the close of the fiscal year, each agency of the county shall make an annual written report of its activities to the mayor in such form and under such rules as the mayor may prescribe. Copies of such reports shall be filed in the office of the county clerk.

B. Not later than one hundred eighty (180) days after the close of the fiscal year, the mayor shall make an annual report concerning the activities of all agencies of the county. A copy of such report shall be filed in the office of the county clerk.

Section 23.09. Records and Meetings Open to Public.

A. 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 of 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.

B. All meetings of boards and commissions shall be held in the county building or other public places and no such body shall take any official action except at a meeting open to the public.

Section 23.10. Rules and Regulations. Unless otherwise authorized by law, all rules and regulations having the force and effect of law adopted by any board, commission or administrative head of a department, must first be approved by the mayor prior to going into effect.

Section 23.11. 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 and regulations having the effect of law, but no penalty shall exceed the amount of \$1,000.00, one year's imprisonment, or both.

Section 23.12. County Elections. County elections shall be conducted in accordance with the election laws of the State insofar as applicable.

Section 23.13. Oaths of Office. Before entering upon the duties of his office, each officer elected or appointed shall take and subscribe to such oath or affirmation as shall be provided by law.

Section 23.14. Impeachment of Officers. Any officer appointed or elected may be impeached for willful malfeasance, misfeasance or nonfeasance in office. Such impeachment proceeding shall be commenced in the Fifth Circuit Court, State of Hawaii. The charge or charges shall be set forth in writing in a verified petition for impeachment signed by not less than three hundred (300) voters registered in the last general election, except as to charges filed by the ethics commission. 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 shall bear their own attorneys' fees and other costs of such proceedings, except proceedings initiated by the ethics commission whose cost shall be paid by the county.

Section 23.15. Coordination of Work. The mayor shall devise a practical and working basis for the cooperation and coordination of work by the various departments, eliminating duplication and overlapping of functions, and shall have the various agencies cooperate with each other in the use of employees, land, buildings, quarters, facilities and equipment. The head of any department may empower or require an employee of another department, subject to the consent

of the head of such other department, to perform any duty which he might require of the employees of his department. Whenever this charter power is vested in a department to inspect, examine or secure data or information or to procure assistance from any other department, a duty is hereby imposed upon the department upon which demand is made to render such power effective.

Section 23.16. 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 23.17. Provisions of Charter Inoperative, When. If any provision of this charter jeopardizes the receipt by the county of any federal grant-in-aid or other federal allotment of money, such provision may, insofar as such fund is jeopardized, be waived by the council upon the recommendation of the mayor.

Section 23.18. Titles, Subtitles, Personal Pronouns; Construction. Titles and subtitles shall not be used for purposes of construing this charter.

When any personal pronoun appears in this charter, it shall be construed to mean either sex.

ARTICLE XXIV
CHARTER AMENDMENT

Section 24.01. Initiation of Amendments. Amendments to this charter may be initiated only in the following manner:

A. By resolution of the council adopted after two readings on separate days and passed by a vote of five or more members of the council.

B. By petition presented to the council, signed by not less than five per cent (5%) of the voters registered in the last general election, setting forth the proposed amendments. Such petitions shall designate and authorize not less than three nor more than five of the signers thereto to approve any alteration or change in the form or language or any restatement of the text of the proposed amendments which may be made by the county attorney.

Upon filing of such petition with the council, the county clerk shall examine it to see whether it contains a sufficient number of apparently genuine signatures of voters.

Section 24.02. Elections to Be Called.

A. Any resolution of the council or petition of the voters proposing amendments to the charter shall provide that the proposed amendments shall be submitted to the voters of the county at the next general election, however the council may upon approval of five members provide for a special plebiscite other than at the general election to vote on any charter amendment.

B. The county clerk shall have the proposed amendments published in a newspaper of general circulation in the county at least thirty (30) days prior to submission of the proposed amendments to the voters of the county.

C. Should the majority of the voters voting thereon approve the proposed amendments to this charter, the amendments shall become affective at the time fixed in the amendment, or, if no time is fixed therein, thirty (30) days after its adoption by the voters of the county. Any charter amendment shall be published in a newspaper of general circulation in the county within thirty (30) days of the effective date of such amendment.

Section 24.03. Mandatory Review. Seven years after the revised charter, the mayor with the approval of the council, shall appoint a charter commission composed of nine members to study and review the operation of the county government under this charter. In the event the commission deems changes are necessary or desirable, the commission may propose amendments to the existing charter or draft a revised charter which shall be submitted to the county clerk. The county clerk shall provide for the submission of such amendments or revised charter to the voters at any general or special election as may be determined by the commission. The commission shall publish not less than thirty (30) days before any election at least once in a newspaper of general circulation within the county the entire text of the amendments or revised charter.

A. Unless a revised charter is submitted to the voters, each amendment to the charter shall be voted on separately.

B. If a majority of the voters voting upon a charter amendment votes in favor of it or a revised charter, if a revised charter is proposed, the amendment or revised charter shall become effective at the time fixed in the amendment or charter, or if no time is fixed, thirty (30) days after its adoption by the voters. Any charter or amendment shall be published in its entirety not more than thirty (30) days after its adoption.

ARTICLE XXIV

SEVERABILITY

Section 25.01. 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.

ARTICLE XXVI

TRANSITIONAL PROVISIONS

Section 26.01. Effective Date. Upon approval of the voters, all provisions of this revision shall become effective as of the second day of January, 1975. The extended term of any elective office provided for in this revision shall apply to the officer elected for the pertinent office in the 1974 general election.

Section 26.02. Existing Laws and Conflicting Laws.

A. All laws, ordinances, resolutions, plans, rules and regulations in force at the time this revision takes effect, and not in conflict or inconsistent therewith, are hereby continued in effect until repealed, amended or superseded by proper authority. The provisions of all laws, ordinances, resolutions, plans, rules and regulations that are inconsistent with this revision shall be superseded by the provisions of this revision at its effective date, except that ordinances which are inconsistent with the provisions of this revision that require action by the council to make them effective, shall remain in effect until such action has been taken.

Section 26.03. Status of Departments.

A. All departments, the status of which are not specifically changed or abolished by this revision, are hereby recognized, and continued as provided by law. Incumbent members of the various boards, commissions and committees on the effective date of this revision shall continue in office unless they resign or until the expiration of their terms.

B. In the event a department of parks and recreation or any other department is created as authorized under the provisions of Section 6.02 herein, the council may by ordinance assign functions

or transfer functions, records, equipment and personnel to the new department, and establish positions, delete positions or redesignate positions as may best serve the new department. The rights and benefits of affected personnel shall be preserved as provided for in bargaining agreements or civil service regulations.

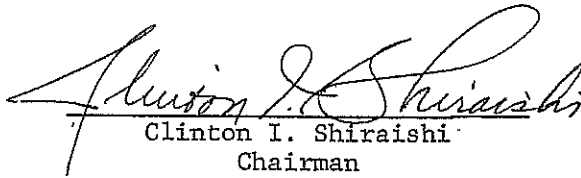
Section 26.04. Heads of Departments Continued in Office.


Notwithstanding any provisions to the contrary, all department heads, who are holding office on the effective date of this revision shall continue in office until they are replaced pursuant to the provisions of this revision.


Section 26.05. Pending Proceedings. All petitions, hearings and other proceedings, pending before any official, office, department, board or commission, and all legal proceedings and investigations begun by such official, office, department, board or commission and not completed at the effective date of this revision, shall continue and remain in full force and effect until final action is completed thereon.

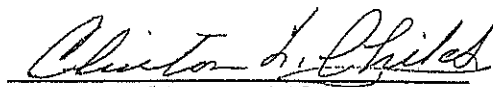
Section 26.06. Lawful Obligations of the County. All lawful obligations of the county existing on the effective date of this revision, and all fines, taxes, penalties, forfeitures, obligations and rights due, owing or accruing to the county, and all writs, prosecutions, actions and proceedings by or against the county shall remain unaffected by the adoption of this revised charter.

Adopted by the KAUAI COUNTY CHARTER REVIEW COMMISSION this
16th day of July, 1974.



Clinton I. Shiraishi
Chairman


George Hiyaue
Vice-Chairman



Arthur S. Fujita
Member



Clinton Childs
Member


Clay A. Kagawa
Member


Wayne R. Ellis
Member


Cesar Portugal
Member

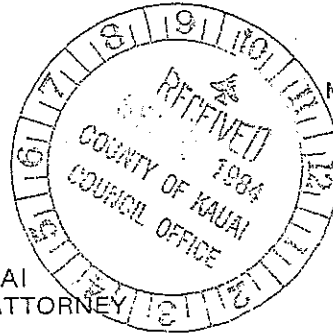
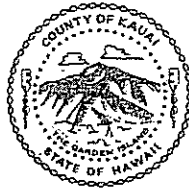

Morris Shinsato
Legal Counsel


Myrtle Takamori
Secretary

ATTACHMENT "B"

Report of the 1984 Charter Review Commission

TONY T. KUNIMURA
MAYOR



MICHAEL J. BELLES
COUNTY ATTORNEY

COUNTY OF KAUAI
OFFICE OF THE COUNTY ATTORNEY
4396 RICE STREET
LIHUE, KAUAI, HAWAII 96755

September 6, 1984

Honorable Tony T. Kunimura
Mayor, County of Kauai
Honorable Raymond P. Duvauchelle
Chairman, Kauai County Council
4396 Rice Street
Lihue, Hawaii 96766

Gentlemen:

Re: Interim Report of Your Charter Review Commission

Attached are the fifteen (15) proposed charter amendments together with the corresponding ballot questions to be submitted to the electorate at the General Election. The actual texts of the amendments, together with the ballot wording, are shown.

We have held three public hearings to listen to amendment ideas before we considered any amendments. Three public hearings were held after a tentative list of amendments was drafted. Everyone wishing to contribute was welcomed to attend our weekly meetings. Those who appeared were given unrestricted time to expound on their ideas. Despite our cordial invitation the public stayed away by the thousands.

Permit us to elaborate on a few of the amendments:

1. We adopted your suggestions of four-year terms for the Mayor and Councilmembers. We changed the Council proposal by

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September 6, 1984

eliminating the two consecutive terms limitation for the Council. The public is apathetic if not hostile to four-year terms. However, we feel that longer terms will lessen the need for officials to campaign continuously from election to election and allow more time to do the work of government. There is a need to convince the public that it is not rascality that moves people to run for public office.

2. The commencement date for the assumption of office on the first working day in December following the election will be separate from the four-year term amendment. If approved, the amendment will take away one month of retirement credit for those elected in the 1984 election. Pay adjustments will be made if the first working day in December is not the first day of the month.

3. The age of thirty and three-year residency qualifications for the Mayor will be eliminated. This will eliminate the conflicts between the qualifications for Mayor and Councilmembers.

4. The department heads intended to be affected by the proposed amendment to set their pay at not less than the highest paid civil service employee are the departments cited in the Charter. They are the County Attorney, Prosecuting Attorney, Finance, Police, Fire, Public Works, Planning, Personnel and Water Departments.

5. The amendment empowering the Mayor to declare a disaster area for Kauai is intended to authorize speedy local action where the effects of a disaster are mainly local. The declaration is joined with the power to exercise emergency measures as authorized under Chapter 128, HRS.

IG-18

September 6, 1984

The Council will be required to set aside a disaster fund of \$50,000 on reserve. The intent is to have the Council write in the conditions of the fund expenditures and provide the funds before a disaster strikes.

6. Prior proposals set \$2,500 as the amount under which purchases may be made without competitive bidding rather than the existing \$500. We have reduced the figure from \$2,500 to \$1,500. We are informed that often it costs more than \$500 to write the specifications for a \$500 item.

7. The proposed amendment that evoked the most discussion is the Cost Control Commission. The responses ranged from wholehearted support to strong opposition.

The amendment is proposed in response to a wide-spread complaint that government is too costly. The intent is to create a reasonable review body of residents to seek government efficiency while providing an adequate level of public services.

In addition to the fifteen (15) charter amendments, we will submit a list of other amendments worthy of consideration, together with other house-cleaning amendments in our final report.

We submit that each amendment merits a thoughtful consideration by our voters. We wish to thank the press and radio for the helpful publicity given us. Were it not for their help we would have been like coal miners at work as viewed from the surface. It certainly was never our intention to undermine anything. We thank you too for your excellent support.

IG-18

Honorable Tony T. Kunitura

-4-

September 6, 1984

Very truly yours,

James T. Minami
James T. Minami
Shirley L. O'Brien
Marceline Francisco
Paula Pennington
Shirley L. O'Brien
Samuel J. Kunitura

:A

cc: Jerome Y.K. Hew

Enclosures

IG-16

47

September 6, 1984

1984 CHARTER AMENDMENTS (FINAL DRAFT)

On the amendments contained in this pamphlet
all material to be deleted is bracketed and
all new material to be added is underscored.

ARTICLE III

COUNTY COUNCIL

Section 3.03. Terms. The terms of office of {councilmen}
councilmembers shall be for {two} four years beginning at twelve
o'clock meridian on the {second day of January} first working
day in December following their election.

ARTICLE III
COUNTY COUNCIL

Section 3.07. Organization of Council; Officers; Rules; Employees. The council shall meet in the council room at the county building or in the Kauai War Memorial Convention Hall for its organization promptly after its inauguration and swearing-in ceremony at which time it shall elect one of its members as chairman and presiding officer of the council. Until such time as the chairman is elected, the mayor shall preside at the council meetings, provided that the mayor shall not have a vote. The council shall also elect one of its members as vice-chairman who shall act as the presiding officer in the event of the chairman's absence. The council shall appoint a presiding officer pro tempore from its members in the event of the absence of both the chairman and vice-chairman. A majority of the entire membership of the council shall constitute a quorum and, except as otherwise provided, the affirmative vote of a majority of the entire membership shall be necessary to take any action.

ARTICLE III
COUNTY COUNCIL

Section 3.11. Adoption of Pay Plan. The council by ordinance shall fix the salaries of all department heads, officers and employees who are exempt from civil service. No department head shall receive a salary less than that of the highest paid civil service employee in the county. All other officers and employees shall be classified and paid in accordance with law.

ARTICLE IV
ORDINANCES AND RESOLUTIONS

Section 4.03. Submission of Ordinances to the Mayor.

* * *

B. If any bill is presented to the mayor appropriating money, he may veto any textual section, item or items, portion or portions thereof, or appropriations therefor by striking out or reducing the same. In case of such a veto, the mayor shall append to the bill at the time of signing it a statement of the textual section, item or items, or portion or portions thereof to which he objects and the reasons therefor. Each item so vetoed may be reconsidered by the council in the same manner as bills which have been disapproved by the mayor.

ARTICLE VII

MAYOR

Section 7.01. Election and Term of Office. The electors of the county shall elect a mayor whose term of office shall be {two} four years beginning at twelve o'clock meridian on the {second day of January} first working day in December following his election. The mayor may serve for more than two terms of office but he shall not serve for more than two consecutive full terms of office.

ARTICLE VII

MAYOR

Section 7.02. Qualifications. Any citizen of the United States (not less than thirty (30) years of age) who (has been) is a duly qualified resident elector of the county (for at least three years immediately prior to his election) shall be eligible for election to the office of mayor. Upon removal of his residence from the county, the mayor shall by that fact be deemed to have vacated his office.

ARTICLE XI
POLICE DEPARTMENT

Section 11.01. Organization. There shall be a police department consisting of a police commission, a chief of police and the necessary staff.

Section 11.02. Police Commission. The police commission shall consist of five members appointed by the mayor with the approval of the council. The commission shall hold regular public meetings at a designated time and place.

Section 11.03. General Powers of the Commission. [The commission shall adopt necessary rules and regulations pertaining to the functions of the department and shall execute such other duties and powers as may be provided by law.] The police commission shall:

A. Adopt such rules as it may consider necessary for the conduct of its business and the regulations of matters relating to the goals and aims of the department.

B. Review the annual budget prepared by the chief of police and may make recommendations thereon to the mayor.

C. Receive, consider and investigate charges brought by the public against the conduct of the department or any of its members

and submit a written report of its findings to the chief of police within ninety days.

D. Refer all matters relating to administration of the department to the chief of police.

E. Adopt such rules to regulate political activities of the members of the police department.

Section 11.04. Chief of Police. The chief of police shall be appointed by the police commission. ~~(and)~~ He may be removed by the police commission only after being given a written statement of the charges against him and a hearing before the commission. The chief of police shall have had a minimum of five years of training and experience in law enforcement, at least three years of which shall have been in a responsible administrative capacity. He shall make such reports from time to time as the commission shall require, and shall annually make a report to the commission of the state of affairs and condition of the police department.

Section 11.05. Powers, Duties and Functions. The chief of police shall be the administrative head of the police department and shall:

A. Be responsible for the preservation of the public peace, prevention of crime, detection and arrest of offenders against the law, preservation of life, protection of the rights of persons and property, and enforcement and prevention of violations of law.

B. Train, equip, maintain and supervise the force of police officers. {pursuant to the rules and regulations enacted by the commission}.

{C. Take charge of and keep the county jail and all prisoners committed thereto.}

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

D. Serve process both in civil and criminal proceedings.

E. {Have} Perform such other {powers and} duties as may be {prescribed} required by law or as may be assigned by the commission.

F. Promulgate rules and regulations necessary for the organization and internal administration of the department.

Section 11.06. Discipline and Removal. {The chief of police shall have the power to discipline or remove any officer or employee pursuant to the rules and regulations enacted by

the commission.} The dismissal, suspension, or demotion of any police officer or employee in the police department shall be under procedures set forth by civil service laws and regulations.

Section 11.07. Appeals.

{A. Any officer or employee of the police department removed or suspended may, within ten days after service of the order of removal or suspension upon him, apply to the commission for a review of the case.}

{(1) Upon receipt of any application for a review, the commission shall hear the appeal, and it may affirm, set aside or modify the order of the chief of police or make such further order, as in its judgment the facts shall warrant.}

{(2) The decision of the commission shall not preclude parties to the appeal from further recourse to the courts as may be provided by law.}

{B. No officer or employee shall receive any compensation for the period of any suspension or removal, unless after hearing the appeal the commission shall so order.}

Appeals from personnel actions shall be in accordance with the applicable collective bargaining agreement executed pursuant to the provisions presently contained in Chapters 76 and 89 of the Hawaii Revised Statutes.

ARTICLE XIV

PLANNING DEPARTMENT

Section 14.09. Subdivision ~~(of)~~ or Consolidation of Land.

* * *

B. Approval of Subdivisions or Consolidations. ~~(After the~~ enactment of the ordinance governing subdivisions or consolidations of land, no land may~~)~~ Land shall only be subdivided or consolidated ~~(unless)~~ when the proposed ~~(subdivision)~~ plans are in conformity with the subdivision and consolidation ~~(ordinance)~~ ordinances and regulations and have been approved by the planning ~~(commission)~~ director; provided however that the decision of the planning director may be appealed to the planning commission.

(Entirely New Section in Charter)

ARTICLE XVIII

CIVIL DEFENSE AGENCY

Section 18.02. Mayor to Declare State of Emergency.

The power to declare a state of disaster or emergency is conferred on the mayor. The mayor may declare an emergency when the peace, life, property, health or safety of the community are endangered, but his failure or refusal to make such a declaration shall not preclude the county council from finding that an emergency exists providing that the county council adopt an emergency ordinance in accordance with the charter.

(Entirely New Section in Charter)

ARTICLE XVIII

CIVIL DEFENSE AGENCY

Section 18.03. Civil Defense Contingency Fund. The council shall provide in the annual budget a civil defense contingency fund of not less than \$50,000.00 to be expended by the mayor for public purposes during any state of emergency or disaster. A report containing a complete accounting of all such expenditures shall be made as soon as practicable to the council.

ARTICLE XIX
FINANCIAL PROCEDURES

Section 19.19. Centralized Purchasing

* * *

C. (2) The aggregate amount involved does not exceed \$4,000.00; however, any purchases or contracts involving sums between ~~(\$500.00)~~ \$1,500.00 and \$4,000.00 shall be based on competitive bids which shall be in writing.

All purchases under \$1,500.00 shall be recorded and such record shall be available for public review.

(Entirely New Section in Charter)

ARTICLE XIX

FINANCIAL PROCEDURES

Section 19.____. The finance director shall promptly collect all past due accounts. Unless otherwise provided by law any account more than ninety (90) days past due shall be referred to the county attorney's office for collection.

(Entirely New Article in Charter)

COST CONTROL COMMISSION

Section __.01. There shall be a County Cost Control Commission composed of seven members not employed in government service. Three of the members shall be selected by the mayor, three by the council and the seventh shall be appointed by the selected six. If there is no agreement on the selection of the seventh member within thirty (30) days of the appointments of the six members, the seventh member will be selected by the mayor.

Section __.02. Goal. The goal of the commission is to reduce the cost of county government while maintaining a reasonable level of public services.

Section __.03. Term. The term of the commission shall be coterminous with the term of the mayor. The mayor and council shall make their selection within forty-five (45) days of their inauguration.

Section __.04. The commission shall review personnel costs, real property taxes, travel budgets, contract procedures; review with the aim of eliminating programs and services available or more efficiently supplied by other governments or organizations;

eliminate or consolidate overlapping or duplicate programs and services; scrutinize for reduction any county operation.

Section __.05. Reports. The commission shall submit its recommendations semi-annually during the second and last quarter of each year. The commission may request that any of its recommendations be drafted in ordinance form for its introduction through the mayor. The mayor shall submit all such recommendations to the council with mayor's comments thereon.

Section __.06. Rules and Regulations. The commission shall adopt rules and regulations relating to the operation and management of the commission in order that the commission can accomplish its goals and objectives.

Section __.07. Appropriation. The mayor and council shall provide an annual appropriation sufficient to enable the commission to secure clerical help and pay other operational costs. The commission shall be provided with the latest mayor's annual report and the council's latest audit report. The commission is empowered to secure from any department, agency, official or employee, any report or information the commission requests that is appropriate to its function. All such requests shall be made through the office of the mayor or the chairman of the council for information within their respective jurisdictions.

(Entirely New Article in Charter)

RECALL

Section __.01. Recall Procedure. Any elective officer serving a four year term as provided for in this charter may be removed from office by the voters of the county. The procedure to effect such removal shall be in accordance with this article.

A petition demanding that the question of removing such official be submitted to the voters shall be filed with the county clerk. Such petitions shall be signed by currently registered voters numbering not less than twenty percent (20%) of the voters registered in the last general election.

Section __.02. Petitions. Petition papers shall be procured only from the county clerk, who shall keep a sufficient number of such blank petition papers on file for distribution as herein provided. Prior to the issuance of such petition papers, an affidavit shall be made by one or more voters and filed with the clerk, stating the name and office of the officer sought to be removed.

Section __.03. Signatures. Each signer of a recall petition shall print and sign their name and shall place thereon

after the name, social security number, place of residence and voting precinct. To each such petition paper there shall be attached an affidavit of the circulator thereof, stating the number of signers to such part of the petition and that each signature appended to the paper was made in the circulator's presence and is believed to be the genuine signature of the person whose name it purports to be, and that each signer understood it to be a recall petition of a specific elected officer.

Section __.04. Filing and Certification. All papers comprising a recall petition shall be assembled and filed with the county clerk as one instrument within thirty (30) days after the filing, with the clerk, of the affidavit stating the name and office of the officer sought to be removed. Within ten (10) days from the date of the filing of such petition, the clerk shall determine the sufficiency thereof and attach thereto a certificate showing the result of his examination. If the clerk shall certify that the petition is insufficient, he shall set forth in the certificate the particulars in which the petition is defective, and shall return a copy of the certificate to the person designated in such petition to receive it.

Section __.05. Supplemental Petitions. In the event the initial petition contained insufficient signatures, such recall petition may be supported by supplemental signatures of voters signed in the manner required in section __.03 of this article appended to petitions issued, signed, and filed as required for the original petition at any time within ten (10) days after the date of the certificate of insufficiency by the clerk. The clerk shall within five (5) days after such supplemental petitions are filed make a like examination of them, and if his certificate shall show the same to be still insufficient, he shall return it in the manner described in section __.04 of this article to the person designated in such petition to receive the same, and no new petition for the recall of the officer sought to be removed shall be filed within one year thereafter.

Section __.06. Recall Election. If a recall petition or supplemental petition shall be certified by the clerk to be sufficient, he shall promptly notify in writing the officer sought to be recalled of such action. If the official whose removal is sought does not resign within five (5) days after mailing of such notice, the clerk shall thereupon order and fix a day for holding a recall election. Any such election shall be

held not less than seventy-five (75) nor more than ninety (90) days after the petition has been presented to the official, at the same time as any other special county or state election held within such period, but if no such election is to be held within such period, the clerk shall call a special recall election to be held within the time aforesaid. If less than fifty percent (50%) of the total number of voters registered in the last general election shall vote at such recall election, the officer sought to be recalled shall not be deemed recalled regardless of the outcome of the election.

Section __.07. Ballots. The ballots at such recall election shall, with respect to each person whose removal is sought, submit the question: "Shall (name of person) be removed from the office of (name of office) by recall?" Immediately following each such question, there shall be printed on the ballots the two propositions in the order set forth: "For the recall of (name of person)." "Against the recall of (name of person)." Immediately to the right of the proposition there shall be designated spaces in which to mark the ballot FOR or AGAINST the recall. A majority vote shall be sufficient to recall such officer, subject to the provisions of section __.06 of this article.

Section __.08. Succeeding Officer. The incumbent, if not recalled in such election, shall continue in office for the remainder of his unexpired term subject to the recall as before, except as provided in this charter. If recalled in the recall election, he shall be deemed removed from office upon the clerk's certification of the results of that election, and the office shall be filled as provided by this charter for the filling of vacancies of elected officials. The successor of any person so removed shall hold office during the unexpired term of his predecessor.

Section __.09. Immunity to Recall. The question of the removal of any officer shall not be submitted to the voters until such person has served six (6) months of the term during which he is sought to be recalled, nor, in case of an officer retained in a recall election, until one year after that election.

September 6, 1984

BALLOT QUESTIONS

Shall the term of office of Councilmembers be extended
from two to four years? (Begins with 1986 election)

YES _____

NO _____

Shall the term of office of all elected officials commence
on the first working day of December after the general
election? (Begins with 1986 election)

YES _____

NO _____

Shall the Council have the option of conducting its first meeting after its inauguration and swearing-in at either the Council Room at the County Building or in the Kauai War Memorial Convention Hall?

YES _____

NO _____

Shall the salaries for department heads be no less than
the salary of the highest paid civil service employee
in the County?

YES _____

NO _____

Shall the Mayor have the power to veto textual sections
of bills appropriating money?

YES _____

NO _____

Shall the term of office of the Mayor be extended from
two to four years, and be limited to two consecutive
full terms? (Begins with 1986 election)

YES _____

NO _____

Shall the 30-year age requirement and the three-year
residency requirement for Mayor be removed?

YES _____

NO _____

Shall the provisions relating to the Police Department
be amended so as to clarify and better define the role
of the Police Commission in establishing policy as
contrasted with the role of the Chief of Police in
administering the day-to-day operations of the Department?

YES _____

NO _____

Shall the Planning Director have the power to approve
the subdivision and consolidation of lands provided
that the decision of the Planning Director may be
appealed to the Planning Commission?

YES _____

NO _____

Shall the Mayor have the power to declare a state of
disaster or emergency in the County of Kauai?

YES _____

NO _____

Shall the Council provide for a civil defense contingency fund of not less than \$50,000 that can be expended by the Mayor during a state of disaster or emergency provided that all such expenditures are reported to the Council?

YES _____

NO _____

Shall the maximum amount for purchasing without advertising,
but for which informal bids are permitted, be increased from
\$500 to \$1,500 provided that all such purchases are recorded
and made available for public review?

YES _____

NO _____

Shall a Cost Control Commission be created that will have the power to review government spending and services with the intention of reducing the cost of county government while at the same time maintaining a reasonable level of services?

YES _____

NO _____

Shall the voters have the power of recall? (This amendment would only apply to those elected officials whose term of office is four years.)

YES _____

NO _____

Shall the Finance Director refer all past due accounts to
the County Attorney for collection within 90 days after
the account becomes past due?

YES _____

NO _____

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ATTACHMENT "C"

Report of the 1996 Charter Review Commission

Maryanne W. Kusaka
Mayor



Robert D. Mullins
Administrative Assistant

OFFICE OF THE MAYOR

September 5, 1996

COPY

Honorable Maryanne Kusaka, Mayor
County of Kaua'i

Honorable Ron Kouchi, Chair
Kaua'i County Council

Honorable Jerome Y.K. Hew, Clerk
County of Kaua'i

Re: Report of the Charter Review Commission

Dear Lady and Gentlemen:

Attached are the ten proposed charter amendments, together with the corresponding ballot questions, for the plebiscite at the general election. The text wherein the amendments appear are included.

We have held over 25 meetings and five area public hearings during January to September 1996. Everyone wishing to speak was heard. Every proposal submitted was considered. The proposals submitted are our distillate of the public's input. We will file a record of our proceedings at a later date.

The comments added are from the public's opinions voiced at the hearings.

1. Representation by districts was the most repeated request of the public. The complaint is that some districts haven't had a resident of their district in the Council for many years. Their claim is that the residents of a district know their needs and their candidates the best. Contrarians say district representation will increase provincialism with pork barrel politics and log rolling.

2. Two year terms involve council members in a perpetual campaign for re-election with increasing costs for candidates and supporters. Four year terms will make applicable recall procedure for council members, provisions already in the Charter.

3. The most repeated request from the executive departments was to raise to State standards the County's low procurement threshold figures for informal bids and advertised bids. The annual cost savings was estimated to exceed a quarter of a million dollars. The proposal empowers the Council to lower any established standard by ordinance.

4. Statewide, only the City and County of Honolulu has non-partisan elections. The thought is that party platforms have very little relevance to county powers, e.g. abortion. The proposal will encourage new candidates without party affiliation. Opponents say great social programs have resulted from adversarial party politics and there is a need for affiliation with a party and its ideology.

5. This proposal clarifies the respective powers of the administration and council regarding the expenditures of grant moneys. A long period of unquestioned practice has blurred the delineation of their respective authority.

6. The current provisions were intended to provide broadly representative, dedicated and informed members for the Planning Commission. Unfortunately, the eligibility requirements proved difficult of implementation, and left many with a feeling of being unfairly denied an opportunity to serve.

7. The Cost Control Commission has expended time, talent and effort in producing its report. It feels that their effort has been greeted with indifference. In enabling the Commission to bring its report to public attention, the proposal, hopefully, will aid the administration and council in reducing the cost of government, while maintaining adequate services.

8. The proposal is patterned after the authority granted the Revisor of Statutes of the State of Hawai'i. The authority granted the County Attorney will hopefully result in an orthographically correct, more concise and clearer Charter, without changing the mandates of the public. For those who associate attorneys with chicanery, all changes must be by ordinance, thereby providing Council oversight.

9. The Council has cited the press of time in amending budget items toward the end of a fiscal year. The proposal permits a faster process under Chapter IV of the Charter.

10. The Water Department requested the inclusion of the Planning Director on its Board. To encourage ex-officio members to attend Board meetings, the Department desired that they be voting members. However, to avoid one official from heading his department and, in addition, chairing the Board, ex-officio members are barred from serving as the chair or vice chair of the Board.

Kaua'i County Charter Review Commission
September 5, 1996
Page 3

We thank the press, radio and television stations for their invaluable help in publicizing our work. Without their help, we would have been like our legendary menehunes: never seen, never heard, and working in the dark.

Mayor Kusaka provided us with an excellent support staff who made our work easier than anticipated. We are encouraged by the Council's cooperative attitude.


We would have felt deprived if we did not hear Mayor Kusaka, Chairman Kouchi and at least one member of Council. Mayor Kusaka, Chairman Kouchi and Councilman Nelson Secretario provided us with their testimony.

County Clerk Jerome Hew and his staff have provided us with the insight of their experience. They also supplied us with an abundance of documentary information.


Thank you.

Respectfully submitted,
KAUA'I COUNTY CHARTER REVIEW COMMISSION:



Morris Shinsato, Chair

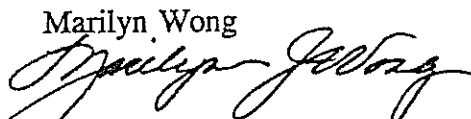

Carol Furtado


Beverly Johnston


Mike Belles, Vice Chair


Murray Hudson


Bernard Magnant

Marilyn Wong

MS/bt

Maryanne W. Kusaka
Mayor



Robert D. Mullins
Administrative Assistant

OFFICE OF THE MAYOR

MEMORANDUM

TO: Bunji Shimomura, Elections Division
FROM: Beth Tokioka, Executive Secretary
DATE: September 16, 1996
RE: Proposed Charter Amendment Ballot Questions

Per the request of the Charter Review Commission, attached is a one-page summary of the ballot questions for distribution to interested persons and voters.

Thank you for making this document available in the Elections Office. If you have any questions, please don't hesitate to call me at extension 300.

cc: Charter Review Commissioners
Galen Nakamura, Deputy County Attorney

PROPOSED CHARTER AMENDMENT BALLOT QUESTIONS

County of Kaua'i

November 5, 1996 General Election

- Proposal 1: Effective 1998 shall Council members be elected by districts, with one member residing in and elected from each of five districts which shall be established by an apportionment commission to be appointed in 1997, and two members elected at large, and shall 2001 and every tenth year thereafter be a reapportionment year?
- Proposal 2: Shall the term of office for councilmembers be extended from two to four years and be limited to two consecutive elected four year terms, beginning with the 1998 election?
- Proposal 3: Shall the maximum amount for purchasing goods and services without advertising, but with other competitive bidding requirements imposed by State law, be increased from \$4,000 to the bidding thresholds established by State law; shall the amounts for informal bid purchases be changed from between \$1,500 and \$4,000 to the State's established thresholds for informal bid purchases; and shall the Council have the authority to enact competitive bidding thresholds lower than the bidding thresholds established by State law?
- Proposal 4: Shall County elections be conducted on a nonpartisan basis?
- Proposal 5: Shall the Charter be amended to clearly declare the intent that the Council has no authority either to expend or administer any grant moneys?
- Proposal 6: Shall the requirements that six of the seven members of the Planning Commission be only composed of persons who have knowledge and awareness of environmental, business and labor concerns be deleted?
- Proposal 7: Shall the Cost Control Commission prepare and advertise a written annual report summarizing its recommendations, and shall the mayor submit to the Council for its immediate consideration all ordinances proposed by the Commission?
- Proposal 8: Shall non-substantive amendments to the Charter be proposed in the form of an ordinance by the County Attorney?
- Proposal 9: Shall amendments to the adopted budget ordinance be made by following the procedures established for amending ordinances in general rather than the procedures established for enacting the budget ordinance?
- Proposal 10: Shall the Planning Director be added as a voting member of the Board of Water Supply, shall the State District Engineer of the Department of Transportation, the County Engineer and the Planning Director be prohibited from serving as chair and vice-chair of the Board, and shall the Board be required to hold at least one, instead of two, meetings per month?

GM200I05
Fiscal Year 97

COUNTY OF KAUAI
Account Balance Inquiry

9/24/96
14:49:35

Account number 1-0100-515.93-01 Position to . . 092496 Starting date

Type selections, press Enter.
1=Select

Opt	Typ	Date	Project	Amount	Encumbrance Amount	Budget Amount
-	VR	9/12/96		88.20	88.20-	.00
-	PO	9/09/96		.00	88.20	.00
-	VR	9/04/96		37.00	37.00-	.00
-	VR	8/29/96		44.52	.00	.00
-	PO	8/19/96		.00	37.00	.00
-	PO	8/19/96		.00	15.62	.00
-	VR	8/12/96		154.32	.00	.00
-	VR	8/09/96		20.83	20.83-	.00
-	PO	8/08/96		.00	20.83	.00

Handwritten notes:
Xerox paper $7 \div 3 = 29.40$
audio cass. (15)
audio cass. (20)
p. notice

F3=Exit F11=Print account activity listing F12=Cancel

04-60 SA MW KS IM II S1 KAUAI KB

Xerox paper	29.40
Audio cassettes	36.45
Public Notice Ad.	154.32
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	220.17

Acct. bal. 779.83

PROPOSED CHARTER AMENDMENTS
1996 CHARTER REVIEW COMMISSION

September 6, 1996

Compiled by:
The Office of the County Attorney
County of Kauai
4444 Rice Street, Suite 220
Lihu'e, Hawai'i 96766

PROPOSAL NO. 1: ESTABLISHES COUNCIL DISTRICTING

1. Text

"Section 3.02. Composition. There shall be a council of seven members [elected at-large]. Two members shall be elected at-large by all eligible voters in the county. Each of the other five members shall reside in and shall be elected from a separate council district by eligible voters residing in that separate council district.

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Section 3.04. Qualifications.

A. To be eligible for the council, a person must be a citizen of the United States and must have been a duly qualified [elector] registered voter of the county for at least [two years] ninety days immediately preceding his filing candidacy papers for election [or appointment]. In addition, those candidates for the council who wish to represent one of the five council districts must state which district they wish to represent and that they have been a registered voter of that district for the preceding ninety days. Should a councilmember move from, or be removed from, any of the seven council positions from which that person was elected, any replacement appointee must meet all requirements of a candidate for that position.

B. Any [councilman] councilmember who removes his residence from the county or district from which elected, or is convicted of a felony, shall immediately forfeit his office.

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Section 3.19. District Election and Reapportionment.

A. The first election by separate council districts shall be in the primary election of 1998.

B. The year 2001 and every tenth year thereafter shall be reapportionment years.

C. An initial council apportionment commission shall be constituted on or before the first day of April, 1997. A council reapportionment commission shall be constituted on or before the first day of July of each

reapportionment year and whenever reapportionment is required by court order. The commission shall consist of seven members. The members of the commission shall be appointed by the mayor and confirmed by the council.

The initial council apportionment commission shall be responsible for designating the geographic boundaries of the council districts provided for above. The council reapportionment commission shall be responsible for the reapportionment and redistricting of those districts.

The commission shall elect a chair from among its members. Any vacancy in the commission shall be filled in the same manner as for an original appointment. The commission shall act by majority vote of its membership and shall establish its own procedures. The commission and its members shall be subject only to the provisions of this section of the charter. No member of the commission shall be eligible to become a candidate for election or appointment to the council in the initial election held under any apportionment or reapportionment plan adopted by the commission.

The county clerk, under the direction of the commission, shall furnish all necessary technical and secretarial services. The mayor and the council shall appropriate funds to enable the commission to carry out its duties.

D. In effecting the initial apportionment and each subsequent reapportionment, the commission shall be guided by the following criteria:

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

(2) Districts, insofar as practical, shall be contiguous and compact.

(3) District lines shall, where practicable, follow permanent and easily recognized features, and shall, where practicable, coincide with voter precinct boundaries.

(4) Districts shall have approximately equal resident populations. The last available census figures may be used by the commission.

E. On or before February 1 of the year following appointment, the commission shall file with the county clerk an apportionment or reapportionment plan, which shall become effective upon its filing.

F. 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 the apportionment or reapportionment plan, or the court may take such other action to effectuate the purposes of this section as it may deem appropriate. Any such petition must be filed within forty-five calendar days after the filing of the plan.

G. The commission's tenure shall end upon the filing of its plan and the expiration of any court challenge."

2. Ballot question: "Effective 1998 shall Council members be elected by districts, with one member residing in and elected from each of five districts which shall be established by an apportionment commission to be appointed in 1997, and two members elected at-large, and shall 2001 and every tenth year thereafter be a reapportionment year?"

PROPOSAL NO. 2: ESTABLISHES TERM LIMITS FOR COUNCILMEMBERS

1. Text:

"Section 3.03. Terms. The terms of office of councilmembers shall be for [two] four years beginning at twelve o'clock meridian on the first working day of December following their election. No councilmember shall be eligible to serve on the Council for more than two consecutive elected four year terms."

2. Ballot question: "Shall the term of office for councilmembers be extended from two to four years and be limited to two consecutive elected four year terms, beginning with the 1998 election?"

PROPOSAL NO. 3: CHANGES COMPETITIVE-BIDDING THRESHOLDS

1. Text:

"Section 19.19 Centralized Purchasing.

A. The department of finance shall be responsible for the procurement of all materials, supplies, equipment and services required by any department, office or agency of the county.

B. There shall be a standardization committee composed of three members. The mayor shall appoint two members, each of whom shall be from a separate department. The third member shall be a representative of the department of finance who shall serve as chairman of the committee. The committee shall classify all materials, supplies, equipment, commonly used by the various departments, offices or agencies of the county and shall prepare and adopt standards and specifications for such materials, supplies and equipment.

C. All purchases and contracts for materials, supplies, equipment and services shall be made by advertising for bids, except that such purchases and contracts may be negotiated without advertising if:

(1) The public necessity will not admit of the delay incident to advertising.

[(2)] The aggregate amount involved does not exceed \$4,000; however, any purchases or contracts involving sums between \$1,500 and \$4,000 shall be based on competitive bids which shall be in writing. All purchases under \$1,500 shall be recorded and such record shall be available for public review.]

[(3)] (2) For materials, supplies and equipment, including animals and plants, patented or proprietary articles, books and publications and professional services for which it is impracticable to secure competition.

[(4)] (3) For equipment determined to be technical equipment and as to which it is determined that the procurement thereof without advertising is unnecessary to assure standardization of the equipment and interchangeability of parts and that such standardization and interchangeability are necessary in the interest of economy.

The advertisement for bids shall be made a sufficient time before the purchase or contract, and specification and invitations for bids shall permit such full and free competition as is consistent with the procurement of the types of materials, supplies, equipment and services necessary to meet the requirements of the department, office or agency concerned.

All procurements shall be conducted pursuant to State law. Competitive bidding thresholds lower than the bidding thresholds established under state law may be enacted by ordinance.

All bids shall be publicly opened at the time and place stated in the advertisement. Award shall be made with reasonable promptness by written notice to that responsible bidder whose bid conforming to the invitation for bids will be most advantageous to the county, price and other factors considered."

2. Ballot question: "Shall the maximum amount for purchasing goods and services without advertising, but with other competitive bidding requirements imposed by State law, be increased from \$4,000 to the bidding thresholds established by State law; shall the amounts for informal bid purchases be changed from between \$1,500 and \$4,000 to the State's established thresholds for informal bid purchases; and shall the Council have the authority to enact competitive bidding thresholds lower than the bidding thresholds established by State law?"

PROPOSAL NO. 4: ESTABLISHES NON-PARTISAN ELECTIONS

1. Text:

"Section 1.03. County Elections.

A. In general. County elections shall be conducted in accordance with the election laws of the State insofar as applicable, but all elective officers shall be elected by nonpartisan elections. Except as otherwise provided in this charter, such nonpartisan elections shall be held in conjunction with the primary and general elections of the applicable year in which the terms of the mayor, council members, or prosecuting attorney, respectively, end.

B. First nonpartisan election. To the extent possible, the first nonpartisan election shall be held in conjunction with the primary election of the applicable year.

1. Offices of the Mayor, Prosecuting Attorney and Council members to be elected by districts, if any. In the case of the offices of mayor, prosecuting attorney, or any council members to be elected by districts, any candidate receiving a majority of the votes cast for that office shall be elected. However, if there is only one candidate for each of said offices, such candidate shall be elected.

2. Office of At-Large Council Members. The candidates receiving the highest number of votes shall be elected to fill each vacant at-large council office provided the candidate or candidates receive at least thirty percent of all votes cast for all at-large council offices. In the event of a tie for the last remaining at-large council office the candidates receiving the same number of votes shall be placed on the ballot for the second nonpartisan election.

C. Second nonpartisan election. To the extent possible, the second nonpartisan election shall be held in conjunction with the general election for the applicable year.

1. Offices of the Mayor, Prosecuting Attorney, and Council members to be elected by districts, if any. Unless a candidate for mayor, prosecuting attorney, or council members to be elected by district, if any, is elected in the first nonpartisan election, the names of the two candidates receiving the highest number of votes for these offices in the first nonpartisan election shall be placed on the ballot for the second nonpartisan

election. At the second nonpartisan election the candidates receiving the highest number of votes for mayor, prosecuting attorney and district council member, respectively, shall be elected.

2. Office of At-Large Council members.

a. If any at-large council office remains to be filled after the first nonpartisan election, two candidates for each vacant at-large council office shall be placed on the ballot. The names of the candidates receiving the highest number of votes cast in the first nonpartisan election, other than the name of any candidate elected after the first nonpartisan election, shall be placed on the ballot until a sufficient number of candidates are on the ballot as provided in this subsection. At the second nonpartisan election, the candidates receiving the highest number of votes for each vacant at-large office shall be elected.

b. In the event of a tie vote in the second nonpartisan election, the winner shall be determined by chance by a method chosen by the county clerk.

D. In any subsequent publication of the foregoing sections the term "first nonpartisan election" and "second nonpartisan election" may be changed to "primary election" and "general election", respectively."

2. Ballot question: "Shall County elections be conducted on a nonpartisan basis?"

PROPOSAL NO. 5: CLARIFIES COUNCIL'S AUTHORITY REGARDING GRANTS

1. Text:

"Section 19.08 Administration and Enforcement of the Annual Budget Ordinance.

A. The enactment of the annual budget ordinance shall constitute an appropriation of the sums specified therein for the purposes and from the funds indicated. Such appropriation shall be considered valid only for the fiscal year for which made, and any part of such appropriation which is not encumbered or expended shall lapse at the end of the fiscal year. Agencies authorized to make expenditures under the annual budget ordinance may proceed without other authority from the council to incur obligations or make expenditures for proper purposes to the extent that the moneys are available and as allotted.

B. Immediately following the enactment of the annual budget ordinance, the heads of all agencies shall submit to the director of finance schedules showing the expenditures anticipated for each quarter of the fiscal year.

C. The approval of an expenditure schedule by the mayor shall constitute a budgetary allotment which shall, unless a revision thereof is approved by the mayor, be binding upon such agencies and the director of finance shall approve or issue no requisition, purchase order, voucher or warrant that is not in accordance with such allotment.

D. The allotment herein provided may be altered at any time by the mayor. The mayor shall direct appropriate revisions in allotments to keep expenditures within the revenues received or anticipated.

E. Any part of an allotment which is not expended or encumbered shall be deemed reallotted for the next allotment period.

F. The mayor may at any time transfer an unencumbered appropriation balance or portion thereof within a division or between divisions in the same department. Transfers between departments, boards or commissions shall be made only by the council by ordinance adopted pursuant to Section 19.07B, upon the recommendations of the mayor.

G. The council may approve or appropriate moneys to be expended as grants; provided that the council shall neither expend nor administer any grant moneys."

2. Ballot question: "Shall the Charter be amended to clearly declare the intent that the Council has no authority either to expend or administer any grant moneys?"

PROPOSAL NO. 6: DELETES KNOWLEDGE AND AWARENESS REQUIREMENTS (I.E., ENVIRONMENTAL, BUSINESS, ORGANIZED LABOR CONCERNS) FOR PLANNING COMMISSION APPOINTEES

1. Text:

"Section 14.02. Planning Commission Organization. The planning commission shall consist of seven members. [At least two members shall have knowledge and awareness of environmental concerns by way of the person's education, training, occupation or experience; at least two members shall have knowledge and awareness of business concerns by way of the person's education, training, occupation, or experience; and at least two members shall have knowledge and awareness of organized labor concerns by way of the person's education, training, occupation, or experience.]

This amendment shall take effect upon its approval, and apply to appointments or reappointments made thereafter. All planning commissioners presently serving may continue to serve their remaining terms notwithstanding this amendment. [The mayor shall phase in this requirement in any order the mayor deems appropriate as terms expire or vacancies arise. At the time of appointment, the mayor shall declare which interest the appointee represents.]"

2. Ballot question: "Shall the requirement that six of the seven members of the Planning Commission be only composed of persons who have knowledge and awareness of environmental, business, and labor concerns be deleted?"

PROPOSAL NO. 7: REQUIRES PUBLICATION OF ANNUAL REPORT OF
COST CONTROL COMMISSION; REQUIRES MAYOR TO SUBMIT AND
COUNCIL TO CONSIDER IMMEDIATELY COMMISSION-PROPOSED
ORDINANCES

1. Text:

"Section 28.05. Reports. The commission shall [submit] prepare and advertise a written annual report summarizing its recommendations [semi-annually during the second and last quarter of each year] prior to the end of each calendar year. [The] Thereafter, the commission may request that any of its recommendations be drafted in ordinance form for its introduction through the mayor. The mayor shall [submit all such recommendations to the council with mayor's comments thereon], with mayor's comments thereon and within thirty (30) working days of receipt, submit to the council for its immediate consideration all ordinances proposed by the commission."

2. Ballot question: "Shall the Cost Control Commission prepare and advertise a written annual report summarizing its recommendations, and shall the mayor submit to the Council for its immediate consideration all ordinances proposed by the Commission?"

PROPOSAL NO. 8: AUTHORIZES THE COUNTY ATTORNEY TO MAKE
NON-SUBSTANTIVE REVISIONS TO THE CHARTER

1. Text:

ARTICLE XXIV

CHARTER AMENDMENT

.....

"Section 24.04. Non-substantive Revisions.

A. The county attorney may propose non-substantive revisions to the charter by ordinance.

B. In making non-substantive revisions, the county attorney may:

1. Number and renumber articles, sections, and parts of sections;

2. Rearrange sections;

3. Change reference numbers to agree with renumbered articles, sections, and parts of sections under either federal, state or county law;

4. Substitute the proper article or section number for the terms "the preceding section", "this article", and like terms;

5. Strike out figures where they are merely a repetition of written words;

6. Change capitalization for purposes of uniformity;

7. Correct manifest clerical or typographical errors;

8. Change any male or female gender term to a term which is neutral in gender when it is clear that the provision is not applicable only to members of one sex and without altering the sense, meaning, or effect of any charter provision;

9. Delete any provision superseded by either federal or state law or any charter amendment; and

10. Make such other changes in any charter amendment incorporated into the charter as shall be necessary to conform the style thereof as near as may be with that of the charter; provided that in making the revision, the county attorney shall not alter the sense, meaning, or effect of any article or section."

2. Ballot question: "Shall non-substantive amendments to the Charter be proposed in the form of an ordinance by the County Attorney?"

PROPOSAL NO. 9: PROVIDES THAT AMENDMENTS TO THE ADOPTED BUDGET ORDINANCE SHALL BE MADE PURSUANT TO ARTICLE 4 AS OPPOSED TO CHARTER SEC. 19.07B

1. Text:

"Section 19.07 Consideration and Adoption by Council.

A. Upon receipt of the proposed annual budget, the Council shall immediately publish a notice in a newspaper of general circulation in the county, setting forth (1) a summary of the estimated revenues, including any new sources of revenues, and expenditures; (2) that copies of the budget are available at the office of the county clerk; (3) the date, time and place at which the council will commence its public hearings upon the proposed budget, which shall not be less than ten days after the date of the publication of such notice.

Upon receipt of the mayor's communication which suggests modifications to the proposed annual budget ordinance, the council shall hold a public hearing on the mayor's communication suggesting modifications to the proposed annual budget ordinance. The public hearing shall comply with the provisions of Chapter 92, Hawaii Revised Statutes, as amended. After the public hearing and before final reading of the proposed annual budget ordinance, the council shall approve, deny, or receive the suggested modifications in the mayor's communication.

Upon the conclusion of the hearings, the council may reduce any item or items in the mayor's proposed budget by a majority vote and may increase any item or items therein or add new items thereto by an affirmative vote of two-thirds of the entire membership. The council shall pass on final reading the annual budget ordinance on or before the seventh day of June of the fiscal year currently ending. If final reading is not taken on or prior to such day, the annual budget ordinance as submitted by the mayor on or before March 15 shall be deemed to have been enacted as the budget for the ensuing fiscal year.

B. Amendments to the adopted annual budget ordinance may be submitted by the mayor, unless otherwise provided, and considered by the council under the [same] procedures prescribed in [Section 19.07A for the enactment of the operating budget ordinance] Article IV of the charter, but no amendment shall increase the aggregate of authorized expenditures to any amount greater than the estimate of revenues for the fiscal year."

2. Ballot question: "Shall amendments to the adopted budget ordinance be made by following the procedures established for amending ordinances in general rather than the procedures established for enacting the budget ordinance?"

PROPOSAL NO. 10: ADDS THE PLANNING DIRECTOR AS A MEMBER OF THE BOARD OF WATER SUPPLY, BARS GOVERNMENT MEMBERS OF THE BOARD FROM SERVING AS CHAIR OR VICE-CHAIR, AND CHANGES BOARD'S MEETING REQUIREMENTS

1. Text:

"Section 17.02. Board of Water Supply Organization. The board of water supply shall consist of seven members, [five]four of whom shall be appointed by the mayor with the approval of the council[, one of whom shall be the]. The State District Engineer of the department of transportation[and one of whom shall be], the county engineer, and the planning director shall be ex-officio voting members of the board. The ex-officio members shall not serve as chair or vice-chair of the board. The board shall hold at least [two] one regular [meetings]meeting each month. It shall adopt rules and regulations necessary for the conduct of its business."

2. Ballot question: "Shall the Planning Director be added as a voting member of the Board of Water Supply, shall the State District Engineer of the Department of Transportation, the County Engineer, and the Planning Director be prohibited from serving as chair and vice-chair of the Board, and shall the Board be required to hold at least one, instead of two, meetings per month?"