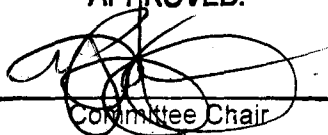


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M I N U T E S
Committee of the Whole
Council of the County of Maui
Council Chamber
June 4, 2002

APPROVED:



Committee Chair

1 **CONVENE:** 2:30 p.m.

2 **PRESENT:** Councilmember Dain P. Kane, Chair
3 Councilmember G. Riki Hokama, Vice-Chair
4 Councilmember Alan M. Arakawa, Member
5 Councilmember Robert Carroll, Member
6 Councilmember Jo Anne Johnson, Member
7 Councilmember Michael J. Molina, Member

8 **EXCUSED:** Councilmember Patrick S. Kawano, Member
9 Councilmember Wayne K. Nishiki, Member
10 Councilmember Charmaine Tavares, Member

11 **STAFF:** Richelle K. Kawasaki, Legislative Attorney
12 Pauline Martins, Committee Secretary

13 Jock Yamaguchi, Executive Assistant to
14 Councilmember Kane

15 **ADMIN.:** James Takayesu, Corporation Counsel,
16 Department of the Corporation Counsel

17 **OTHERS:** Zandra Amaral
18 Plus (3) other people

19 **PRESS:** None.

20

21 **CHAIR KANE:** (Gavel). We'd like to call to order the
22 Council's Committee of the Whole meeting scheduled
23 for June 4, 2002, 2:30 p.m. meeting. At this time,
24 members, the Chair would like to first recognize in
25 attendance Vice-Chair Hokama, as well as Members
Arakawa, Carroll, Johnson and Molina. Excused from
the meeting is Kawano, Nishiki and Tavares. We will
be calling a half-an-hour recess. We'll be
reconvening this meeting at 3 p.m. This meeting is
in recess. (Gavel).

26 **RECESS:** 2:32 p.m.

1 **RECONVENE: 4:02 p.m.**

2 CHAIR KANE: (Gavel). Okay. We'd like to reconvene the
3 Council's Committee of the Whole meeting, 4 of June,
4 2002. This is the 2:30 p.m. scheduled meeting.

5 Members, we have one item on this particular
6 agenda. We've already made the introductions of the
7 presence of Committee members. We have COW 46(12),
8 the Special Counsel (Maui County Board of Ethics
9 (BOE) Advisory Opinion No. 02A-1, Requested by
10 Councilmember Michael Molina, Regarding Conflicts of
11 Interest Concerns. Members, the purpose of the
12 proposed resolution is to authorize the retention of
13 special counsel to advise the Board of Ethics
14 regarding Councilmember Michael J. Molina's request
15 for an advisory opinion.

16 At this time I'd like to recognize that we do
17 have an individual who wishes to sign up to
18 testify -- who has signed up to testify, and I will
19 also invite any other member of the audience that
20 would wish to testify that you come forward, please.
21 If not, we will be closing testimony after the final
22 person has testified.

23 Seeing no other persons approaching,
24 Ms. Zandra Amaral, if you could please come forward.
25 Again, state your name. You're a pro at testifying.

1 State your name for the record, if you represent an
2 organization. We will give you three minutes, and
3 if you need, we'll give you an additional minute to
4 conclude. With that, you have the mike, Ms. Amaral.

5 . . . **BEGIN PUBLIC TESTIMONY.** . . .

6 MS. AMARAL: Mahalo, Chair. Aloha. Aloha. Ko'u mau ho
7 aloha. 'O Zandra Souza Amaral. Ko'u inoa. Good
8 afternoon, my friends. My name is Zandra Souza
9 Amaral, and I stand before you in favor of the
10 bill -- of the resolution. However -- and you had a
11 healthy discussion earlier with -- regarding
12 Ms. Johnson's representation, and I'm very glad you
13 passed that resolution, but a question came up as I
14 listened to the testimony, and one being that --
15 first of all, I'd like to say there was a comment
16 made by one of our astute Council people about not
17 questioning the Board of Ethics or the Disciplinary
18 Counsel, and I think all of you know at heart that
19 it's not only good but it's prudent for legislators
20 to question anything that comes before them, because
21 it's only through questioning what each other do can
22 there be intelligent, reputable, viable solutions
23 and things that work for everyone. So I think
24 that's admirable that you guys do question
25 everything that comes before you thoroughly and you

1 have such diverse opinions and that you come up with
2 some very solid laws and rules, and for that I
3 appreciate you.

4 Regarding the representation, though, and I
5 didn't know that, that another Corp. Counsel was
6 assigned to represent our astute legislators, both
7 Molina and Johnson. This time I'll speak to Molina.
8 I personally -- and this is a personal note, now.
9 Sitting back there as a paralegal I asked myself if
10 I was sitting in their shoes, would I feel
11 comfortable having one legislative body represent me
12 that has a very direct link with the opposing
13 counsel? And I do not say that to question, Jimmy,
14 yourself or any of your colleagues, because I do
15 know that -- I know you and I know that you're very
16 good at separating the facts and sticking to the
17 facts and being very objective, as so are all of
18 your colleagues, I am sure.

19 However, just the thought of having this
20 County or State entity -- County entity, this
21 entity, two corporate counsels coming in and saying
22 they have opposing -- and yet sharing information,
23 which is good, which is what needs to be done, but I
24 really question -- I really question as a -- as a
25 lay individual the propriety or impropriety,

1 whatever it might be, and I ask you to look at that,
2 Jimmy. And we talk about stating --

3 CHAIR KANE: We need you to --

4 MS. AMARAL: We talked about --

5 CHAIR KANE: Excuse me, member -- I'm sorry. You need to
6 direct your comments to the Chair and the body.

7 MS. AMARAL: I'm sorry. I'm sorry, Chair.

8 CHAIR KANE: Proceed. Proceed.

9 MS. AMARAL: I apologize. I apologize. Thank you for
10 bringing that to my attention, but when we look at
11 the money, Council people, Chair, when we look at
12 the monies that are allocated and we talk about --
13 when we look -- when we look at defending someone
14 and we talk about it in ways -- in terms of money, I
15 can only reflect on the article that I read this
16 morning in the paper.

17 CHAIR KANE: Three minutes, so you have a minute to
18 conclude.

19 MS. AMARAL: It being that a young man who was taken off
20 of death row by the Supreme Justice because his
21 attorney slept through the trial -- and I'm not
22 saying you guys are going to do that, but then look
23 again, that was a thing with money, an inexpensive
24 attorney to help someone who cannot pay for a good
25 attorney. We are looking over and beyond money

1 here. We're looking at setting legislation out
2 there that impacts not only Johnson and Molina but
3 each and every one of you when you come before the
4 Board of Ethics.

5 So I ask you, don't look at money. As a
6 taxpayer, I am concerned, but that shall not be your
7 primary concern. Fair representation has got to be
8 the only thing that you look at and the
9 objectiveness of all the attorneys and departments
10 that are involved in representing both Molina and
11 Johnson. Mahalo.

12 . . . **END OF PUBLIC TESTIMONY.** . . .

13 CHAIR KANE: Thank you very much. Members, any questions
14 for Ms. Amaral? Hearing none, thank you very much
15 for your testimony. Appreciate it. Being that we
16 have no other persons here signed up to testify, we
17 will close the testimonial phase of this meeting.
18 Also, members, with no objections, we'd like to
19 accept written testimony by Mr. Rob Lafferty, who
20 testified at a previous meeting earlier this
21 afternoon but also wrote his comments down to be
22 reflected on the record in this meeting. Any
23 objections to receiving that written testimony?

24 COUNCIL MEMBERS: No objections.

25 CHAIR KANE: Okay, hearing no objections, so ordered.

1 Thank you very much.

2 At this point, members, directing your
3 attention to the item on the agenda.

4 Mr. Takayesu, if you can provide us with
5 opening comments regarding this item.

6

7 COW-46(12) SPECIAL COUNSEL (MAUI COUNTY BOARD OF ETHICS
8 (BOE) ADVISORY OPINION NO. 02A-1, REQUESTED BY
9 COUNCILMEMBER MICHAEL J. MOLINA, REGARDING CONFLICTS
10 OF INTEREST CONCERNS)

11 MR. TAKAYESU: Okay. Under this item we're requesting,
12 again, authorization to retain a -- I guess a Deputy
13 from the County of Hawaii to act as an advisor to
14 the Board of Ethics. This person would not be
15 representing any party but acting in an advisory
16 role to the Board of Ethics. Our office will not be
17 representing anyone in any of these proceedings.

18 Again, we've contacted Big Island. They are
19 familiar with these type of proceedings, because
20 they have their own Board of Ethics. In the past we
21 have stepped in when they had conflicts of interest,
22 and they are willing to assist us in these matters.

23 CHAIR KANE: Okay, members, prior to the Chair's
24 recommendation, I open up the floor for any
25 discussion. Member Molina.

26 COUNCILMEMBER MOLINA: Yeah, thank you, Mr. Chair. Just
27 for the record, I will be recusing myself from

1 voting on this matter.

2 CHAIR KANE: Thank you. Members, any objections to Member
3 Molina recusing himself from this matter?

4 COUNCIL MEMBERS: No objections.

5 CHAIR KANE: Hearing no objections, it will be recognized
6 at the time of the vote, Mr. Molina.

7 Any discussion prior to the Chair's
8 recommendation? Okay. Hearing none, the Chair does
9 recommend approving the proposed resolution as
10 presented.

11 COUNCILMEMBER ARAKAWA: So moved.

12 COUNCILMEMBER CARROLL: Second.

13 CHAIR KANE: It's been moved by Arakawa, seconded by
14 Member Carroll to approve the resolution as
15 presented by Corporation Counsel. Under discussion,
16 Member Arakawa.

17 COUNCILMEMBER ARAKAWA: Mr. Chairman, just noting that
18 Corporation Counsel did request an executive
19 session. In what we're doing, is it really
20 necessary?

21 CHAIR KANE: At this point we did post that there may be
22 a -- there may be a meeting for executive session.
23 However, Corporation Counsel has notified the Chair
24 that he has no intentions of asking for an executive
25 session, and that went to, obviously, as you could

1 see, for the whole meeting -- and the previous
2 meeting as well as this meeting there was no need.
3 We just post it there as a safety precaution in the
4 event that we get into a discussion that leads us to
5 that situation. So there is no request and we won't
6 be entertaining one.

7 COUNCILMEMBER ARAKAWA: No problem.

8 CHAIR KANE: Thank you. Any further discussion? Member
9 Hokama.

10 COUNCILMEMBER HOKAMA: Chairman, I would ask that you and
11 the Committee staff, with no objections from the
12 fellow members, do all grammatical and appropriate
13 revisions as we had done forth in the previous
14 resolution approved by the Committee.

15 CHAIR KANE: Okay. So let the Chair make the
16 clarification that under the be it resolved portion
17 on Number 4 that the certified copies of this
18 resolution be transmitted to the Mayor, and the
19 change will be to both Corporation Counsels
20 respectively, Maui County as well as Hawaii County.

21 COUNCILMEMBER HOKAMA: Whereas No. 3 -- whereas clause 3,
22 I believe Mr. Takayesu has --

23 CHAIR KANE: Thank you.

24 COUNCILMEMBER HOKAMA: -- stated regarding the Code of
25 Professional conduct, that type of grammatical

1 revisions, Chair, I leave up to you and the staff,
2 knowing the full intent of this Committee.

3 CHAIR KANE: Thank you very much. Members, any objections
4 to the request?

5 COUNCIL MEMBERS: No objections.

6 CHAIR KANE: Okay. Hearing no objections. Members, we
7 have a motion on the floor. The Chair is here to
8 recognize any further discussion on this matter.
9 Seeing no further discussion, all in favor of the
10 resolution say "aye."

11 COUNCIL MEMBERS VOICED AYE.

12 CHAIR KANE: Opposed?

13 **VOTE: AYES:** Councilmembers Arakawa, Carroll,
 and Johnson, Vice-Chair Hokama
14 and Chair Kane.
 NOES: None.
15 **ABSTAIN:** Councilmember Molina.
 ABSENT: None.
16 **EXC.:** Councilmembers Kawano, Nishiki and
 Tavares.

17
18 **MOTION CARRIED.**

19 **ACTION: ADOPT REVISED RESOLUTION.**

20 CHAIR KANE: Carried. It is moved on with five votes of
21 this Committee with one recusal, Member Molina. It
22 is going to be forwarded to the full Council as a
23 recommendation to the full Council.

24 Members, thank you very much. Seeing that we
25 have no other items on this afternoon's agenda, this

1 meeting is adjourned. (Gavel).

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3 **ADJOURN: 4:12 p.m.**

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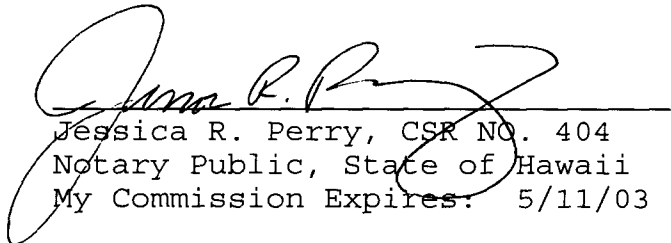
C E R T I F I C A T E

STATE OF HAWAII)
) SS.
CITY AND COUNTY OF MAUI)

I, Jessica R. Perry, Certified Shorthand Reporter for the State of Hawaii, hereby certify that the proceedings were taken down by me in machine shorthand and was thereafter reduced to typewritten form under my supervision; that the foregoing represents to the best of my ability, a true and correct transcript of the proceedings had in the foregoing matter.

I further certify that I am not attorney for any of the parties hereto, nor in any way concerned with the cause.

DATED this 12th day of July, 2002, in Honolulu, Hawaii.


Jessica R. Perry, CSR NO. 404
Notary Public, State of Hawaii
My Commission Expires: 5/11/03