

2005-2006 HONOLULU CITY CHARTER COMMISSION

FINAL REPORT

DECEMBER 18, 2006

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I. Executive Summary

Article XV of the Revised Charter of Honolulu requires periodic review of the charter by an appointed commission. In the 2004 General Election, the voters of Honolulu passed an amendment to the Charter that called for the appointment of a Charter Commission in 2004 and every ten years thereafter. The 2005-2006 Charter Commission was appointed as a result.

The 2005-2006 Charter Commission was made up of a diverse group of thirteen community leaders. The Commission began by soliciting proposals from the public and then commenced a rigorous process of public testimony, research and deliberation, legal and agency review, revision, and several rounds of voting.

Over 22 months, the Commission held 35 public meetings and received extensive written and oral testimony. Citizens, businesses, organizations, city employees, and elected officials provided input on the proposed charter amendments. Ultimately, the Commission selected eighteen proposals (presented as twelve questions) for placement on the ballot. The Commission selected the ballot questions based on public testimony, and the intent of those amendments are detailed within the minutes.

In the fall of 2006, the Commission carried out a public information campaign involving presentations, advertising, informational materials, and news media to inform the voters.

On November 7, 2006, the voters of the City & County of Honolulu approved the following eight amendments to the Charter:

- Charter Question 3: Land conservation and affordable housing funds
- Charter Question 4: Curbside recycling
- Charter Question 5: Civil fines for ethics violations
- Charter Question 6: Races with two candidates in General Election
- Charter Question 8: Pedestrian- and bicycle-friendly Honolulu; Bikeways
- Charter Question 10: Services of the Emergency Services Director and Fire Chief (included two proposals)
- Charter Question 11: Extend time for capital funds
- Charter Question 12: Additional electronic notice and housekeeping amendments (included seven proposals)

This final report also includes a number of issues for possible future consideration by the City Council and the next Charter Commission.

II. About the Commission

Article XV of the Revised Charter of Honolulu requires periodic review of the charter by an appointed commission. This process helps to ensure that the charter is reviewed and updated to reflect the needs of our changing city.

In the 2004 General Election, the voters of Honolulu passed an amendment to the Charter that called for the appointment of a Charter Commission in 2004 and every ten years thereafter. The 2005-2006 Charter Commission was appointed as a result. The Commission was empowered to propose amendments to the existing charter or to create a draft of a revised charter.

Members of the 2005-2006 Charter Commission were appointed in late 2004 and early 2005. Six members appointed by Mayor Jeremy Harris, six were appointed by the City Council, and one was appointed by Mayor Mufi Hannemann and confirmed by the City Council. The Commissioners are listed below:

Andrew I.T. Chang
Gerald L. Coffee
E. Gordon Grau, Ph.D.
Amy H. Hirano
Jared N. Kawashima
Darolyn H. Lendio
Stephen E. Meder, Arch.D.
Jeffrey T. Mikulina
Jim Myers
James C. Pacopac
Jan N. Sullivan
Donn M. Takaki
Malcolm J. Tom

The Commission elected the following officers:

- *Chair:* Donn M. Takaki
- *Vice Chair:* Jeffrey T. Mikulina
- *Secretary:* James C. Pacopac
- *Treasurer:* Jim Myers

The Chair appointed the following positions:

- *Parliamentarian:* Darolyn Lendio
- *Budget Committee:* Chair Jim Myers, Members Andrew Chang, Darolyn Lendio
- *Personnel Committee:* Chair Darolyn Lendio, Members Jeff Mikulina, Donn Takaki
- *Rules Committee:* Chair Jared Kawashima, Members Jeff Mikulina, Malcolm Tom
- *Style Committee:* Chair Jared Kawashima, Members Darolyn Lendio, Jeff Mikulina, Donn Takaki, Jerry Coffee, James Pacopac, Malcolm Tom

- *Submission and Information Committee:* Chair Jan Sullivan, Members Gordon Grau, Amy Hirano, Donn Takaki, Jeff Mikulina, Darolyn Lendio, Jim Myers

The Commission adopted the following Mission Statement at its September 13, 2005 meeting:

The City Charter should enhance the quality of life for the residents of the City and County of Honolulu: Provide an open, accessible and participatory government; organize government in an efficient and effective manner; enhance the quality of public services; involve residents in the decision-making process; and promote the sustainable use of the City and County of Honolulu's limited resources for future generations.

The Commission hired staff members Executive Administrator Chuck T. Narikiyo, Researcher Nikki Love, and Secretary Loretta Ho. Deputies Corporation Counsel Diane T. Kawauchi, Dawn D.M. Spurlin, and Lori K. K. Sunakoda provided legal assistance to the Commission.

The Commission's process involved the following steps:

1. *Open submission period (July - Oct 2005):* Approximately one hundred proposed charter amendments were submitted by Commissioners, City officials or employees, organizations, and members of the public
2. *Initial review of proposals (Nov 2005 - Jan 2006):* Commission held public meetings and received testimony on the proposals received. The Commission voted to approve 42 proposals to move on to the second round of review.
3. *Second review and community meetings (Mar - Apr 2006):* The Commission held community meetings in Kapolei, Kailua, and Hawaii Kai to solicit further input from the public.
4. *Amendments and second round of voting (Apr - May 2006):* The Commission voted to amend proposals and approved 18 proposals to move forward to the General Election ballot.
5. *Legal and agency review (June 2006):* The Commission solicited further input from Corporation Counsel and City agencies.
6. *Revisions and ballot questions (July - Aug 2006):* The Committee on Style recommended text revisions, combining of proposals, and ballot language to the full Commission.
7. *Final approval of proposed charter amendments (August 2006):* The Commission approved the finalized proposed amendments and ballot language for submission to the City Clerk.
8. *Public information campaign (Sept - Nov 2006):* The Commission carried out a public information campaign to prepare voters for the General Election.
9. *Adoption of charter amendments (November 7, 2006):* Voters approved eight of the twelve charter questions on the General Election ballot.

*Presented by the Submission & Information Committee
Revised November 29, 2006*

Budget – short summary? (spreadsheet in the appendix)

III. Public Participation & Information

The Commission aimed to establish an open process that encouraged public participation.

The Commission began its process with an open submission period (July-October 2005), inviting members of the public to submit proposals for charter amendments. 109 formal written proposals were received, and many other ideas were submitted via mail, e-mail, and phone calls.

The Commission held approximately 35 public meetings and received extensive oral and written testimony from citizens, businesses, organizations, city employees, and elected officials. Commission meeting dates and number of testifiers at each meeting are provided below.

Meeting Date	Oral Testimony	Written Testimony
November 29, 2006	1	1
August 28, 2006	4	5
August 25, 2006 (Submission & Info Committee)	1	0
August 21, 2006 (Style Committee)	3	3
July 25, 2006 (Style Committee)	5	0
July 20, 2006 (Submission & Info Committee)	1	0
July 19, 2006 (Style Committee)	6	1
July 11, 2006	0	0
June 7, 2006	2	0
May 22, 2006 (Style Committee)	3	0
May 10, 2006	94	186
May 2, 2006	49	73
April 18, 2006	10	12
April 4, 2006 (Community Meeting in Hawaii Kai)	51	58
March 28, 2006 (Community Meeting in Kapolei)	15	30
March 21, 2006 (Community Meeting in Kailua)	24	21
February 7, 2006	47	43
January 31, 2006	41	39
January 24, 2006	106	102
January 10, 2006	65	104
December 13, 2005	58	23
November 14, 2005	4	0
October 11, 2005	0	0
September 13, 2005	2	0
July 12, 2005	1	0
June 14, 2005	1	0
May 24, 2005 (Personnel Committee)	0	0
May 16, 2005 (Personnel Committee)	0	0
May 10, 2005	0	0
April 26, 2005	0	0
April 12, 2005	0	0
February 8, 2005	0	0

January 31, 2005	0	0
December 20, 2005	0	0
TOTAL	594 - oral	701 - written

Throughout this process, the Commission posted meeting notices on its website, distributed announcements via email, and issued press releases to newspapers, periodicals, and television and radio outlets. The Commission's work was covered in the *Honolulu Advertiser*, *Honolulu Star-Bulletin*, and other news media.

The Commission maintained a website including background information, meeting agendas and minutes, press releases, proposed charter amendments, and committee reports.

After the finalized ballot questions were submitted to the City Clerk in August 2006, the Commission began an extensive public information campaign to prepare voters for the November 2006 General Election. This effort included the following:

Presentations and Personal Contact

- Presentations to Neighborhood Boards and other organizations
- Response to numerous voter inquiries via phone, mail, e-mail, or in person

Informational Materials

- Publication of brochure containing ballot questions and digest of amendments
- Mailing of brochure to over 250,000 voter households
- Translation of materials into Japanese, Chinese, and Ilocano
- Distribution of brochure via City Clerk's office, public libraries, and satellite city halls
- Distribution of brochure, full text of amendments, and translations to all polling places

Paid Advertising and Earned Media

- Production and broadcasting of TV and radio commercials
- Full-page advertisements in the *Honolulu Advertiser* and *Honolulu Star-Bulletin* on three Sundays
- Advertisements in Japanese, Chinese, and Filipino newspapers
- Interviews by Commissioners on TV and radio shows
- Coverage of Charter issues in TV, print, and online news sources

Internet

- Posting of all materials on the Commission's website

IV. Proposed Charter Amendments on the 2006 General Election Ballot

The Charter Commission selected twelve questions for placement on the November 7, 2006 General Election ballot. Below are the ballot questions and digest of the amendments.

CHARTER QUESTION 1: Should City Council term limits be replaced by Alternative A or B below; and, separately, to address concerns relating to election of City Council members caused by reapportionment every ten years, should staggered terms be replaced by Alternative A or B below?

Vote YES or NO

Present: The City Council consists of nine members who are elected to four-year terms. Councilmembers and the Mayor are currently limited to two consecutive four-year terms. Councilmembers' terms are also staggered, so that five of the seats are elected in one election, and the other four seats are elected in the next election two years later.

If proposal passes:

- The current system of term limits and staggered terms for the Council would be changed.
- The new system for the Council would be determined by the result of the vote on the next question.
- The term limit for the Mayor would not be changed.

CHARTER QUESTION 2: If Charter Question 1 is approved, which proposal relating to Councilmember terms should be adopted?

- **ALTERNATIVE A. Term limits for Councilmembers and the staggering of Councilmembers' terms shall be eliminated.**
- **ALTERNATIVE B. Councilmembers shall be limited to serving a maximum of three consecutive four-year terms, and the staggering of Councilmember terms shall be eliminated.**

Vote A or B

Note: Whether you voted "yes" or "no" on the previous question, you may still cast a vote on this question. If the previous question passes, then the new system will be determined by the result of the vote on this question. If the previous question does NOT pass, then the result of the vote on this question will not take effect.

Present: City Council members and the Mayor are currently limited to two consecutive four-year terms. Councilmembers' terms are staggered, so that five of the seats are elected in one election, and the other four seats are elected in the next election two years later.

If ALTERNATIVE A is selected:

- Staggering of Councilmember terms would be eliminated, so that all seats would be up for election in the same year.

- Council term limits would be eliminated; Councilmembers may be re-elected without limit on number of terms served.
- The term limit for the Mayor would not be changed.

If ALTERNATIVE B is selected:

- Staggering of Councilmember terms would be eliminated, so that all seats would be up for election in the same year.
- Council term limits would be extended, so that Councilmembers may serve up to three consecutive four-year terms.
- Councilmember terms already served would not count toward the limit, so current incumbents would be eligible for an additional three consecutive four-year terms.
- The term limit for the Mayor would not be changed.

CHARTER QUESTION 3: Should one percent of annual property tax revenues be appropriated to funds for land conservation and affordable housing?

Vote YES or NO

Present: There are no specially dedicated funds for acquisition of public lands for land conservation or for providing and maintaining affordable housing.

If proposal passes:

- A minimum of one percent of real property tax revenues would be placed in two special funds; one fund would be known as the “Clean Water and Natural Lands Fund” and the other would be known as the “Affordable Housing Fund.”
- Moneys in the “Clean Water and Natural Lands Fund” would be used to purchase or acquire real estate for land conservation.
- Moneys in the “Affordable Housing Fund” would be used to provide and maintain affordable housing for persons earning less than fifty percent of the median household income in the city.
- Moneys in the funds would not lapse, but shall remain in the funds, accumulating from year to year.

CHARTER QUESTION 4: Should the powers, duties, and functions of the Director of Environmental Services include comprehensive curbside recycling?

Vote YES or NO

Present: The powers, duties, and functions of the Director of Environmental Services include the development and administration of solid waste collection, processing, and disposal systems, but do not specifically include curbside recycling.

If proposal passes:

- The powers, duties, and functions of the Director of Environmental Services would also include developing and administering a comprehensive curbside recycling system.

CHARTER QUESTION 5: Should the Ethics Commission have the authority to impose civil fines on elected officers for ethics violations?

Vote YES or NO

Present: The Ethics Commission can make recommendations for disciplinary action against elected officers, but cannot impose fines or other discipline.

If proposal passes:

- Ethics Commission would have the power to impose civil monetary fines against elected officers of the City.
- The amount of the fines would be established by ordinance.

CHARTER QUESTION 6: Should races with only two candidates be held in the General Election instead of the Primary Election?

Vote YES or NO

Present: All City elections, even those involving two candidates only, are held during the first special election (on Primary Election day).

If proposal passes:

- In any City election in which there are only two candidates for a position, the election would be held at the second special election (on General Election day), rather than at the first special election (on Primary Election day).

CHARTER QUESTION 7: Should the City Council's power to reject Salary Commission recommendations be eliminated?

Vote YES or NO

Present: The City Council has the power to reject the Salary Commission's recommendations as to the salaries of elected officials and certain high-ranking City employees.

If proposal passes:

- The Salary Commission's decisions on salaries and salary schedules would be final.
- The City Council would not be able to reject the Salary Commission's decisions.

CHARTER QUESTION 8: Should one of the priorities of the Department of Transportation Services be to make Honolulu a pedestrian- and bicycle-friendly city, and should the powers, duties, and functions of the Director of Transportation Services include bikeway systems?

Vote YES or NO

Present: The Director of Transportation Services is responsible for transportation systems, public transit, traffic control facilities and devices, traffic safety programs, and other duties.

If proposal passes:

- The powers, duties, and functions of the Director of Transportation Services would also include bikeway systems.
- The Charter would state that it shall be one of the priorities of the Department of Transportation Services to make Honolulu a pedestrian- and bicycle-friendly city.

CHARTER QUESTION 9: Should the Liquor Administrator, Deputy Administrator, and secretary be exempt from civil service provisions?

Vote YES or NO

Present: The positions of Liquor Administrator and Deputy Liquor Administrator are civil service positions.

If proposal passes:

- The Liquor Administrator, Deputy Liquor Administrator and a new secretary position would be exempt from civil service provisions.
- The Liquor Commission would have the power to appoint and remove the Liquor Administrator.
- The Liquor Administrator would have the power to appoint and remove the Deputy Liquor Administrator and a secretary in a new exempt position.

CHARTER QUESTION 10: Should the Charter be amended to state the additional services currently being provided by the Director of Emergency Services and by the Fire Chief?

Vote YES or NO

Present: The powers, duties, and functions of the Director of Emergency Services and the Fire Chief are set forth in the Charter, but do not specify certain powers, duties, and functions relating to emergency medical services, ocean safety, hazardous materials, and injury prevention that are already being performed by the departments.

If proposal passes:

- The powers, duties, and functions of the Director of Emergency Services would specify that the Director shall be the primary provider of emergency medical care, and that the Director would develop programs related to injury prevention, provide for ocean safety programs, and be the primary responder to emergencies arising on the beach and near shore waters.
- The powers, duties, and functions of the Fire Chief would specify that the Fire Chief shall also provide emergency medical care and specify that the Fire Chief shall respond to hazardous material incidents.

CHARTER QUESTION 11: Should capital budget appropriations lapse 12 months after the fiscal year, instead of the current 6 months?

Vote YES or NO

Present: The capital budget includes appropriations for constructing public improvements, acquiring land, and carrying out planning and engineering studies. Appropriations authorized in the capital budget may be spent during that fiscal year and for 6 months thereafter.

If proposal passes:

- The time would be extended, so that money appropriated in the capital budget may be spent during the fiscal year and for 12 months thereafter.

CHARTER QUESTION 12: Should the Charter be amended to also provide public notice by electronic medium and for housekeeping amendments (i) to conform to current functions and operation, (ii) to conform to legal requirements, (iii) to correct an inadvertent omission, and (iv) for clarity?

- Revise the powers, duties, and functions of the Director of Information Technology;**
- Include the Director of Customer Services in the list of department heads to be appointed by the Mayor with the advice and consent of the Council and may be removed by the Mayor;**
- Include the reference to the Hawaii Constitution prohibition on Ethics Commission members from taking active part in political campaigns;**
- Delete the unconstitutional prohibition on political campaigning by Police Department employees;**
- Delete the Civil Defense Administrator from the list of department heads to be appointed by the Mayor with the advice and consent of the Council and who may be removed by the Mayor;**
- Delete the requirement of Social Security numbers on petitions for recall, ordinances by initiative, and charter amendments;**
- Require public notices to also be distributed via electronic medium.**

Vote YES or NO

This ballot question combines seven items. One item is to also provide public notice by electronic medium and the remaining items are housekeeping amendments to conform to current functions and operations, to conform to legal requirements, to correct an inadvertent omission and for clarity. If the proposal passes:

- Language regarding the Department of Information Technology would be modernized to use terms such as “information technology” and “telecommunications” instead of “data processing.”
- To correct an inadvertent omission, the Director of Customer Services will be included in the list of department heads to be appointed by the Mayor with the advice and consent of the Council and may be removed by the Mayor.

- (c) For clarification, the Charter would include a reference to the Hawaii State Constitution prohibition on Ethics Commission members from taking an active part in political campaigns.
- (d) To conform to a court decision, the unconstitutional prohibition on political campaigning by Police Department employees would be deleted from the Charter.
- (e) To conform to legal requirements, the Civil Defense Administrator would be deleted from the list of department heads who are appointed by the Mayor with the advice and consent of the Council and may be removed by the Mayor.
- (f) To conform to federal law, the requirement of Social Security numbers on petitions for recall, ordinances by initiative, and charter amendments would be deleted.
- (g) In addition to the requirement that public notice be published in a newspaper of general circulation, public notices would be required to be distributed via an electronic medium.

V. November 7, 2006 General Election Results

On November 7, 2006, eight of the twelve ballot questions were approved by the voters of the City & County of Honolulu. Detailed results are shown below.

Bold font indicates amendments that passed

Question	YES	NO	Blank votes	Over votes
Charter Question 1: Change term limits and staggering of terms	96,642 40.5%	113,711 47.7%	27,973 11.7%	185 0.1%
Charter Question 2: Two alternatives for term limits and staggering	<i>Alt. A:</i> 47,937 20.1%	<i>Alt. B:</i> 140,668 59.0%	49,754 20.9%	152 0.1%
Charter Question 3: Land conservation and affordable housing funds	130,220 54.6%	92,464 38.8%	15,664 6.6%	163 0.1%
Charter Question 4: Curbside recycling	178,476 74.8%	41,303 17.3%	18,659 7.8%	73 0.0%
Charter Question 5: Civil fines for ethics violations	194,516 81.6%	25,719 10.8%	18,218 7.6%	58 0.0%
Charter Question 6: Races with two candidates in General Election	154,346 64.7%	64,820 27.2%	19,244 8.1%	101 0.0%
Charter Question 7: No Council rejection of Salary Commission	93,706 39.3%	120,300 50.4%	24,266 10.2%	239 0.1%
Charter Question 8: Pedestrian- and bicycle-friendly Honolulu; Bikeways	171,941 72.1%	49,649 20.8%	16,850 7.1%	71 0.0%

(continued on next page)

Question	YES	NO	Blank votes	Over votes
Charter Question 9: Liquor Administrator exempt from civil service	90,627 38.0%	122,847 51.5%	24,905 10.4%	132 0.1%
Charter Question 10: Services of the Emergency Services Director and Fire Chief	169,351 71.0%	41,943 17.6%	27,164 11.4%	53 0.0%
Charter Question 11: Extend time for capital funds	111,301 46.7%	99,993 41.9%	27,150 11.4%	67 0.0%
Charter Question 12: Additional electronic notice and housekeeping amendments	153,235 64.2%	48,561 20.4%	36,643 15.4%	72 0.0%

Source: Hawaii Office of Elections - Final Summary Report 11/8/06 5:42 p.m.
<http://www.hawaii.gov/elections/results/2006/general>

VI. Issues for Future Consideration

Overall, the Commission was pleased with the process and results. However, the Commission recognizes that many different approaches can be taken with regard to revision of the Honolulu City Charter. In order to provide some guidance for future efforts to revise and improve the Charter, including future Charter Commissions, the 2005-06 Charter Commission offers the following.

For City Council

The Commission received numerous ideas for amendments to the Charter, but decided only on a limited number for inclusion on the ballot. Some of these other proposals may be considered for future submission by the City Council. A list of the proposals received by the Commission is included in the Appendix. In addition, some of the proposals that the Commission placed on the 2006 ballot but were not accepted by the voters may bear revisiting in the future.

The Commission noticed there was some voter confusion in this past election resulting from different standards: currently, blank and over-votes on proposed Charter amendments are not considered; whereas blank and over-votes on State Constitutional amendments have the effect of “no” votes. The Commission feels it would alleviate confusion if the effect of votes on proposed changes to the City Charter were the same as that of votes on State Constitutional amendments. The Commission believes the City’s method is preferable, but assuming the State Constitution cannot be changed, it may be worth considering changing the City Charter so that the two methods match.

The Commission also received some technical, non-substantive Charter amendment proposals that may also be considered in future elections. These included addition of historical citations at the end of each section; updating of case note annotations; and addition of tables of disposition.

For the Next Charter Commission (2014)

There are many approaches that can be taken with regard to revision of the City Charter. This Commission decided to consider proposals to various sections of the Charter rather than undertake a comprehensive redrafting of the Charter. Should a future Charter Commission decide to attempt a comprehensive revision, this decision will need to be made early in the process. In addition, should a future Commission decide on a comprehensive revision or consideration of addition or elimination of entire Charter sections, experts or consultants should be hired to assist in the process. The Commission has included its rules, calendar, and chronology as a guide for future Commissions.

Some particular issues of note include:

- The Commission used Robert’s Rules of Order as a guide to parliamentary procedure.
- The Commission required a majority of members present for most actions, but a majority of the full membership (seven votes) for matters of substance.

- The Commission was briefed on past Commissions' process and procedures by the Corporation Counsel's office before selecting its Chair, which the Commission found very helpful.
- The Commission believed that the payroll, staffing, and budget for public education were all appropriate.
- The Commission decided not to include an analysis of "pros" and "cons" in its public informational material on the Charter Questions. However, the Commission believes it may be highly beneficial to create a pros/cons document next time.
- Future Commissions should consider deleting sections that no longer belong in the Charter.

It is the Commission's sincere hope that their efforts, and the decisions of the voters, resulted in changes that fulfilled its mission statement.

VII. Appendices

- Charter background & talking points
- Chronology of the 2005-2006 Charter Commission process
- Flow chart of the Commission's review process
- Commission calendars
- Commission rules
- List of proposed charter amendments
- Script for radio and TV ads
- Newspaper advertisement
- Brochure
- Website summary
- Budget spreadsheet
- Staff position descriptions
- Media list for press releases
- List of organizations, companies, and agencies
- Certificate of Results from City Clerk

The following documents will be kept in the City's archives. Please contact the Municipal Library for information.

- Meeting agendas and minutes
- Commission office correspondence and other files
- Proposals
- Testimony
- Full text, brochure, other handouts
- Translations
- Copy of the 2006 ballot
- Press releases
- News clippings
- Website printouts
- PowerPoint presentation
- Research memos
- Electronic files (documents, TV commercial, radio ad, website files) on a CD