

# KULA COMMUNITY ASSOCIATION

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The vision of the Kula Community Association is to preserve open space, support agriculture, maintain a rural residential atmosphere, and to work together as a community. The specific purpose of this Association is to improve the quality of life for the residents of Kula, to promote civic welfare and generally to benefit the community of Kula.

## KCA Board Recommendations on Proposed Amendments to the Maui County Charter

(Adopted by KCA Board of Directors March 2002) 1) PROPOSAL ONE - ADJUST COUNCIL DISTRICTS

(3-1) Council Districts. Maintain the present system of at-large council elections, with requirements that the nine council members live in nine defined areas of the County, and maintain the requirement that one council member be from each of Lana`i, Moloka`i, and East Maui (as presently defined), but adjust the other six districts so that they each have about the same numbers of registered voters in them. (This adjustment will require expanding the size of the West Maui district somewhat and reducing the size of the South Maui district somewhat.) (As a housekeeping matter, the descriptions of the districts need to be adjusted to reflect the current precinct numbering.)

### KCA Board Position

KCA supports the at-large election system.

- The at-large election system helps ensure that all council members work for the benefit of the County as a whole.

KCA supports the residency requirement.

- The residency requirement ensures that each council member has close identity with a specific district and its residents.

2) PROPOSAL TWO - LENGTHEN TERMS OF COUNCILMEMBERS FROM TWO (2) TO FOUR (4) YEARS

(3-2) Council Terms. Extend the term of each council member from two years to four years, with staggered terms for council members (i.e., five will be elected in one election, and the four others will be elected two years later). (In the first election, the five receiving the largest votes will have four year terms, and the next four will have two year terms.)

### KCA Board Position

No position, but leave on the ballot for the electorate to decide.

### 3) PROPOSAL THREE - ELIMINATE TERM LIMITS FOR COUNCILMEMBERS

(3-2) Term Limits. Eliminate term limits for council members. (Term limits are now set at five consecutive two-year terms, for a total of ten years).

KCA Board Position

No position, but leave on the ballot for the electorate to decide.

### 4) PROPOSAL FOUR - ELIMINATE SECOND ELECTION IF A CANDIDATE RECEIVES 50% OF THE VOTE IN THE FIRST ELECTION.

(3-2 and 7-2) Majority Wins. Revise so that a candidate receiving more than 50% of the vote in the first special election for Council or Mayor will be deemed elected without having to be placed on the ballot a second time.

KCA Board Position

KCA does not support the elimination of run-off elections.

Do not put this question on the ballot.

- Given the typically low voter participation in primary elections, a person could be elected by very few votes after only a primary campaign.
- If this proposal passed it could benefit candidates by reducing campaign costs but at the price of diminishing the power of the electorate.

### 5) PROPOSAL FIVE - ALLOW COUNCILMEMBERS TO TALK TO AND OBTAIN INFORMATION DIRECTLY FROM COUNTY OFFICERS AND EMPLOYEES.

(3-8.2) Council Access to Information. Revise so that council members can talk to and obtain information from County employees or officers directly (without going through the Mayor), but reaffirm the requirement that council members cannot give orders to County personnel either publicly or privately.

KCA Board Position

KCA supports allowing council members freer access to information.

- This proposal, if adopted, would provide council members the same access to information as other county officials and members of boards and commissions. Information flow would be facilitated and the balance of power would be equalized.
- Prohibiting Council Members from giving orders to County personnel ensures that the administrative chain of command functions as intended. Consider amending the proposal to require council members to provide the Mayor a copy of their request.
- The administration should be informed of issues of interest and concern to council members.

Consider amending the proposal to specify how members of boards and commissions can access information from staff.

- To make informed decisions, volunteers serving on boards and commissions need to have access to County information.

### 6) PROPOSAL SIX - CLARIFY THE RESPONSIBILITIES OF THE CORPORATION COUNSEL

(8-2.3) Department of the Corporation Counsel. Clarify the role of the Corporation Counsel to recognize the broad responsibility of this office to represent the County in a variety of situations (1) by changing the present language of 8-2.3(b) ("Be the

chief legal advisor and legal representative of the council, the mayor, all departments, all boards and commissions, and of all officers and employees in matters relating to their official duties.") to a broader formulation ("Be the chief legal advisor and legal representative of the County of Maui, through the council, the mayor, all departments, all boards and commissions, and of all officers and employees in matters relating to their official duties.") and (2) by changing the present language of 8-2.3(d)("Perform such other duties and functions as shall be assigned by the mayor.") to a broader formulation ("Perform such other duties and functions as may be incident to the department or required by law.").

#### KCA Board Position

KCA supports clarifying the role of the Corporation Counsel.

- The proposed language emphasizes that the Corporation Counsel serves the County of Maui, "through the council, the mayor,...." and does not merely represent the separate entities comprising the county.

Consider amending the proposal to specify how Council/Mayoral disputes will be resolved, ensuring the council the authority to obtain separate counsel in certain instances.

- When disputes arise, an effective means of resolving Council/Mayoral disputes could help the County function more efficiently. Consider amending the proposal to clarify the intent of the phrase "incident to the department" or to delete it.

- This phrase seems to narrow the scope of the responsibilities of the Corporation Counsel to "the department", in contradiction to the other proposed language that broadens the responsibility of the office.

7) PROPOSAL SEVEN - BROADEN THE POWERS OF THE DEPARTMENT OF PUBLIC WORKS AND WASTE MANAGEMENT TO INCLUDE PUBLIC TRANSPORTATION AND ENVIRONMENTAL PROTECTION AND CHANGE ITS TITLE TO THE "DEPARTMENT OF PUBLIC WORKS, TRANSPORTATION, AND ENVIRONMENTAL PROTECTION" (8-5.3) Department of Public Works and Waste Management. Amend the "Powers, Duties and Functions" of the Department of Public Works and Waste Management to give it responsibility over public transportation, broaden its responsibilities regarding environmental protection, eliminate the explicit reference to maintaining county buildings, and change the title of this department to become the "Department of Public Works, Transportation, and Environmental Protection."

#### KCA Board Position

Revise the proposal as follows: do not increase the size of the existing Department of Public Works and Waste Management.

- Combining all functions in one department could result in focusing on only the immediate tasks and crises at the expense of the long term needs of our environment and transportation problems.

Consider reorganizing the Department's major functions as follows: place the "Transportation Coordination" function within the Long Range Planning Division; establish a separate Department of Public Works with the current Engineering, Highways, and Land Use and Codes divisions; and establish a separate Department of Environmental Services to manage all solid and liquid waste (including recycling,

litter control, waste water reclamation) and to promote environmental protection (including flora, fauna, coastal areas, open space, and wetlands).

- The separation of functions could bring needed attention and resources to the critical areas of transportation and environment.
- Under the current organizational structure, the Department is the largest county department in terms of budget and numbers of employees.

Consider other alternatives, including: create an Environmental Protection division in the Planning Department, leave the Solid Waste division in the Department of Public Works, and either leave the Waste Water division in the Department of Public Works or move it to the Department of Water Supply.

- The functions of environmental protection and waste water are placed in various departments in other counties and the decision will need to be based on the overall structure that will best serve the citizens of Maui now, in the next decade, and beyond.

#### 8) PROPOSAL EIGHT - GIVE THE PUBLIC SAFETY COMMISSION THE RESPONSIBILITY TO HIRE AND FIRE THE FIRE CHIEF (WITH DUE PROCESS PROTECTIONS GIVEN TO THE CHIEF), AND TO REVIEW THE BUDGET OF THE DEPARTMENT OF FIRE CONTROL.

(8-7.4) Public Safety Commission. Give the Public Safety Commission the power to hire and fire the Fire Chief (providing the Fire Chief the same due process protections now provided to the Police Chief in Section 8-12.3), and also give the Public Safety Commission the same power to review the budget of the Department of Fire Control that the Police Commission has regarding the Department of Police (in Section 8-12.2(2)).

KCA Board Position

No position, but leave on the ballot for the electorate to decide.

#### 9) PROPOSAL NINE - CLARIFY THE RESPONSIBILITIES OF THE DEPARTMENT OF PLANNING WITH REGARD TO LONG-RANGE PLANNING, CULTURAL RESOURCES, ENFORCEMENT, TIMELY DECISION MAKING, AND THE COMMUNITY PLANS.

\* (8-8) Department of Planning. Revise the responsibilities of the Planning Commission by:

\*\* Requiring the Department to prepare and administer (a) long range planning programs to implement the General Plan and (b) a cultural resources management program (Section 8-8.3).

\*\* Requiring the Department to enforce zoning ordinances (Section 8-8.3).

\*\* Requiring the Planning Commissions to review and take action on revisions to the general plan and other land use ordinances and amendments within defined time limits (180 and 120 days) after the final public hearing (Section 8-8.4).

\*\* Clarify the purpose and nature of the General Plan, incorporating language from Hawai'i Revised Statutes Section 226-58 regarding county general plans (Section 8-8.5).

\*\* Clarify the role of the Citizen Advisory Councils in the planning process, by adding language saying that "The community plans generated through the citizen advisory

councils and accepted by the planning commission and county council pursuant to the deadlines in this chapter are part of the general plan" (Section 8-8.5).

\*\* Require the County Council to review and take action on revisions to the general plan and other land use ordinances and amendments within defined time limits (one year and 180 days) after transmittal (Section 8-8.6).

KCA Board Position

KCA supports requiring the Department to be responsible for long-range planning and cultural resources. However, revise the proposal to require monitoring of implementation and specify that all of these responsibilities apply to both the Department and the Commissions (8-8.3 and 8-8.4).

- Long-range planning and management of our cultural resources will help ensure preservation of our past and promote the County's economic health and the citizens' well being. KCA supports the proposal to require the Department to enforce zoning ordinances, but consider adding a provision authorizing the Department to utilize the Prosecutor's staff to enforce zoning, the General Plan, the Community Plans, SMA permits, and other requirements.

- Enforcement of all elements of the planning process is critical to ensuring that the citizens' visions and plans are carried out. KCA supports the proposal to establish time limits for action by the Commissions and the Council on revisions to the General Plan and land use ordinances. Consider staggering the dates that the Community Plans come to the Council - with no more than two per year, and setting a deadline each year as is done for the budget.

- Realistic time limits will expedite the process and address the citizens' frustration with delays. Just as the budget has a deadline each year, the Community Plans could have a deadline of September 1 in the second year of the two year council term. KCA supports clarifying the purpose of the General Plan and the role of the Citizen Advisory Councils revisions (8-8.5). However, the proposed language on CACs should conform to changes addressed in Proposal Ten for permanent Community District Boards. Also, consider creating a new section (8-8.8 on Community District Boards (and including their responsibilities, authority, membership, staff support, etc.).

#### 10) PROPOSAL TEN - CREATE COMMUNITY DISTRICT BOARDS TO MAKE THE CITIZEN ADVISORY COMMITTEES (CACs) PERMANENT, ADJUST THEIR BOUNDARIES, AND EXPAND THEIR POWERS.

(8-8) Community Advisory Councils (CACs) - Adjust the geographical boundaries of these Councils so that they conform to the boundaries of Council districts, give them a permanent status, and expand their powers (exercised within their geographical limits) to include powers now administered by the Arborist Committee, the Cultural Resources Commission, the Commission on Naming Streets, Parks and Facilities, and the Street Lighting Committee, and possibly, subject to subsequent Council determination, the Hana Advisory Committee to the Planning Commission, the Kula Agricultural Park Committee, the Lana'i Planning Commission, the Maui Planning Commission, the Molokai Planning Commission, the Napili Bay Civic Improvement District Advisory Committee, the Redevelopment Agency, the Traffic Safety Council, and the Urban Design Review Board.

## KCA Board Position

KCA supports the proposal to adjust boundaries of CACs to conform to boundaries of Council districts.

- Making CAC and Council district boundaries the same could strengthen district identity, increase accountability, and reduce current confusion where Council and CAC districts overlap with one community plan in two districts or one district under different community plans. This proposal will need to be considered in conjunction with Proposal One - Adjust Council Districts. KCA supports the proposal to give CACs permanent status.

- Giving permanent status to the CACs would provide continuity to the planning process at the community level. Citizens who helped develop the Community Plan would be able to monitor its implementation and enforcement and make recommendations for review and revision. Revise the proposal on expanding the CACs powers as follows: limit expansion of powers; do not reassign specialized, countywide functions to CACs; consider having powers of the CACs established in ordinance.

- Assign the CACs the function of developing the community plan, monitoring its implementation and enforcement, and reviewing and revising it as appropriate.

- The CACs should be assigned only those functions that could be handled locally and do not require countywide perspective. For example, recommendations on street naming and street lighting could be handled appropriately at the CAC level while functions of the Arborist Committee and Cultural Resources Commission require specific expertise and countywide representation. Reassignment of too many specialized functions to CACs would result in a work load beyond the capacity of a volunteer citizen body. Finding qualified volunteers with the expertise required for the specialized functions would be difficult in the pool of citizens available in some districts. Amend the proposal to specify the method of selecting members and the role of the committees/councils

- The charter proposal should indicate the method of selecting the membership, terms of office, and functions or require these items to be enacted by ordinance. These are important issues that should be addressed if the proposal is before the electorate. Consider amending the proposal to specify appointment of members by the Council (one appointee per Council Member) and the Mayor (two appointees), with staggered terms and term limits.

- Appointment, rather than election, could help bridge the transition from the current practice of temporary, appointed CACs to permanent CACs.

- Staggered terms could provide "institutional memory" for the CACs and Council. Consider amending the proposal to rename the CACS as Citizen Advisory District Committees.

- Renaming will better describe the areas the CADCs serve, as well as their role (advisory). The CADCs could be given a specific role in establishing the District Plans and the responsibility for helping to see that they are implemented and enforced.

- The new name will also avoid the present confusion with CACs being referred to as either Citizen Advisory Committees or Community Advisory Councils. 11)

PROPOSAL ELEVEN - PROVIDE DUE PROCESS PROTECTION IN THE EVENT OF THE TERMINATION OF THE DIRECTOR OF PERSONNEL SERVICES.

(8-9.2) Director of Personnel Services. Provide the Director of Personnel Services with the same due process protections, in the event of a termination, that are now provided to the Chief of Police in Section 8-12.3.

KCA Board Position

No position, but leave on the ballot for the electorate to decide.

12) PROPOSAL TWELVE - STAGGER THE TERMS OF MEMBERS OF THE SALARY COMMISSION.

(8-16.1) Salary Commission. Amend the appointment process so that the nine members of this Commission will have staggered five-year terms, with two being appointed (with approval of the Council) every year (one in the fifth year), to provide greater continuity.

KCA Board Position

No position, but leave on the ballot for the electorate to decide.

13) PROPOSAL THIRTEEN - COMMIT THE COUNTY TO A PLAN OF OPEN-SPACE ACQUISITION (Article 9 & 8-6) Open Space. Commit the County to a program of acquiring more land for open space (but leaving the details of the program for subsequent legislative development), by adding language to the Charter that would establish a fund to purchase and conserve lands that are valuable to the public and visitors as parks, recreation areas, open space, view corridors, natural resources, and wildlife habitats, including beaches, coastal areas, forests, watersheds, and cultural and historic sites, with the requirement that the remaining balance in the fund at the end of each fiscal year shall not lapse, but shall remain in the fund, accumulating from year to year.

KCA Board Position

KCA supports the proposal to create a fund for acquiring open-space, with provision for accumulation of fund balances.

- A Charter commitment to acquire open space will emphasize the value of these lands for economic and environmental reasons and quality of life for present and future generations.

- Funds should not have to be expended annually, because purchase opportunities may occur sporadically and certain parcels may require more than one-year's savings.

Consider amending the proposal to ensure minimum funding levels, including: designate a specific funding source and/or require a minimum amount or percent to be contributed annually to the fund. Alternatively, specify that such provisions shall be established by ordinance.

- The electorate may be more confident in supporting such a proposal if the amount, source, management, and appropriate use of the fund are specified.

Consider amending the proposal to assign responsibility of the fund to the Environmental Services Department or Environmental Protection Division as addressed in Proposal Seven.

14) PROPOSAL FOURTEEN - REDUCE THE SIGNATURE REQUIREMENTS FOR INITIATIVE AND RECALL. \* (Articles 11 & 12) Initiative and Recall. Revise these provisions to enable citizens to utilize these procedures more readily by requiring the signatures of 10% of the number of persons who actually voted in the last general election (rather than the current requirement of 20% of the registered voters) and increasing the time limit to obtain the signatures from 30 to 90 days.

KCA Board Position

KCA supports the proposal only to extend the length of time to collect signatures from 30 to 90 days.

- The proposed 90-day time limit is more realistic than the present 30-day limit, given the size of the population and the difficulties in collecting signatures from citizens who spend much of their day at work, in transit, and meeting family obligations. KCA supports the proposal to base the number of signatures required on the number who voted in the last general election rather than those who are registered to vote.
- The number of voters in the last general election turnout is more realistic than the number of registered voters because people may be left on the poll lists after they have moved or ceased voting. Revise the proposal on the number of signatures required by increasing the requirement from 10 percent to 20 percent of voters in the last general election.
- Reducing the percent of signatures required to 10 percent could make collecting the signatures so easy that elected representatives and the citizenry could be subjected to the inconvenience, expense, and abuses of the process by single-issue and non-local advocacy groups and other such forces. Revise the proposal by separating the two items on the ballot.
- Initiative and recall are two separate articles in the Charter and should be considered independently because they may be initiated by different groups for different purposes.

15) PROPOSAL FIFTEEN - PROVIDE GREATER NOTICE OF MEETINGS (Section 13-2(11)) Notice of Meetings. Amend this provision to require that notices of public hearings be conveyed through the best available means to reach the public, including the most accessible technology.

KCA Board Position

KCA supports the proposal with the following revisions: include addresses in addition to TMKs; require notice of all meetings of boards and commissions, in addition to public hearings.

- The public may not have ready access to TMKs and generally relates to street addresses rather than TMKs.
- The current language of this section addresses only public hearings, not other meetings. Public business conducted by the boards and commissions should be noticed so that members of the public can attend and participate as appropriate.
- The proposed revisions would facilitate public participation in the governmental process by making information on public meetings more accessible and understandable.



#### 16) PROPOSAL SIXTEEN - LOCATION OF MEETINGS.

\* (Article 13-9(2)) Location of Meetings. Amend the provision requiring meetings of boards and commissions to be held "in the county building or other publicly owned place" to read "in the county building or in buildings that are accessible to the public."

##### KCA Board Position

KCA supports the proposal to allow public meetings to be held in any building that is accessible to the public.

- Meeting rooms are scarce and trying to comply with the "letter of the law" can result in inconveniences for members of boards and commissions as well as the public.

#### 17) PROPOSAL SEVENTEEN - ALTERNATIVE OPTIONS REGARDING THE RESTRUCTURING OF THE DEPARTMENT AND BOARD OF WATER SUPPLY (8-11.1)

The Department and Board of Water Supply are now "semi-autonomous," because the rates determined by the Board of Water Supply come into force only if approved by the Mayor and the Council, and the Mayor's approval can be vetoed by a two-thirds vote of the Council. Should the Board of Water Supply become more autonomous (with unreviewable power to set rates and set regulations) or should it be integrated fully into the Executive Branch, under the Mayor, like other County departments? Should the Board be authorized to coordinate private water systems to promote the public trust interests in water, while respecting private property rights?

##### Proposal 17-A - Make the Department and Board of Water Supply More Autonomous

Under this approach, the Board of Water Supply would have the final authority to set water rights and to make decisions regarding the development of water supplies. To ensure proper expertise and some linkage to other County operations, the Director of the Planning Department and the Director of the Department of Public Works and Waste Management would be voting members of the nine-member Board, and at least two of the seven appointed members would have at least five years of experience in the area of water resource management. The Director would be evaluated annually by the Board, and the accounts, financial status, and management operation of the Department would be audited annually by an outside certified public accountant. The Board would be empowered to hire outside legal counsel when necessary.

##### Proposal 17-B - Make the Department of Water Supply a Part of the Executive Branch, Like Other Departments.

Under this approach, the Mayor would appoint the Director of Water Supply (with the approval of the Council), the Board of Water Supply would become advisory in nature (recommending rules and regulations, but having no power of its own), and the Department would be a part of the Executive Branch, under control of the Mayor, just like other departments. Rules, regulations, and rate-changes would all ultimately be the responsibility of the Mayor and the Council.

##### KCA Board Position

With regard to the question, "Should the Board be authorized to coordinate private water systems to promote the public trust interests in water, while respecting private property rights? ", KCA supports addressing the public trust interest in water as a separate Charter proposal. The issue of oversight and coordination of private water systems should be separated from the autonomy and departmental questions.

- Coordination of all water systems is essential to proper management of water as a public trust interest. This responsibility should be a core function for the Board and Department of Water Supply, whatever governance structure is selected.

If proposal 17-A is to be placed on the ballot, consider revising the proposal to specify that the autonomous Board of Water Supply shall be elected.

- An autonomous Board of Water Supply would be too independent and potentially powerful to not be directly accountable to the electorate.

#### KCA Board Recommendations for Additional Charter Amendments to Consider

##### KCA RECOMMENDATION A - ESTABLISH A NOMINATION COMMITTEE

Create a "blue ribbon" Nomination Committee that will meet annually to nominate candidates for the major boards and commissions (Planning, Water, Ethics, Adjustments and Appeals, Cultural Resources, etc.). The selection for the three year, non-renewable membership on the Nomination Committee will be made by a recommendation of one member by each Council member and two members by the Mayor. The Committee will select its own chair. The nomination committee will be staffed by the office of Council Services. The Committee will make the effort to recruit the best people for each board and commission, review applications, and send its recommendations to the Council for ratification.

- Our county government will work best if we have the best people involved. At present the Mayor has the responsibility for making all the nominations.

- A nomination committee comprised of individuals with varied backgrounds, representing diverse interests and each area of the county, will be able to access a broad and deep pool of potential volunteers for county service.

##### KCA RECOMMENDATION B - TERMS FOR VOLUNTEER BOARDS AND COMMISSIONS

Set the terms on boards and commissions for three years with the possibility of a single one-term extension. Limit a board or commission member service on the same board or commission to a maximum of six years.

- The present five-year terms require a time commitment that precludes many people from serving.

- A three-year term would be sufficient time for an individual to learn the responsibilities required, make informed decisions, and contribute fully to the work of the board or commission for the majority of the term.

- The option for a one-term extension would provide the opportunity to continue service for a total time equal to only one year longer than the present five-year single term.

KCA RECOMMENDATION C - PARKS/ENVIRONMENT/OPEN SPACE BOARD OR COMMISSION

Establish a Charter-level board or commission to advise and assist appropriate County agencies and officials on the management and protection of the parks, environment, and open space; to consult on the acquisition of open space and the use of the proposed Open Space Fund.

- The function of volunteer citizen participation in this area should be elevated to Charter-level as the responsibilities become more complex and more critical to the well-being of the county.
- Having a separate commission will allow for additional scientific expertise and representation of varied interests, including but not limited to fishermen, hunters, hikers, cyclists, campers, and birders.