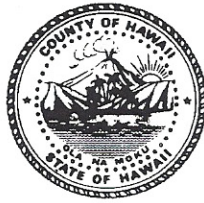


William P. Kenoi  
Mayor



Nancy E. Crawford  
Director

Deanna S. Sako  
Deputy Director

## County of Hawaii

### Finance Department

25 Aupuni Street, Room 118 • Hilo, Hawaii 96720  
(808) 961-8234 • Fax (808) 961-8248

November 30, 2009

Edmund Haitzuka, Chairman  
Hawai'i County Charter Commission  
c/o Karen Eoff  
County Council Office  
25 Aupuni Street  
Hilo, HI 96720

RECEIVED  
2009 DEC 1 PM 2 32  
COUNTY CLERK  
COUNTY OF HAWAII

RE: Charter Amendment Proposal No. CA-15: 2% Land Fund

On November 6, 2009, the Charter Commission met to discuss a number of proposed charter amendments, including the referenced proposal CA-15. The Commission made amendments to the proposed language, including reducing the set aside amount to be no less than one half of one percent (.5%). There was additional discussion regarding the level of detail included in the proposed amendment, which seems to be more appropriate to the County Code than to the County Charter.

During the Commission's discussion of this topic I offered to provide alternative language for the amendment that is more consistent with the language included in Charters from the other Counties in Hawai'i. In response to the Commission's request for alternative language, I am submitting the attached draft charter amendment as a substitute for the current CA-15 proposal.

The draft submitted with this communication provides much more general language about the Public Access, Open Space, and Natural Resources Preservation Fund, and states that procedures shall be set by ordinance. This draft also addresses only the fund and not the commission. The commission has already been established in the County Code and leaving it there rather than in the Charter allows more flexibility to adjust to changing roles for the commission as circumstances may require. Finally, this draft amends the effective date to be the first day of the fiscal year following approval by the electorate. Amendments that impact the County's finances should not be effective in the middle of a fiscal year with an adopted and balanced budget.

In addition to the amended proposal language, I am submitting copies of the language used by other Hawai'i counties in their charters. These can be reviewed for comparison to the language under consideration by the Charter Commission at this time. In all cases the charter sections are succinct.

While the Hawai'i County Department of Finance is opposed to any set asides of general tax revenues for specific purposes being included in the County Charter, we appreciate the opportunity to have input in language that may go before the voters. As our core legal document, the content and clarity of the Charter is very important. We appreciate the challenges involved for the Charter Commission in making the many decisions involved in fulfilling your mandate. If we can be of any further assistance, please do not hesitate to contact us.

Sincerely,

A handwritten signature in blue ink that reads "Nancy E Crawford". The signature is written in a cursive style with a large initial "N" and "C".

Nancy Crawford  
Director of Finance

## CHARTER AMENDMENT NO.

BE IT ENACTED BY THE PEOPLE OF THE COUNTY OF HAWAII:

Section 1. Article X, Hawai'i County Charter, is amended to add a new section to read as follows, with added language underscored and deleted language bracketed and stricken through:

**“Section 10- . Public access, open space, and natural resources preservation fund.**

- (a) In adopting each fiscal year's budget and capital program, the council shall appropriate a minimum of one half of one percent (.5%) of the certified real property tax revenues, including penalty and interest, to a fund known as the public access, open space, and natural resources preservation fund.
- (b) Funding shall consist of a minimum of one half of one percent (.5%) of actual revenue received in the fiscal year. Additional revenue may consist of proceeds from the sale of general obligation bonds, authorized and issued for the purposes of this section; additional Council appropriations for the purposes of this section; grants and private contributions intended for the purposes of this section; and any other source of revenue.
- (c) Moneys in this fund shall be used to purchase or otherwise acquire lands or property entitlements in the County of Hawai'i for public outdoor recreation and education, including access to beaches and mountains; preservation of historic or culturally important land areas and sites; protection of natural resources, significant habitat or ecosystems, including buffer zones; preservation of forests, beaches, coastal areas, natural beauty and agricultural lands; and protection of watershed lands to preserve water quality and water supply.
- (d) Moneys in this fund may also be used to pay the applicable principal, interest and premium, if any, due with respect to bonds issued in whole or in part for the purposes enumerated in subsection (b) of this section and for the payment of costs associated with the purchase, redemption or refunding of such bonds.
- (e) Any balance remaining in the fund at the end of any fiscal year shall not lapse, but shall remain in the fund accumulating interest from year to year. The moneys in this fund shall not be used for any purpose except those listed in this section.
- (f) The Council shall by ordinance establish procedures for the administration and expenditure of moneys in this fund.”

Section 2. This amendment shall take effect the first day of the fiscal year following approval by the electorate, July 1, 2011.

Note: [Brackets] indicate deletions, and underlining indicates additions.

---

## FULL TEXT - CHARTER QUESTION #3

*Create new section in RCH Article IX:*

### —> Section 9-204. Clean Water and Natural Lands Fund and Affordable Housing Fund –

1. There shall be established a Clean Water and Natural Lands Fund and an Affordable Housing Fund. In adopting each fiscal year's budget and capital program, the council shall appropriate a minimum of one percent of the estimated real property tax revenues, one-half of which shall be deposited into the Clean Water and Natural Lands Fund and the remaining one-half of which shall be deposited into the Affordable Housing Fund.
2. Moneys in the Clean Water and Natural Lands Fund shall be used to purchase or otherwise acquire real estate or any interest therein for land conservation in the city for the following purposes: protection of watershed lands to preserve water quality and water supply; preservation of forests, beaches, coastal areas and agricultural lands; public outdoor recreation and education, including access to beaches and mountains; preservation of historic or culturally important land areas and sites; protection of significant habitats or ecosystems, including buffer zones; conservation of land in order to reduce erosion, floods, landslides, and runoff; and acquisition of public access to public land and open space.
3. Moneys in the Affordable Housing Fund shall be used to provide and maintain affordable housing for persons earning less than fifty percent of the median household income in the city for the following purposes: provision and expansion of affordable housing and suitable living environments principally for persons of low and moderate income through land acquisition, development, construction, and maintenance of affordable housing for sale or for rental, provided that the housing remains affordable in perpetuity.
4. The moneys in each fund may also be used for the payment of principal, interest, and premium, if any, due with respect to bonds issued subsequent to enactment of this section and pursuant to Sections 3-116 or 3-117, in whole or in part, for the purposes enumerated in subsections 2 and 3 of this section and for the payment of costs associated with the purchase, redemption or refunding of such bonds.
5. At any given time, no more than five percent of the moneys in each fund shall be used for administrative expenses.
6. Any balance remaining in each fund at the end of any fiscal year shall not lapse, but shall remain in the fund, accumulating from year to year. The moneys in each fund shall not be used for any purposes except those listed in this section.
7. The council shall by ordinance establish procedures for the administration and expenditure of moneys in each fund. The appropriations to each fund shall not substitute for, but shall be in addition to, those appropriations historically made for the purposes stated in this section.

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 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 appropriations of a later fiscal year or of more than one fiscal year shall be made or approved by ordinance.

(Amended 1992)

Section 19.14. Surplus and Reserves. Any unappropriated surplus and any unencumbered balances of any appropriations in any fund at the end of any fiscal year shall be available for appropriation for the succeeding fiscal year. The mayor shall certify to the council the amount of any unappropriated surplus or unencumbered balances by January 1 following the close of the fiscal year. (Amended 1992)

Section 19.15. Fund Administration.

A. Deposit of Funds. Money received by officers and employees shall be deposited promptly to the county's account in depositories authorized by law.

B. Creation of Funds. In addition to the funds established by this charter, the mayor, with the approval of the council, may establish other funds when necessary and when no appropriate class of funds exists. Nothing in this section shall preclude the council from introducing, and adopting other funds by ordinance.

→ C. Public Access, Open Space, Natural Resources Preservation

Fund.

(1) In adopting each fiscal year's budget and capital program, the council shall appropriate a minimum of one-half of one percent of the certified real property tax revenues to a fund known as the public access, open space, natural resources preservation fund. The moneys in this fund shall be utilized for purchasing or otherwise acquiring lands or property entitlements for land conservation purposes in the county of Kauai for the following purposes: public outdoor recreation and education, including access to beaches and mountains; preservation of historic or culturally important land areas and sites; protection of significant habitats or ecosystems, including buffer zones; preserving forests, beaches, coastal areas and agricultural lands; protecting watershed lands to preserve water quality and water supply; conserving land in order to reduce erosion, floods, landslides, and runoff; improving disabled and public access to, and enjoyment of, public land, and open space; acquiring disabled and public access to public land, and open space.

(2) The moneys in this fund may also be used for the payment interest, principal, and premium, if any, due with respect to bonds issued pursuant to Sections 3.13, 3.14, or 3.15, Charter, in whole or in part - for the purposes enumerated in paragraph (1) of this section and for the payment of costs associated with the purchase, redemption or refunding of such bonds.

(3) At any given time, no more than five percent (5%) of this fund shall be used for administrative expenses.

(4) Any balance remaining in this fund at the end of any fiscal year shall not lapse, but shall remain in the fund, accumulating from year to year. The moneys in this fund shall not be used for any purpose except those listed in this section.

(5) The Council shall by ordinance establish procedures for the administration and priorities for the expenditure of moneys in this fund.

(Amended 1992, 2002)

Section 19.16. 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

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 borne by the county.

**Section 9-18. Contracts.**

1. Before execution, all written contracts to which the county is a party shall be approved by the corporation counsel 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.

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

3. Notwithstanding any other provision in this charter, all contracts involving the council, the office of council services, and the office of the county clerk shall be signed on behalf of the county by the chair of the council only, subject to approval by the corporation counsel as to form and legality, and certification by the director of finance as provided herein. (Amended 1984)

→ **Section 9-19. Open Space, Natural Resources, Cultural Resources, and Scenic Views Preservation Fund.**

1. In adopting each fiscal year's budget and capital program, the council shall appropriate a minimum of one percent (1%) of the certified real property tax revenues to a fund known as the open space, natural resources, cultural resources, and scenic views preservation fund. The revenues in this fund shall be utilized for purchasing or otherwise acquiring lands or property entitlements for land conservation purposes in the county of Maui for the following purposes: public outdoor recreation and education; preservation of historic or culturally important land areas; protection of significant habitat or ecosystems, including buffer zones; preserving forests, beaches, coastal areas and agricultural lands; protecting watershed lands to preserve water quality; conserving land for the purpose of reducing erosion, floods, landslides, and runoff; and improving disabled and public access to, and enjoyment of, public land, open space, and recreational facilities.

2. Any balance remaining in this fund at the end of the fiscal year shall not lapse, but shall remain in the fund, accumulating from year to year. The revenues in this fund shall not be used for any purpose except those listed in paragraph one of this section.

3. The council shall by ordinance establish procedures for the administration and expenditure of the revenues in this fund. The appropriations to this fund shall not substitute, but shall be in addition to, those appropriations historically made. (Amended 2002)