

BALLOT QUESTION
PROPOSAL NO. 3: Public Access, Open Space, and Natural Resources
Preservation Maintenance Fund

Shall the Hawai‘i County Charter be amended by creating a Public Access, Open Space, and Natural Resources Preservation Maintenance Fund, which would:

- Require that one-quarter of one percent (.25%) of real property tax revenue (including penalty and interest) be deposited into this fund for the maintenance and preservation of lands acquired using the Public Access, Open Space, and Natural Resources Preservation Fund;
- Set a \$3,000,000 cap on the accrual of deposits into this fund from real property tax revenue (including penalty and interest);
- Prohibit the use of the fund for planning, design, development, or construction of new buildings, roads, and facilities; and
- Create a stewardship grant program to allow the County Council to provide grant money from this fund to nonprofit organizations to maintain and preserve these lands?

If you agree with Proposal No. “3,” vote yes.

If you disagree with Proposal No. “3,” vote no.

FULL TEXT OF PROPOSAL NO. 3
ORDINANCE NO. 12-16

AN ORDINANCE TO INITIATE A CHARTER AMENDMENT TO ARTICLE X, FINANCIAL PROCEDURES, OF THE HAWAI‘I COUNTY CHARTER (2010 EDITION), BY ADDING A NEW SECTION FOR A PUBLIC ACCESS, OPEN SPACE, AND NATURAL RESOURCES PRESERVATION MAINTENANCE FUND.

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF HAWAI‘I:

SECTION 1. Article X, Financial Procedures, of the Hawai‘i County Charter (2010 Edition), is amended by adding a new section, Public Access, Open Space, and Natural Resources Preservation Maintenance Fund to read as follows:

“Section 10- . Public Access, Open Space, and Natural Resources Preservation Maintenance Fund.

- (a) The purpose of the public access, open space, and natural resources preservation maintenance fund is to accrue and use moneys for maintenance of lands and easements acquired by the public access, open space, and natural resources preservation fund. The maintenance fund will ensure that money is dedicated to preserve the land, promote public safety, and maintain a healthy stewardship.
- (b) Definitions. For the purpose of this section, the following definitions apply:
“Maintenance” means to preserve and conserve lands and easements acquired by the public access, open space, and natural resources preservation fund

and keep them in good repair for public safety.

“Maintenance fund” means a separate fund that holds moneys directed from: 1) the general fund and property tax revenues; or 2) designated grants, private contributions, proceeds from the sale of general obligation bonds, council appropriations, and any other source of revenue.

(c) There is established a public access, open space, and natural resources preservation maintenance fund (hereinafter “maintenance fund”). The maintenance fund shall be administered and managed by the department of parks and recreation. The financial aspects of the maintenance fund shall be handled by the department of finance.

(d) Deposits due to the maintenance fund.

(1) In adopting each fiscal year’s operating budget, the council shall appropriate one-quarter of one per cent of all real property tax revenue (including interest and penalties) to the maintenance fund. Deposits to the maintenance fund shall occur on a quarterly basis at a minimum.

(2) Additional revenue deposited in the maintenance fund may consist of grants and private contributions intended for the purpose of this section, proceeds from the sale of general obligation bonds authorized and issued for the purpose of this section, council appropriations for the purpose of this section, and any other source of revenue.

(e) Accounting for the maintenance fund; interest bearing accounts; reporting by the department of finance.

(1) All moneys in the maintenance fund shall be deposited in interest bearing accounts until needed. Any interest shall accrue to the maintenance fund.

(2) Moneys in the maintenance fund shall be identified separately for:

(A) Funding received from the real property tax revenue including interest and penalties; and

(B) Funding received from grants and private contributions, and any other source of revenue, and its interest earned, which:

i. Shall be itemized and earmarked for specific projects for the lands or easements.

ii. Shall not be subjected to the maximum accrual of funds limit provided in subsection (f).

(3) Financial statements shall be posted each month on the public access, open space, and natural resources preservation fund web site.

(f) Maximum accrual limit in maintenance fund; exemption to funding.

(1) Only moneys derived from real property tax revenue, its interest, and its penalties shall be included in the computation of the maximum accrual limit for the maintenance fund. All other moneys specifically directed to the maintenance fund shall be held separately from those moneys in the maintenance fund that originated from real property tax revenues (including interest and penalties), and shall not be subjected to the maximum accrual limit.

(2) The maximum accrual limit shall not exceed \$3,000,000.

(3) At the end of any fiscal year in which the maintenance fund holds unencumbered funds derived from real property tax revenue (including

interest and penalties) of at least \$3,000,000, any unencumbered amount in excess of that \$3,000,000 shall be permanently transferred to the general fund balance.

- (4) Exemption to funding. If the maintenance fund holds \$3,000,000 in unencumbered funds derived from real property tax revenue (including interest and penalties), then the council and the executive branch do not need to add more money to the maintenance fund until the next budget cycle. This exemption shall not release the administration from its mandatory duty to maintain and preserve lands and easements acquired by the public access, open space, and natural resources preservation fund in good repair for public safety each fiscal year.
- (g) The maintenance fund shall be used solely for public safety maintenance and preservation of those lands and easements acquired by the public access, open space, and natural resources preservation fund, and may be used only for expenditures directly related to its purpose. Expenditures by the administration or stewardship grants presumed to be directly related are as follows:
- (1) Reparation (fixing, mending, repair work, and servicing);
 - (2) Preservation (damage control, salvaging, safekeeping, and safeguarding);
 - (3) Conservation of soil, forests, shorelines, native wildlife, streams, wetlands, watershed, and floodways;
 - (4) Restoration (replacement, reclamation, reconditioning, and remediation);
 - (5) Wildfire and fire prevention;
 - (6) Repair of existing buildings to meet the current code requirements, if the building is deemed reasonable to save;
 - (7) Replacing signs to meet the current code requirements;
 - (8) Installation, repair, or replacement fencing and gate or access mechanisms;
 - (9) Installation or repair of cattle guards;
 - (10) Mitigation of flooding problems including repair or restoration of existing culverts, drainage features, or other similar flood control mitigation;
 - (11) Archeological survey and buffering of Native Hawaiian historical or cultural sites after appropriate consultation with Native Hawaiian descendants and cultural practitioners;
 - (12) Biological studies for the protection of Native Hawaiian species of plants and animals; or
 - (13) Mitigation of Americans with Disabilities Act compliance issues that may arise during the course of public safety maintenance and preservation.
- Moneys in the maintenance fund shall not be used for planning, design, development, or construction of new buildings, facilities, or infrastructure including roads, paths, bridges, culverts, ramps, or drainage features. Money in the maintenance fund shall also not be used for mitigation of Americans with Disabilities Act compliance issues for any new buildings, facilities, or infrastructure. Payment to resolve these aforementioned issues shall be from the capital improvement projects budget or allotments derived from the general fund.
- (h) Stewardship Grants. Moneys may also be used to provide grants-in-aid for projects, which uses are reflected in subsection (g).

- (1) An award of a stewardship grant shall be by council resolution. Stewardship grants may be awarded only until moneys in the maintenance fund are extinguished. Grants shall be awarded on the basis of ability of the stewardship organization to complete the project on time and within cost estimates.
- (2) Only 501(c)3 nonprofits or an organization that operates under the umbrella of a 501(c)3 nonprofit, and that can complete a project for the good of the community, shall be considered for a stewardship grant.
- (3) Public notice by the department of finance of the availability of the stewardship grants shall be placed in two newspapers of general circulation, as well as electronic media accessible by internet, by August 1 of each fiscal year provided money is available. These advertisements shall be paid for from the maintenance fund.
- (4) To apply for a stewardship grant, a stewardship organization shall provide to the department of parks and recreation the following:
 - (A) An application form obtained from department of parks and recreation which is completed for each specific purpose or project;
 - (B) A detailed business plan for the project that includes the name of the 501(c)3 nonprofit organization, the organization that operates under the umbrella of a 501(c)3 nonprofit organization, if any, a copy of its letter of determination from the Internal Revenue Service, a copy of its bylaws and mission statement, a description of the specific project, time frames for project goals, costs, and activities to accomplish the stated purpose, and any other information requested by the department of parks and recreation; and
 - (C) A signed agreement to file a written report one year or less after receipt of funds that includes details as to what has been accomplished on the project, costs, and how the money was spent.
- (5) No officer, board member, or employee of the 501(c)3 nonprofit organization or the organization that operates under the umbrella of a 501(c)3 nonprofit organization shall receive a salary or payment for labor or receive any reimbursement for the stewardship work on the project. The 501(c)3 nonprofit shall sign an agreement so stating these conditions and submit it with the application.
- (6) Mismanagement of moneys awarded for a stewardship grant shall bar the 501(c)3 nonprofit organization and the organization that operates under the umbrella of a 501(c)3 nonprofit organization from receiving future grants from the maintenance fund.
- (7) The director of the department of parks and recreation shall provide a short written evaluation of the proposed project to the council and include a recommendation about the applicant's ability to complete the project according to the project plan.”

SECTION 2. New charter material is underscored. When revising, compiling, or printing these charter provisions for inclusion in the Charter of the County of Hawai'i, the reviser need not include the underscoring.

SECTION 3. If any provision of this ordinance, or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance, which can be given effect without the invalid provision or application, and to this end, the provisions of this ordinance are severable.

SECTION 4. Upon adoption of this ordinance, this council, by appropriate resolution, shall provide that this amendment be submitted to the electorate of Hawai'i County for approval in the 2012 general election.

SECTION 5. The charter amendment proposed in this ordinance shall take effect upon its approval by a majority of voters voting on this legislation in the 2012 General Election, as duly certified. The initial funding shall begin in the first quarter of 2013. Therefore, the administration and the council need to budget estimated amounts of money during the 2012 budget cycle.

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