CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAI'I

No. 22-79

RESOLUTION

INITIATING AMENDMENTS TO THE REVISED CHARTER OF THE CITY AND COUNTY OF HONOLULU 1973 (AMENDED 2017 EDITION), AS AMENDED, RELATING TO CITY FUNDS.

WHEREAS, the Revised Charter of the City and County of Honolulu 1973 (Amended 2017 Edition) ("Charter"), Article IX, Chapter 2, Section 9-204, establishes the Clean Water and Natural Lands Fund ("CWNL Fund"); and

WHEREAS, Charter Section 9-204.1 provides that for each fiscal year's budget and capital program, the Council shall appropriate one-half of one percent of the estimated real property tax revenues for the CWNL Fund; and

WHEREAS, the CWNL Fund shall be used to purchase or otherwise acquire real estate or any interest therein for land conservation in the City for the purposes enumerated in Charter Section 9-204(2); and

WHEREAS, the Charter was amended in 2016 to establish the Clean Water and Natural Lands Advisory Commission ("Commission") to consider proposals submitted to it by the Department of Budget and Fiscal Services and to submit recommendations to the Council for approval of expenditures from the CWNL Fund; and

WHEREAS, the Commission desires to expand the use of the CWNL Fund to include costs related to the operation, maintenance, and management of lands acquired by way of the CWNL Fund, that are necessary to protect, maintain, or restore resources at risk on these lands, such as infrastructure, environmental remediation, or improvements to provide for public access and use; and

WHEREAS, the Commission further desires to align the CWNL Fund and its use with State and federal practice, as such alignment would strengthen the City's ability to rely on the well-developed body of codified law, administrative guidance and regulations, and case law, particularly at the federal level, to guide conservation transactions; and

WHEREAS, the Council supports the Commission's objectives to expand the use of the CWNL Fund, and to align CWNL Fund transactions with State and federal practice; now, therefore,

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BE IT RESOLVED by the Council of the City and County of Honolulu:

1. That the following question be placed on the 2022 general election ballot:

"Shall the Revised Charter be amended to expand the permitted uses of funds in the Clean Water and Natural Lands Fund to include funding for costs related to the operation, maintenance, and management of lands acquired by way of this Fund that are necessary to protect, maintain, or restore resources at risk on these lands, such as infrastructure, environmental remediation, or improvements to provide for public access and use?"

2. That Section 9-204 of the Revised Charter of the City and County of Honolulu 1973 (Amended 2017 Edition), as amended, be further amended to read as follows:

"**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~~]:

(a) To purchase or otherwise acquire real estate or any qualified interest therein for land conservation in the city for the following purposes: protection of significant watershed lands to preserve water quality and water supply; preservation of significant 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 to significantly reduce erosion, floods, landslides, and runoff; and acquisition of public access to public land and open space[.] to yield a significant public benefit. A qualified interest means a perpetual conservation

restriction by a qualified organization which has a commitment to protect the conservation purposes and the resources to enforce the restrictions; or

(b) For costs related to the operation, maintenance, and management of lands acquired by way of this fund that are necessary to protect, maintain, or restore resources at risk on these lands, such as infrastructure, environmental remediation or improvements to provide for public access and use of these lands; provided that the costs related to operation, maintenance and management of lands acquired by way of this fund do not exceed six percent of the moneys deposited into the fund in the previous year.

3. Moneys in the Affordable Housing Fund shall be used to provide affordable rental housing for persons earning sixty percent or less of the median household income in the city for the following purposes: provision and expansion of affordable rental housing and suitable living environments in projects, which may include mixed-use, mixed-income projects, having residential units that are principally for persons of low and moderate income through land acquisition for, development of, construction of, and/or capital improvements or rehabilitation to such housing, provided that the funded housing remains affordable for at least sixty years.

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.

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7. The department of budget and fiscal services shall receive proposals for the use of funds in the Clean Water and Natural Lands Fund and shall submit qualified proposals to an advisory commission, which shall make recommendations to the council for approval. All proposals for uses of the Clean Water and Natural Lands Fund shall be processed consistent with this procedure.

8. There shall be established a Clean Water and Natural Lands advisory commission to consider proposals submitted to it by the department of budget and fiscal services and to submit recommendations to the council for approval of expenditures under this section. The commission shall consist of seven members, with three appointed by the mayor, three appointed by the council, and one appointed by a majority vote of the six appointed members. The members shall serve for staggered terms of five years and until their successors have been appointed and qualified. The initial appointments shall commence no later than January 15, 2017, and shall be as follows:

(a) For an initial two-year term, two members, one each appointed by the mayor and the council.

(c) For an initial three-year term, two members, one each appointed by the mayor and the council.

(d) For an initial four-year term, two members, one each appointed by the mayor and the council.

(e) For a five-year term, the member appointed by the majority vote of the other six appointed members.

9. The director of the department of budget and fiscal services shall administer the fund.

10. The council shall by ordinance establish other procedures for the administration and expenditure of moneys in each fund consistent with this section. 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."

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3. That in Section 2 of this resolution, Charter material to be repealed is bracketed and stricken and new material is underscored. When revising, compiling, or printing these charter provisions for inclusion in the Revised Charter of the City and County of Honolulu 1973, as amended, the Revisor of the Charter need not include the brackets, the bracketed and stricken material, or the underscoring.

4. That if these Charter provisions are amended by any other Charter amendment approved by the electors at the 2022 general election, the Revisor of the Charter, in revising, compiling, or printing the Charter:

   a. May designate or redesignate articles, chapters, sections, or parts of sections, and rearrange references thereto; and

   b. Shall, except as otherwise expressly provided in this resolution or in the other resolution(s) amending these Charter provisions, give effect, to the extent possible, to all of the amendments approved. The Revisor of the Charter may also change the capitalization or the forms of numbers and monetary sums for the sake of uniformity.

5. That upon adoption of this resolution by the Council, the City Clerk is directed:

   a. To prepare the necessary ballots with the question contained in this resolution and with spaces of "yes" and "no" votes on the question for presentation to the electors at the 2022 general election. The City Clerk may make technical and nonsubstantive changes to the form of the question presented in order to conform it to the form or other Charter amendment questions presented to the electors at the same election; and

   b. To publish the above-proposed Charter amendments at length in a daily newspaper of general circulation in the City and County of Honolulu at least 45 days prior to their submission to the electors at the 2022 general election.

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6. That upon approval of the Charter amendment question posed in this resolution by a majority of the voters voting thereon, as duly certified, the Charter amendments proposed in this resolution shall take effect on January 1, 2023.

INTRODUCED BY:

Tommy Waters

Councilmembers

DATE OF INTRODUCTION:

APR 07 2022
Honolulu, Hawai'i