

# COMMITTEE OF THE WHOLE

Council of the County of Maui

## MINUTES

March 4, 2010

Council Chamber, 8<sup>th</sup> Floor

**CONVENE:** 9:05 a.m.

**PRESENT:** Councilmember Michael J. Molina, Chair  
Councilmember Gladys C. Baisa, Member  
Councilmember Jo Anne Johnson, Member (In 9:11 a.m.)  
Councilmember Sol P. Kaho'ohalahala, Member (In 9:43 a.m.)  
Councilmember Bill Kauakea Medeiros, Member  
Councilmember Wayne K. Nishiki, Member  
Councilmember Joseph Pontanilla, Member  
Councilmember Michael P. Victorino, Member

**EXCUSED:** Councilmember Danny A. Mateo, Vice-Chair

**STAFF:** Kirstin Hamman, Legislative Analyst  
Camille Sakamoto, Committee Secretary

**ADMIN.:** Marian Feenstra, Executive Assistant, Office of the Mayor (Item No. 2(10) and 2(11))  
Darlene Endrina, Executive Assistant, Office of the Mayor (Item No. 2(10) and 2(11))  
Adrienne N. Heely, Deputy Corporation Counsel, Department of the Corporation Counsel (Item No. 2(10) and 2(11))  
Jane E. Lovell, Chief, Litigation Section, Department of the Corporation Counsel (Item No. 1(27))

**OTHERS:** Sean Lester (Item No. 2(10))  
Gordon Cockett (Item No. 2(10))  
Teri Gorman (Item No. 2(10))  
Johanna Kamauna (Item No. 2(10))  
Tamara Paltin (Item No. 2(10))  
Kahu Lyons Naone (Item No. 2(10))  
Lucienne deNaie (Item No. 2(10))  
Clare Apana (Item No. 2(10))  
Irene Bowie (Item No. 2(10))  
Susan Moikeha (Item No. 2(10))  
Dana Naone Hall (Item No. 2(10))  
Lucienne deNaie (Item No. 2(11))  
Joaquin "Jack" Freitas, Nominee, Maui Planning Commission (Item No. 2(10))  
Robert Pure, Nominee, Maui Planning Commission (Item No. 2(10))

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Bruce U‘u (Item No. 2(10))  
Five (5) additional unidentified attendees

**PRESS:** *Akaku: Maui Community Television, Inc.*  
*Ilima Loomis, The Maui News*

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CHAIR MOLINA: ...*(gavel)*... The Committee of the Whole meeting for Thursday, March 4, 2010 is now in session. It's five minutes after the hour of 9:00 a.m. Good morning, Members. For the record we have in attendance Committee Member Gladys Baisa.

COUNCILMEMBER BAISA: Good morning, Chair.

CHAIR MOLINA: Good morning. And Committee Member Bill Medeiros.

COUNCILMEMBER MEDEIROS: Aloha. Good morning, Chair.

CHAIR MOLINA: Good morning, Mr. Medeiros. And Committee Member Wayne Nishiki.

COUNCILMEMBER NISHIKI: Morning.

CHAIR MOLINA: Good morning. And Committee Member Joseph Pontanilla.

CHAIR PONTANILLA: Hey, good morning.

CHAIR MOLINA: Good morning. And Committee Member Mike Victorino.

COUNCILMEMBER VICTORINO: Good morning, Chair.

CHAIR MOLINA: Thank you. And good morning everyone. Yours truly, Mike Molina, Committee Chair, will be facilitating this morning's agenda. Excused this morning is the Committee Vice-Chair and Council Chair Danny Mateo, as well as Committee Members Jo Anne Johnson and Sol Kaho'ohalahala. Mr. Kaho'ohalahala did inform me, though, he will be here this morning about 9:45. He had to attend a meeting last night on Lanai, so he is on his way. Members, we have quite a busy day for us. We have a bunch of nominations, as well as a litigation matter to deal with. So before we do all of our work that's before us, the Chair would like to recognize Committee Staff. We have Kirstin Hamman, as well as Committee Secretary Camille Sakamoto, and joining us from the Corporation Counsel's Office we have Adrienne Heely. And from the Administration we have Marian Feenstra, as well as Darlene Endrina. Good morning, everyone. All right. Let's get down to business, but before we do that the Chair would like to go over a few ground rules. We'll start with public testimony. For those of you here to testify, you'll have three minutes to testify with a minute to conclude, and please state your full

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name for the record and any organization that you may be representing. And so with that said...and also please turn off cell phones, pagers, and whatever other noisemaking devices you may posses. We'll start off first with Sean Lester, and he'll be followed by Gordon Cockett. And Mr. Lester will be testifying on Committee of the Whole Item 2(10). Good morning, Mr. Lester.

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

MR. LESTER: Good morning, Mr. Chair, Members. I'm here, first of all, to speak to Michael Westfall for reappointment to the Board of Ethics. I've spent some time on the Board of Ethics area and I think Michael did a good job, so I'm recommending that you go with him. Commission on Cultures [*sic*] and Arts, Clare Apana, she's a great lady. She knows a lot about it and I highly recommend her. And with a heavy heart, I come to ask you to . . .reject John Ornellas up for the Lanai Planning Commission for some very serious reasons. Mr. Ornellas has basically attacked this whole body and our ethics, our structure for personal and political gain. We've watched a political theater that is the *worst* of the Republicans on the national level now being brought down to our County level. And, you know, I don't think in any way, frame, or fashion that this gentleman has the ability to do the job to be on the Planning Commission. The few times I have spoken with him, he's been very aggressive. And the bottom line is there's a sense of propriety, impropriety with this. Understand one thing, this whole process that just happened on Lanai where someone who runs for a Council seat then decides he doesn't want it or wants it and he tries to play games through the State and through lawsuits and whatever, over and over again--this can happen to you. It can happen to you, Gladys. It can happen to you, Mike. Joe, any of you guys. What's going on right here, there's nothing to ever stop someone from doing the same thing if they've got a well-heeled attorney who doesn't mind going after you. You can be here for ten years and they'll go after you time and time and time again. And Mr. Ornellas is at the center, the epicenter of that. This was a very bad nomination from the Mayor. I'm very surprised that she put this in the first place, and I highly recommend that you be very careful with this one because it's rewarding someone for an ongoing process that is shameful. And that's all I have to say. Thank you very much for your time.

CHAIR MOLINA: Okay. Thank you, Mr. Lester. Committee Members, questions for the testifier? Seeing none, thank you very much for your testimony. Next to testify on Committee of the Whole Item 2(10) is Gordon Cockett, and Mr. Cockett will be followed by Teri Gorman.

MR. COCKETT: . . . Good morning, ladies and gentlemen. Thank you, Mr. Chair. My name is Gordon C. Cockett, sometimes called kupuna. I am kanaka maoli, keiki o ka aina, born and raised on Maui, the last 25 being in Lahaina. I seek one of the two seats on the Planning Commission which will be coming available at the end of this month. I have no commercial interests and no connection to any large landowner. My passion is doing what's best for the people of Maui. Mahalo.

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CHAIR MOLINA: Thank you, Mr. Cockett. Committee Members, questions for the testifier?  
Member Baisa?

COUNCILMEMBER BAISA: Yes, good morning, Mr. Cockett.

MR. COCKETT: Good morning.

COUNCILMEMBER BAISA: Thank you for being here, I certainly know you're a longtime resident of Maui. You're seeking the position on the Planning Commission, but you're not a nominee. Can you kind of enlighten us about that?

MR. COCKETT: . . . I, I'm not sure how I can answer that.

COUNCILMEMBER BAISA: You have *applied*?

MR. COCKETT: Yes, I have.

COUNCILMEMBER BAISA: And did you--

MR. COCKETT: I have. . .recently put in my third application, really.

COUNCILMEMBER BAISA: I see, so your application's been in for a very long time. I was wondering if it had been submitted *after* these nominations came down to us. But you're indicating that you've applied three times.

MR. COCKETT: Yes.

COUNCILMEMBER BAISA: Okay, thank you very much.

MR. COCKETT: You're welcome.

CHAIR MOLINA: Thank you. Committee Members, any questions for the testifier?  
Mr. Nishiki?

COUNCILMEMBER NISHIKI: Yeah, can you give me an idea of when you applied, these three times?

MR. COCKETT: I have applied in other mayoral administrations.

COUNCILMEMBER NISHIKI: Oh, okay.

MR. COCKETT: And. . .I had applications submitted a week or so ago.

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*NOTE: Silence.*

COUNCIL MEMBER NISHIKI: . . . Did you get a response from the Administration as to why you weren't appointed?

MR. COCKETT: Never.

COUNCILMEMBER NISHIKI: Um. . .did you receive any acknowledgement that they received your application? Did they--

MR. COCKETT: No.

COUNCILMEMBER NISHIKI: No? Are you a lifelong. . .resident of Lahaina?

MR. COCKETT: The last 25 years in Lahaina. My, prior to that I lived in Waikapu.

COUNCILMEMBER NISHIKI: And any organizations that you serve. . .or you're involved with?

MR. COCKETT: I have been connected with. . .Save Honolua, Maui Unite, Maui Tomorrow, Royal Order of Kamehameha. . .to name just a few.

COUNCILMEMBER NISHIKI: And you did apply for the Planning Commission?

MR. COCKETT: Yes.

COUNCILMEMBER NISHIKI: Thank you.

CHAIR MOLINA: Okay. Thank you, Mr. Nishiki. Committee Members, any other questions? Chair would like to recognize Member Johnson to our proceedings this morning. Member Johnson --

COUNCILMEMBER JOHNSON: Yes.

CHAIR MOLINA: --followed by Member Baisa.

COUNCILMEMBER JOHNSON: Thank you. And, Gordon, you know, I, I just want to thank you for also continuing and being persistent about . . .*(laughter)*. . . the application and the process by which, you know, people apply for these different boards and commissions. So I just want to thank you personally for hanging in there, and hopefully at some point the Council can influence this type of decision.

MR. COCKETT: You're welcome.

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COUNCILMEMBER JOHNSON: Thank you.

CHAIR MOLINA: Okay. Thank you, Member Johnson. Member Baisa?

COUNCILMEMBER BAISA: Thank you very much. It's really important, Mr. Cockett, as we look at this situation, that we have correct information. The nomination that we received from the Mayor transmitted to the Council was dated *January 29<sup>th</sup>*. And I think I heard you say that you applied with this Administration about a week ago. So your application was made *after* this letter was sent down. It's just so that we understand the sequence of events. And, you know, today we'll look at the names we have before us and we make a decision--either we want to confirm the Mayor's nominees or we want to say no, we'd like to take another look. So I think it's important. Do you understand how that happened?

MR. COCKETT: . . .*(laughter)*. . .

COUNCILMEMBER BAISA: I mean the *sequence* of it, rather than, you know, whatever.

MR. COCKETT: Not really, no.

COUNCILMEMBER BAISA: You don't?

MR. COCKETT: Uh-huh.

COUNCILMEMBER BAISA: You realize your, your application went in *after* the, that we got the letter?

*NOTE: Silence.*

MR. COCKETT: . . . I don't, I don't know. I don't know how that happened.

COUNCILMEMBER BAISA: Anyway it's, it was important to me 'cause I didn't want to feel that you had *applied* and that you were on the queue before this letter was sent down.

MR. COCKETT: Uh-huh.

COUNCILMEMBER BAISA: And that doesn't appear to be the case, based on the dates. But I do realize you had applied with *other* Mayors and I don't know if they put those, this away or, you know, I don't know how long they keep a list and whether I, I'm of the understanding you have to apply *again* every time there's a vacancy. I been told this by another friend who applied for something else. So maybe I'm wrong, but we'll find out. We'll ask questions, thank you.

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CHAIR MOLINA: Okay thank you, Member Baisa. Before I recognize Member Johnson, just one quick question for you, Mr. Cockett. For the record, so you're in, you're from West Maui and you're in disagreement with the Mayor's nomination from the West Maui side. . .Mr. Robert Pure?

*NOTE: Silence.*

MR. COCKETT: . . . I, I'm sorry I didn't catch the last part.

CHAIR MOLINA: Yeah. You're in disagreement with the Mayor's nomination, Robert Pure? And, and the reason I ask is because your name is not on the agenda, and just for Sunshine Law purposes, as to why I'm allowing this conversation to go on.

COUNCILMEMBER BAISA: Yes.

CHAIR MOLINA: So just for the record, Mr. Pure is the West Maui nominee from Mayor Tavares's Administration, and you're here basically testifying that, you know, you are applying to be on the Planning Commission and this, your testifying is in relation to Mr. Pure's nomination as the West Maui nominee? . . .*(inaudible due to interruption)*--

MR. COCKETT: That's what it boils down to, yes.

CHAIR MOLINA: Okay, thank you very much. So I just wanted to make that clear to everyone--

UNIDENTIFIED SPEAKER: . . .*(inaudible)*. . .

CHAIR MOLINA: --so as to why I'm permitting the Q&A session here. Member Johnson?

COUNCILMEMBER JOHNSON: Yes, Gordon, can you confirm for me--because I kind of know what the sequence of events was--that in visiting with me you did submit an application to the Administration prior to the deadline, but then when the deadline passed and your name was not on the list, *I* asked you to submit through *Council* submission to fill out that application. And the application that you sent was for the *Council* and not for the Mayor, is that correct?

MR. COCKETT: Yes, it is.

COUNCILMEMBER JOHNSON: Okay, thank you.

MR. COCKETT: I didn't, I didn't know how to explain that--

COUNCILMEMBER BAISA: . . .*(laughter)*. . .

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COUNCILMEMBER NISHIKI: Ah . . .

COUNCILMEMBER JOHNSON: Okay.

UNIDENTIFIED SPEAKER: Okay.

MR. COCKETT: --to...Mrs. Baisa.

COUNCILMEMBER BAISA: Thank you.

CHAIR MOLINA: Okay thank you, Member Johnson. Members, any other questions for the testifier? Seeing none, thank you, Mr. Cockett.

. . . Next to testify on Committee of the Whole Item 2(10), we have Teri Gorman, followed by Johanna Kamanu [*sic*].

. . . Morning.

MS. GORMAN: Aloha, good morning, Councilmember...Council [*sic*] Chair Molina. Good morning, Members of the Committee of the Whole. My name is Teri Gorman, and I'm testifying today representing myself, and also as a mother of two children from Maui. I'm here to support the nominee, Jack Freitas, for the Planning Commission. I think Jack Freitas will be an excellent commissioner; he is a kamaaina, kamaaina family for many generations, has a deep understanding and appreciation for the island of Maui, certainly shares what I would call "local" values. His family has been here for many generations and he's always been concerned for the welfare of the community. He's invested in this community as a businessman and as an employer, and has a long track record of civic-minded service. This is a pretty important time for Maui. I understand that the government officials and the community have to be looking at that balance between the need for economic vitality and the responsibility that we all share to protect those things that are unique to this community. And I think with Jack's background he does have that ability to do that. So I think he would be an excellent nominee for the Planning Commission.

CHAIR MOLINA: Thank you, Ms. Gorman. Committee Members, questions for the testifier? Member Johnson?

COUNCILMEMBER JOHNSON: Thank you so much, Teri, for coming to testify. I did get a couple calls, you know, in regards for support for Mr. Freitas, but in what capacity are you, you know, your involvement, is it through family, is it in business? You know, I know that you obviously know him, but I'm trying to get a little bit more perspective on *how* it is that you've come . . .(*laughter*). . . to this kind of . . .(*laughter*). . . you know, endorsement.

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MS. GORMAN: I've known Jack Freitas my entire life through. . .personal relationship, family. But in addition to that, of course, having worked in community organizations on this island, know that he's somebody that I could call on for assistance whenever we needed it, and also of course know that he's got a long track record of being there for the community. I also think he's a very levelheaded, smart, and ethical person. All the years that I've known him, he's proven to be that kind of a personality.

COUNCILMEMBER JOHNSON: Okay, thank you very much.

MS. GORMAN: Uh-huh.

COUNCILMEMBER VICTORINO: Mr. Chair?

CHAIR MOLINA: Thank you, Member Johnson. Member Victorino?

COUNCILMEMBER VICTORINO: Thank you, Ms. Gorman, for being here. Can you elaborate a little bit? You know, you mentioned about Mr. Freitas' community service, but how about involvement in the business end and in the aspect of. . .the area of the development of Maui as far as an individual and his participation in that respect?

MS. GORMAN: My understanding of Jack's business activities, it's not related to development. I think that he has an ability to be kind of. . .apart from all of that activity. At his age, I believe he's got family here and I think he's looking really for the benefit to the generations to come. And that, of course, concerns me. I have one son in high school and a daughter in middle school, and I very much want them to be able to live here. And I, I believe that he shares that desire for his family as well--that his children, grandchildren and their children can continue to live on this, in this community. And I believe that those kinds of desires will be the guiding principles that he'll be making decisions on the Planning Commission by.

COUNCILMEMBER VICTORINO: So you feel that in your experience with Mr. Freitas, he'll be level, fair, and open-minded to the changes that are occurring here in Maui County?

MS. GORMAN: I believe he would be very fair, I do. And I, I think that he has the ability to balance those, the need for economic development and vitality for the ability for us to sustain an economy that can support our local families especially. But also to make the hard decisions when it comes to saying no to things that won't benefit this community.

COUNCILMEMBER VICTORINO: Okay, thank you.

MS. GORMAN: I think he'll have the ability to do that well.

COUNCILMEMBER VICTORINO: Thank you, Ms. Gorman. Thank you Chair.

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CHAIR MOLINA: Okay. Thank you, Mr. Victorino. Committee Members, any other questions for the testifier? Seeing none, thank you, Ms. Gorman, for your testimony. Next to testify on Committee of the Whole Item 2(10), we have Johanna Kamanu [*sic*], followed by Tamara Paltin.

*NOTE: Pause while Ms. Kamaunu approached the podium.*

MS. KAMAUNU: . . . Aloha, Council Members, my name is Johanna Kamaunu from Waihee. I don't know if it's just me, but I'm having a real difficult time hearing the conversations going on around here today.

UNIDENTIFIED SPEAKER: . . .(*inaudible*). . .

MS. KAMAUNU: But besides that, I'm here because I'm not really happy with the names that the Mayor is submitting for nomination. And I think more than just the *people* that are being selected--what I'm seeing here is a way of thinking that bothers me. Um . . .

. . . I don't feel that my individual interests are being addressed here. I don't think there's anything that addresses the individuals, the people and the families that live here. What I see is a heavy influence towards corporations and their interest. And the reason why this bothers me is because of a testimony that, in doing family research, I found of a grand-uncle that lived here in Iao Valley. And I know, I think Kani's mentioned it before. but in 1976 he was interviewed and he was asked "What was it like during the depression?" And his response was "I grow taro, and if I need anything else I go to the ocean and fish or there's fruit trees". You know, there's places that he could go to, things that he could get to, to provide for himself. So there wasn't that kind of concern. Now when a farmer goes out of business or runs into problems, he doesn't impact the community as if a corporation goes under. When a corporation goes under, boy that hurts *everybody*, and that *ripples* throughout the *island*. So what I'm seeing here, especially in the selection of these people that are being made to the board, is that there are more connections to corporations than there are to individual people, individual enterprises, individual concerns and needs. And, you know, these individuals made up this community, what it is today. So it kind of hurts to see that this corporation, corporations are non-living entities and they're having such an impact on my personal life. They shouldn't have that kind of impact on me; they shouldn't have that kind of influence on people. Corporations should be there for the advancement of the people, to support people. Instead, we're being subject to the corporations--at least I'm starting to feel that way more and more. One name in particular, one --

MS. HAMMAN: Three minutes.

MS. KAMAUNU: --board I'm concerned about is the Planning Commission. And I'm not happy with the names that are on there. You don't have to make me happy, but the thing is that. . .again the influence of corporations are there. . .not the individual people who

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live there, not the residents who spent generations on these islands and who will probably continue to be here. So when I didn't actively pursue Mr. Tagorda's appointment to the Planning Commission, I'm going to actively pursue this one and ask that you not . . . recommend or support Robert Poor [*sic*] for this position. There are other names, people related, related to corporations or who have been working for corporations on all of these boards and committees. I *really* think we should go back and look and see --

MS. HAMMAN: Four minutes.

MS. KAMAUNU: --where these influences are. Thank you.

CHAIR MOLINA: Okay, thank you for your testimony, Ms. Kamanu [*sic*]. Committee Members, questions for the testifier? Mr. Victorino?

COUNCILMEMBER VICTORINO: Yeah, thank you. And, Johanna, thank you for being here. Give me a *specific*. . . person that you are, you said Planning Commission and what your concern with that person is, if you may, please?

MS. KAMAUNU: . . . I am concerned about the Planning Commission, and I mentioned Mr. Robert Pure being there.

COUNCILMEMBER VICTORINO: . . . (*inaudible*). . .

MS. KAMAUNU: You know I would suspect that even Mr. Cockett, who came before you today, would be more in my line of what might be appropriate for a Planning Commissioner. Mr. Cockett, as I can see it, might be the *only* person, if selected, on the Commission who has, who may have the individuals' interests at heart. He has no connection to these corporate influences.

COUNCILMEMBER VICTORINO: Okay, okay, thank you, Johanna, I appreciate that.

CHAIR MOLINA: Okay, thank you, Mr. Victorino. Committee Members, any other questions? Ms. Johnson?

COUNCILMEMBER JOHNSON: Yes, Johanna, thank you very much. because we don't really have the whole *process* before us, it's just these individual names, if I understand what you're saying--it's that it seems not an inclusionary process; and if I get, you know, I guess from you it's that there's not sufficient balance that's reflective of the, the demographic here on Maui, of the population that is really being asked to make these decisions, it's not reflective. Is that what you're saying?

MS. KAMAUNU: Yes, but that's not just in these boards and commissions. I think it even extends to our Maui Island Plan and our Countywide policies. We're really heavy into development and urbanization. We're really not looking at being self-sufficient.

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COUNCILMEMBER JOHNSON: I really appreciate that. Well, thank you very much, and we'll try to at least get some answers. Thank you.

CHAIR MOLINA: Okay, thank you, Member Johnson. Member Medeiros?

COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman. Aloha, Ms. Kamanu [*sic*]

MS. KAMAUNU: Aloha.

COUNCILMEMBER MEDEIROS: --and thank you for being here, as always. I know you and your husband have been here quite a bit testifying. Because you have engaged yourself in the government and...public process, do you know of any applicants who did submit applications to be considered that you thought would be good potential nominees?

MS. KAMAUNU: . . . Sure . . . (*laughter*) . . .

COUNCILMEMBER MEDEIROS: Okay, so you...

MS. KAMAUNU: I did . . . (*laughter*) . . .

COUNCILMEMBER MEDEIROS: Oh, you did--

MS. KAMAUNU: . . . (*laughter*) . . .

UNIDENTIFIED SPEAKER: Oh . . .

COUNCILMEMBER MEDEIROS: --may I ask what board or commission?

MS. KAMAUNU: Planning Commission.

COUNCILMEMBER MEDEIROS: You did? Okay, that's, that's good for us to know--

MS. KAMAUNU: Planning Commission and I believe the Board of Variance.

COUNCILMEMBER MEDEIROS: Board of Variance, too? Well, I, I just want to thank you for you and your husband's, you know, involvement and, and trying to represent your Community of Waihee and the Hawaiian community. Mahalo.

MS. KAMAUNU: I have to add one more thing; 'cause Kani would have said this if he were able to be here--that he was disappointed that there were so many reappointments. And the reason for that is because. . .are there no other people that have applied? What doesn't come before you is the *list* of people who have applied for that position. And if anything, gee, I would have liked to have seen the list. Now I know from Lahaina at least

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three people applied for that position, at least. But I wonder how many more that might have been there that might have been a better choice for us?

COUNCILMEMBER MEDEIROS: Yeah, thank you for making that point on your part as being someone in the community. We, we, we only see the list that comes before us also. So it is concerning to us that we don't get to see the entire list at times. But thank you for your testimony and your perspectives on this. Mahalo. Mahalo, Mr. Chairman.

CHAIR MOLINA: Thank you, Mr. Medeiros. Any other questions? Member Baisa, are we okay over there?

COUNCILMEMBER BAISA: No, we're fine--

CHAIR MOLINA: Minor accident--

COUNCILMEMBER BAISA: We just...something fell down.

CHAIR MOLINA: Okay...*(laughter)*...

COUNCILMEMBER BAISA: I'm still here--

COUNCILMEMBER JOHNSON: ...*(laughter)*...

COUNCILMEMBER BAISA: Thank you, Chair. Johanna, thank you for being here, and thank you for sharing your thoughts with us. It's very important. The Planning Commission is probably one of the most important bodies here in Maui County. They are the first stop on many, many things that, you know, they either don't get to us or they stop right there because, you know, they make the initial recommendations. So we, you know, I particularly pay very close attention to the nominees. Having learned early in my career as a Council Member, I think I made a mistake that I question, I questioned later on. So now I'm *very* interested when we get ...*(laughter)*... Planning Commission nominees-- as to who they are, their background. You made a couple of points and I want to make sure I understood couple of things that you tried to tell us. One was you mentioned that you felt it was *really* important to have longtime connection and knowledge about Maui.

MS. KAMAUNU: There's so many *events*--and I call them "events" in our history, and how can someone who has not participated in those events really understand how it's going to impact us? For instance, how can you understand what it's like to be poor if you've never been poor?

COUNCILMEMBER BAISA: ... I understand. I think that's one of the things that I'm very thankful for--was that I had humble beginnings ...*(laughter)*... If you know the story of walking in somebody else's shoes, it's really nice. The other thing that I heard you have concern about was *corporate* connection. And you've specifically mentioned Mr. Pure as

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a nominee. Does he have a corporate connection that I'm not aware of? Can you, can you tell me if you know something I don't know? And if you prefer not to answer, that's okay.

MS. KAMAUNU: Yes, I prefer not to answer . . .*(laughter)*. . .

COUNCILMEMBER BAISA: Okay, also you mentioned that there were three nominees.

MS. KAMAUNU: Yes.

COUNCILMEMBER BAISA: Can you share those names or again would you prefer not to answer?

MS. KAMAUNU: Well, I was one--

COUNCILMEMBER BAISA: You were one.

MS. KAMAUNU: --you know Mr. Cockett was another, and I know Wilmot Kahaialii was another. So I, and I don't know who else may have been on the list for the Planning Commission.

COUNCILMEMBER BAISA: Okay. Thank you very much. You know, it's really a sad thing that, you know, that the Mayor's in charge with the responsibility of making the nominations and we do not see those lists. We see the nominees that she gives us. And that's why the process is good, because it gives people like yourself the opportunity to come here and tell us these things so we make a fully informed decision. So again thank you very much. I know it's not easy to be here. Thank you.

CHAIR MOLINA: Okay--

MS. KAMAUNU: Yes, I know our Association was concerned about some of these things. And unfortunately our general membership meeting is next week Thursday instead of this week, so not everyone's getting the word that this meeting was being had today. But we are trying to catch up.

COUNCILMEMBER BAISA: Yes, and thank you for. . .very much again, thank you. You and your husband, great, thank you.

MS. KAMAUNU: Thank you.

CHAIR MOLINA: Okay, thank you, Member Baisa. Committee Members, any other questions for the testifier? Seeing none, thank you very much for your testimony, Ms. Kamaunu. Next to testify on Committee of the Whole Item 2(10), we have Tamara Paltin, followed by Kahu Lyons Naone.

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**NOTE:** *Pause while Ms. Paltin approached the podium.*

CHAIR MOLINA: . . . Morning.

MS. PALTIN: . . . Good morning, my name is Tamara Paltin and thank you for the opportunity to testify today. I completely agree with the previous testifiers, Johanna and Gordon Cockett. I think they would both be a great addition to the Maui Planning Commission. I just wanted to let this Committee know that I also did submit an application to serve on the Maui Planning Commission and would be very happy to serve in this capacity.

. . . I think Gordon and Johanna would be excellent additions, but I also wanna. . .say that balance and diversity is important--and I don't see to much of the younger members of our demographic represented on the Planning Commission. And I think it's important to also get that perspective since we're the people that are going to be living with the consequences for. . .a longer time . . .*(laughter)*. . . I live and work in West Maui. I'm a lifelong resident of Hawaii. I've been a County employee of Maui County for nine years; I graduated from Hilo High School and Northern Arizona University. I'm a 2009 Ka Ipu Kukui Fellow and I really believe in the Focus Maui Nui vision for growth on Maui. My free time when I'm not injured, I participate in awai and loi restoration in Kauaula and Honokohau Valleys. We hope to expand to Kahoma as well, and that's with Na Kuleana O Kahalawai. Living and working oceanfront, I really strongly believe in enforcing Coastal Zone Management law. And at this time I have Monday and Tuesdays off. It's not really a highly requested days off, so I would be able to make the meetings.

. . . That's it, thank you.

CHAIR MOLINA: Okay, thank you, Tamara. Member Johnson?

COUNCILMEMBER JOHNSON: Hi, Tamara. When you submitted your application, it was specifically for the Maui Planning Commission?

MS. PALTIN: That's correct.

COUNCILMEMBER JOHNSON: And it was prior to the deadline?

MS. PALTIN: Yeah, I received a letter of acknowledgement from Marian Feenstra.

COUNCILMEMBER JOHNSON: Okay, so you did get a letter of acknowledgement stating that you had, they have received your application?

MS. PALTIN: That's correct.

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COUNCILMEMBER JOHNSON: Did you get any further correspondence as to what had transpired--that you weren't being selected for going forward with your nomination or...

MS. PALTIN: No they didn't give any reason. I was wondering maybe if they thought I wasn't qualified enough or what. I don't, they didn't give any reasons.

COUNCILMEMBER JOHNSON: Okay, but in that letter did they acknowledge that they have selected someone else or it didn't address that?

MS. PALTIN: No, it just said. . .I, I don't remember word for word. It said like, oh, if we have any further use for you or something, we'll let you know--

UNIDENTIFIED MEMBER OF THE AUDIENCE: . . .(laughter). . .

MS. PALTIN: --something to that effect.

COUNCILMEMBER JOHNSON: Okay, I, I really appreciate that, thank you. Thank you so much, Tamara.

CHAIR MOLINA: Okay. Thank you, Member Johnson. Members, questions? Mr. Nishiki?

COUNCILMEMBER NISHIKI: Thank you. Good morning, Tamara.

MS. PALTIN: Good morning.

COUNCILMEMBER NISHIKI: Did you get any interviews at all? Did, did anyone--

MS. PALTIN: Zero.

COUNCILMEMBER NISHIKI: --even call and ask you about your application and background information and anything like that?

MS. PALTIN: No, just that one letter saying what I previously stated.

COUNCILMEMBER NISHIKI: So no interviews or *anything* at all?

MS. PALTIN: Nothing.

COUNCILMEMBER NISHIKI: . . . Uh. . .um . . .

. . . I'm done.

CHAIR MOLINA: Thank you, Mr. Nishiki. Members, any other questions for the testifier? Member Baisa?

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COUNCILMEMBER BAISA: Thank you very much, Chair, and thank you, Tamara, for being here. Sorry to see the crutches, you're usually running around full speed.

MS. PALTIN: . . .*(laughter)*. . .

COUNCILMEMBER BAISA: I know what that's like. I noticed that you mentioned in your . . .explaining your qualifications--and I see you wearing the shirt--that you're a graduate or a Fellow of Ka Ipu Kukui. Can you explain what that means?

MS. PALTIN: Basically, it's a leadership program that's co-sponsored by the County and I was a scholarship member. Basically, I guess Focus Maui Nui saw the need of, like, home grown leadership on Maui. So they decided to start this, like, a yearlong program to train people that, from within the community to at least expose them to the different issues on Maui. And it's, it's a pretty diverse crowd. And it shows you, it doesn't really tell you how to think, but it shows you both sides of the issue--like how development can be necessary but it doesn't have to be bad for you or bad for the community. And it can be done in a way where you can work together and things like that. Prior to going to that program, I think a lot of people would probably label me anti-development. But after becoming a Fellow, I see that growth *is* necessary but it can be done slow, it can be done smart, and it can be done in the interest of the community--like how Johanna had mentioned, it . . .that's the kind of growth I think that we need. Balanced. And also like how Teri Gorman Freitas said, so that the future generations can live here and it will be sustainable.

COUNCILMEMBER BAISA: Thank you very much. It certainly appears to be a nice background to have, if you're going to be making decisions about Maui's future. Thank you very much.

CHAIR MOLINA: Okay thank you, Member Baisa. Member Medeiros?

COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman. Tamara, aloha and thank you for being here, for coming all the way from Lahaina in your condition.

MS. PALTIN: . . .*(laughter)*. . .

COUNCILMEMBER BAISA: . . .*(laughter)*. . .

COUNCILMEMBER MEDEIROS: . . . And, and we have heard from you before and we thank you for your participation in this kind of process. I just wanted to continue the questioning that Member Baisa just talked to you about, about that program that you graduated from and became a Fellow. Was that program focused on developing and encouraging young leadership?

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MS. PALTIN: Yeah, it, it was. They, they taught us, kind of like to. . .in the beginning they, you do like an assessment of what type of a learner you are and what type of a person you are, and then they kind of go into detail about how your type of person can interact with different types of people so that it's not so hostile all the time. Like you, you focus on what the desired outcome is --

COUNCILMEMBER MEDEIROS: Right.

MS. PALTIN: --and then you work towards that instead of like, oh, that guy is a jerk or whatever like that.

COUNCILMEMBER MEDEIROS: . . .*(laughter)*. . .

MS. PALTIN: And we really learn the Maui Nui vision about, like, they want Maui to be or we all want Maui to be an innovative model of sustainable island living and a place where every child can grow to reach his or her potential; the needs of each individual, the needs of our natural and cultural assets, and the needs of the whole community will be brought into balance to reflect the extremely high value we place on both land and its people and, so on and so forth.

COUNCILMEMBER MEDEIROS: Right, so, Tamara, in your experience in that program, were there older people? And I know for young people, their perspective, it's different from ours. If you asked a teenager what's old, 30 is old to them.

ALL: . . .*(laughter)*. . .

COUNCILMEMBER MEDEIROS: You know . . .*(laughter)*. . . but were there a mix of older adults in that program besides the youth like yourself?

MS. PALTIN: I was, there's, this is the third class going on right now. And I believe the first two classes were about people around my age. And this third class, I haven't met all of them but there are some *older* people now.

COUNCILMEMBER MEDEIROS: And older for you would be over 50 or over 40 or?

COUNCILMEMBER BAISA: Over 30.

COUNCIL MEMBERS: . . .*(inaudible)*. . .

MS. PALTIN: Over 40.

COUNCILMEMBER MEDEIROS: Oh . . .*(laughter)*. . .

COUNCIL MEMBERS: . . .*(laughter)*. . .

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COUNCILMEMBER MEDEIROS: . . .(laughter). . . Okay. Tamara, we won't go any further then on the age . . .(laughter). . .

ALL: . . .(laughter). . .

CHAIR MOLINA: Thank you, Mr. Medeiros.

COUNCILMEMBER MEDEIROS: . . .(laughter). . . Thank you for your testimony and for being here this morning . . .(laughter). . . Mahalo, Mr. Chair . . .(laughter). . .

CHAIR MOLINA: Thank you, Mr. Medeiros. Members, any other questions--whether it be related to age, job qualifications . . .

COUNCIL MEMBERS: . . .(laughter). . .

CHAIR MOLINA: . . . if you have any--anyway thank you very much for your testimony.

COUNCIL MEMBERS: . . .(laughter). . .

CHAIR MOLINA: Good to hear some laughter in the Chambers now and then.

COUNCILMEMBER BAISA: Yes.

CHAIR MOLINA: Next to testify on Committee of the Whole Item 2(10), we have Kahu Lyons Naone, followed by Lucienne deNaie.

UNIDENTIFIED SPEAKER: . . .(laughter). . .

COUNCILMEMBER \_\_\_\_: . . .(inaudible). . .

**NOTE: *Pause while Mr. Naone approached the podium.***

MR. NAONE: . . . Aloha, Mr. Chairman . . .

CHAIR MOLINA: Aloha.

MR. NAONE: . . . Council Members. My name is Kahu Lyons Naone, and I live in Kipahulu. I drove out here last night so I could be here on time. I'm a paniolo, taro farmer, cultural consultant, and a instructor at Maui Community College.

. . . And I'm, in my opinion as a lifelong, young 66-year-old . . .

COUNCIL MEMBERS: . . .(laughter). . .

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MR. NAONE: . . .(laughter). . . year-old . . .(laughter). . . resident . . .(laughter). . . of Maui . . .(laughter). . . I, I believe the Mayor and the Council should be people that can be able to balance the community, commerce, and culture, and serve the people in that capacity rather than in just a special interest. And even though most of you know me in the cultural side, it is still my belief that, that all Council Members and, and all politicians, should be, should have that mind set.

. . . And I also believe that when we pick our commissioners, they should always also be of that mind set. I think the balance should not be that one person is from the union, one person is from, from culture, one person should be from development. I think each individual should be. . .should be of that balance.

. . . And it, it has a . . .a chilling effect, especially for us that I've been here since before the Eddie Tam days, you know and watch everything change as it, as it, as it moved a long and as we used to ride the railroad from, from Haiku all the way to, to, you know the, the Quonset huts and, you know, all that kind of stuff like that. And we watch these decisions that are being made, and as I look among you folks, I see some of you that was probably on the train, too, when I was on the train--

UNIDENTIFIED SPEAKER: . . .(laughter). . .

MR. NAONE: --or at least Bill John picking the same mango from the same mango tree in Hana. Right?

. . . I, I am very concerned about the nominees for the Planning Commission.

. . . I think we can do much better.

**NOTE:** *Silence.*

MR. NAONE: . . . I feel that Mr. Freitas. . .is an excellent choice.

. . . He speaks our language. And when I say "speaks our language", I mean he understands when we speak and we talk and, you know, **how** we are. . .not only our language in speech but our body language, what, what we have to go through.

MS. HAMMAN: Three minutes.

MR. NAONE: Already? Ooh.

COUNCIL MEMBERS: . . .(laughter). . .

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MR. NAONE: However, I feel we have to do better than, than Mr. Bob Pure. We have to do better than that, and I urge you to deny him. I was impressed with Mr. Cockett's talk, testimony up here and everybody supporting him. And if he was a nominee, I would support him, definitely. His father and I worked, his father and my father worked together and we served as policemen together and he also understands the language. Mahalo.

CHAIR MOLINA: Thank you, Kahu. Committee Members, questions for the testifier? Seeing none, thank you for your testimony.

MR. NAONE: Mahalo.

CHAIR MOLINA: Next to testify on Committee of the Whole Item 2(10), we have Lucienne deNaie followed by Clare Apana.

MS. deNAIE: Aloha, Committee Members and Chair Molina. Thank you for this opportunity to speak. My name is Lucienne deNaie, I'm speaking as a private individual, and as a person who has served on a planning body here and knows what it takes. First of all, I want to just thank the Council for the due diligence that they do pay attention to these nominees. Although it's often the case that it's out of our hands, the Mayor has sent them down, if the Charter saw that the Mayor had the complete responsibility, the Council would not be given the review. So I, I'm sure you take it seriously, and I see that you do. I also think that we need to acknowledge this is a very confusing process for people, and limits of your applications are not made clear. I, too, have applied many times for the Planning Commission and every few years I just put in another you know, application. And, you know, it *does* appear to be kind of a political process. I'm a qualified person, I live in an underserved area, Haiku, Huelo area, fastest growing, but we never get anyone on the Planning Commission. But so what? We, we got some people nominated today and I don't think *West Maui* is being given a fair shake. First of all, the Mayor had a chance when Commissioner Guard resigned to make up for the shortfall. At that point, West Maui had not had a representative for over six *months* on the Planning Commission. *That* could have been a West Maui person. But that was not the case. What we were told, that was going to be remedied in March. *Now* we hear that many qualified people from West Maui *did* apply and we could have gotten some, some needed *balance* on our Planning Commission. We could have had a kupuna. We could have had Mr. Cockett who--I don't know if you've ever heard Mr. Cockett speak at an event. He brings tears to people's eyes, he brings *wisdom*, he brings a bringing together. And, and, you know, I'm not always been on the same side of every issue that Gordon has been, but I have *great* respect for him and that he would put his name forward and that folks like this are not contacted. I don't know if you guys remember when. . . Mayor Arakawa had his committee that actually, it wasn't his staff, it was a committee that went out and worked with the community, interviewed people. People kind of *knew* where they stood. This process, it's like *you* don't know anything about it, the nominees don't know anything about it, it's this strange vacuum that exists someplace in one office someplace.

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We have Tamara Paltrin [*sic*], someone who's being trained for leadership, being overlooked for a leadership opportunity. Last time I noticed, there's *two* women on the Planning Commission. We're 50 percent of the population. I'm being honored for Women's Month. I'd be more honored if more women were appointed . . . (*laughter*). . . to the Planning Commission, frankly . . . (*laughter*). . . rather than have a lunch with somebody. I, I think actions count. So I hope you take action to say that the Mayor can do better in West Maui. You've seen there's some other qualified nominees and you would like her to consider them and send you back another nomination. And I also think that maybe we need to look at a Charter amendment --

MS. HAMMAN: Three minutes.

MS. deNAIE: --that reinstates this *committee* that's a non-partisan committee, people from all political parties that reviews candidates for boards and commissions. Because more people might apply if they were treated a little bit better. Thank you.

CHAIR MOLINA: Okay thank you, Ms. deNaie. Committee Members, questions for the testifier?

. . . Seeing none, thank you very much for your testimony, Ms. deNaie. Next to testify on Committee of the Whole Item 2(10), we have Clare Apana, followed by Irene Bowie.

MS. APANA: Good morning, Council Members.

. . . I, I would, for, for. . . I have a few things that I would like to say. And the first one I would like to say that, you know, I have, you've seen me kind of over the last two years start to testify, and it's not really easy, it's not easy for me to come and testify. And I've seen on some of these. . . commissions the people who testify are actually treated so poorly. And I just wonder if there's anything you could do to make it so that there's some training or some standards or some way to say, you know, a commissioner should not give out personal information about a person who is testifying just because they don't like what the person's saying, to kind of attack them on a personal level or attack them with, with things they may not want other people to know. And I have seen this happen over and over again. And so this is just one thing I wanted to say. And the second. . . I, I am on the. . . as a. . . a nominee and I flew back from Honolulu--'cause I was going to go to a conference today--because. . . let me tell you my story and I guess it would, it will again reinforce the idea that it's a little confusing. Not this past year but the year before, I put in my name because I had done so much testifying, I said, you know, I could serve on one of these boards, I think I could do a good job, and I would do my homework to find out about the projects and everything beforehand. Anyway I've applied for the Planning Commission, the Cultural Commission, at that time. And the Cultural Commission had two seats open. And I said well, you know there's a chance. And anyway what happened was, well, in the next, the new commission came out, there was a person on there who had been finished with their term. And I said hey, how, I thought

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you were finished, and she said well, there weren't enough people who were nominated. And I went, well, okay, I guess they really don't want me because I put my name in and. . .and I know about other people. And so I said, well, there's no way I'm ever going to get it. So I didn't put my name in this last time. I said there's no sense in me putting my name, I'm not going to get anything. And so then when the lady calls me and she said do you want to be on the Cultural Committee, you know, I said oh, yes, you know. And, and, and then and someone called me and then in the newspaper it's Arts and Culture. And *truly* I wouldn't sign up for that because I don't know anything about art.

COUNCILMEMBER \_\_\_\_\_: . . .(laughter). . .

MS. APANA: I really, I mean I feel so --

MS. HAMMAN: Three minutes.

MS. APANA: --not, you know, about art. And so anyway, I thought I was nominated for the Cultural Commission which I signed up for. You know, they didn't tell me you, we're giving you something else that you never sign for. I thought I was getting the Cultural Commission. I mean I was jumping around in my house. I said "oh my God, there's a God, there's a God, there's a God" you know, and, and I see the nominees and I see that there's a person who's been already serving on the Planning Commission for five years. I feel like, you know, I'll never be given a chance. And I, I feel like I have shown my interest and I've done a lot of homework to come and testify, and I feel that I would be a very good commissioner. But I don't really think I will every get a chance on what is closest to my heart--which is to do the Cultural Commission. I don't think I will every get a chance of doing something like that.

MS. HAMMAN: Four minutes.

MS. APANA: And so I just want to say that I really feel uncomfortable to do Arts and Culture--

AUDIENCE: . . .(laughter). . .

MS. APANA: --that is I mean, that I'm so out of my league there. And I *hope* that you will take to heart that this process is not serving the person like myself or like the other people who really show *interest* in our community and who want to serve and do something more, and that perhaps that you will *consider* changing that or give a. . .a closer look at what's happening here. Because...

CHAIR MOLINA: Ms. Apana? I'm sorry--

MS. APANA: Yeah.

CHAIR MOLINA: --I have to--

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MS. APANA: Thank you very much, thank you very much . . . *(laughter)*. . .

CHAIR MOLINA: Thank you. Hang on, we, we have a question for you, Clare.

COUNCILMEMBER BAISA: Clare, hang on.

CHAIR MOLINA: Mr. Nishiki?

UNIDENTIFIED SPEAKER: . . . *(inaudible)*. . .

COUNCILMEMBER NISHIKI: Yeah. Clare, this is quite disturbing.

MS. APANA: . . . *(laughter)*. . .

COUNCILMEMBER NISHIKI: Your being approved for the Commission on the Cultural and the Arts, you actually applied to serve on the County Cultural Resources Commission.

MS. APANA: Yes.

COUNCILMEMBER NISHIKI: Right?

MS. APANA: Yes.

COUNCILMEMBER NISHIKI: How did you get your notification? First, first of all, were you ever interviewed?

MS. APANA: No.

COUNCILMEMBER NISHIKI: Okay.

MS. APANA: No.

COUNCILMEMBER NISHIKI: When did you get your notification, was it through the mail?

MS. APANA: No.

COUNCILMEMBER NISHIKI: A call?

MS. APANA: Someone called me, and...

COUNCILMEMBER NISHIKI: And told you...

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MS. APANA: That I was, that I, I had been nominated. And maybe I didn't hear it right, you know, but she said the Cultural Committee so I, I, I assumed it was the committee I signed up for . . .(laughter) . . .

COUNCILMEMBER NISHIKI: Right, and, and, and, as they told you this, they didn't say what your responsibilities are or anything like this or...

MS. APANA: No. No.

COUNCILMEMBER NISHIKI: Okay.

MS. APANA: Actually I thought I had to come today so that you guys could--

UNIDENTIFIED SPEAKER: . . .(laughter) . . .

MS. APANA: --ask me questions. I, I. . .and I thought --

COUNCILMEMBER NISHIKI: No, no interview--

MS. APANA: --that was my responsibility to be here so that you could, you might want to *know* something about me . . .(laughter) . . . I don't know.

COUNCILMEMBER NISHIKI: Okay. And so you don't really want to be on this commission either then?

MS. APANA: No, I feel *very* uncomfortable to, to make--

COUNCILMEMBER NISHIKI: Okay.

MS. APANA: --any decisions about art.

COUNCILMEMBER NISHIKI: Thank you . . .(laughter) . . . so much.

COUNCILMEMBER \_\_\_\_\_: . . .(laughter) . . .

COUNCILMEMBER NISHIKI: Thank you.

MS. APANA: . . .(laughter) . . .

CHAIR MOLINA: Thank you, Mr. Nishiki. Before I recognize Member Baisa, Chair would like to recognize Mr. Kaho'ohalahala to our proceedings this morning. Clare, just one question--and so are you still interested in pursuing this nomination, 'cause I think it would help the Committee to know for sure if you still want to be considered for nomination?

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MS. APANA: I, I would not like to be on the Art and Cultural Committee.

CHAIR MOLINA: Okay.

MS. APANA: Thank you.

CHAIR MOLINA: Thank you. Member Baisa?

COUNCILMEMBER BAISA: Thank you very much, Chair, that was one of the questions I was going to ask you is--

MS. APANA: Yeah.

COUNCILMEMBER BAISA: --should we then not approve you for this Culture and Arts Commission . . . *(laughter)* . . . and I got my answer. The other thing you mentioned during your testimony and, you know, again if you feel comfortable answering, answer if you, if you think, no-- 'cause I'm not into harassing people--

MS. APANA: . . . *(laughter)* . . .

COUNCILMEMBER BAISA: --as you know.

MS. APANA: Thank you.

COUNCILMEMBER BAISA: This person who you said is appointed and had a five-year previous service--

MS. APANA: Uh-huh.

COUNCILMEMBER BAISA: --I don't know about that. Can you tell us who that is?

COUNCILMEMBER JOHNSON: U'u.

MS. APANA: It's Bruce U'u, just came off the Planning Commission.

COUNCILMEMBER BAISA: I see. So you're talking about the Cultural Resources Commission.

MS. APANA: Yes, I'm talking about--

COUNCILMEMBER BAISA: Oh--

MS. APANA: --the Commission that I, I was interested in.

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COUNCILMEMBER BAISA: The one you really wanted, and the person who's nominated already served five years on another commission.

MS. APANA: Yes.

COUNCILMEMBER BAISA: Okay, now I'm straight. The other thing I wanted to tell you was about coming today--

MS. APANA: Yes.

COUNCILMEMBER BAISA: Our practice and our procedure is that when we receive these names, Council Members have to ask for people to come. And if there are three people, at least three Members who say they want the nominee to come, then you're requested to be here. Of course, you can always come.

UNIDENTIFIED SPEAKER: Yeah.

COUNCILMEMBER BAISA: You're welcomed to come, but the request is made if three of us make the request.

MS. APANA: I see.

COUNCILMEMBER BAISA: So...

MS. APANA: I didn't know that.

COUNCILMEMBER BAISA: Yeah that's our little process and--

MS. APANA: ...*(laughter)*...

COUNCILMEMBER BAISA: --you know, I don't know if it's the best process but I know it evolved over time because of the amount of time that's spent if we interviewed everybody. Also a lot of people come from off island, so there's a huge expense involved; if everybody's comfortable with them, why make them come. And we do have access to your applications, they're all put in our binder ahead of time, so we can review them. And not, they're always, don't have a whole lot of information that's why--

MS. APANA: Well...

COUNCILMEMBER BAISA: --we have to ask a lot of questions. You know the, the form is kind of simple.

MS. APANA: Yes.

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COUNCILMEMBER BAISA: So. . .so that's the process. I just wanted to let you know, and thank you very much for coming today.

MS. APANA: Thank you.

CHAIR MOLINA: Okay, thank you, Member Baisa. Any other questions for the testifier? Member Kaho'ohalahala?

COUNCILMEMBER KAHO'OHALAHALA: Thank you, Chair. Clare, mahalo for coming this morning.

MS. APANA: Thank you.

COUNCILMEMBER KAHO'OHALAHALA: I think . . .*(laughter)*. . . you know just to your initiative in terms of coming here--assuming that, that you needed to attend this meeting so that the Council could have an opportunity to get to know you--is in itself, speaks very highly of you. But I was concerned with your comments early about the fact that in going to make testimony before a commission, you felt very intimidated. Is this something that you experienced personally?

MS. APANA: I do and other people I know who testify do, too.

COUNCILMEMBER KAHO'OHALAHALA: And so you're saying that it is the *commissioners* themselves that are. . .presenting themselves in a manner that is intimidating to you, a, a testifier?

MS. APANA: Yes.

COUNCILMEMBER KAHO'OHALAHALA: Yes. So it means that we need to take a look at who these commissioners are, because if they are coming forth with this kind of treatment of the general public, then that's not what they were intended to do. I think. . .oh, I appreciate you bringing that to our attention. Okay. The other thing is you mentioned that you were called; do you know who contacted you?

MS. APANA: I believe it's the person who's in charge of getting the committee members. It was, she had just started working, and I'm sorry I don't know her name.

COUNCILMEMBER KAHO'OHALAHALA: Okay, but that was a new person that just started in . . .*(inaudible due to interruption)*--

MS. APANA: Yeah, she said I, apparently the person that I spoke to when I signed up was not the person that called me.

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COUNCILMEMBER KAHO‘OHALAHALA: Okay--

UNIDENTIFIED SPEAKER: . . .(inaudible). . .

COUNCILMEMBER KAHO‘OHALAHALA: --and you don’t know who that person is then.

MS. APANA: So she’d be...no, I’m sorry I don’t.

COUNCILMEMBER KAHO‘OHALAHALA: Okay. Okay, thank you very much for that clarification.

CHAIR MOLINA: Okay.

COUNCILMEMBER KAHO‘OHALAHALA: Thank you, Chair.

CHAIR MOLINA: Thank you Mr. Kaho‘ohalahala. Committee Members, any other questions for the testifier? Seeing none, thank you for your testimony, Ms. Apana.

MS. APANA: Thank you.

CHAIR MOLINA: Thank you. All right. Members, we have to testify on Committee of the Whole Item 2(10), we have Irene Bowie, and Ms. Bowie at this point is the last person to have signed up for testimony. The Chair will offer the public one last opportunity to sign up for public testimony if you haven’t testified already. Good morning, Ms. Bowie.

MS. BOWIE: Good morning, Chair. Good morning, Council Members. My name is Irene Bowie, I’m with Maui Tomorrow Foundation, and I’m here primarily to speak in favor of Gordon Cockett. But listening to the testimony, I just would like to add I, too, am confused by this process and disappointed when we see who, who is appointed to these positions. I also am someone who has applied for the Planning Commission and no contact, other than a letter that they’ve gotten your application. Also I think Lucienne deNaie had a great point that as I sit and looked at a lot of these things, I think there needs to be more balance between male and female on these committees or commissions. And I would mention also Clare Apana’s testimony, I *also* sit at different commission meetings. And Planning Commission, I’ve been very surprised by the treatment of testifiers by one person in particular, and even to the degree that one of the last Planning Commission meetings I was at, he in exasperation said he couldn’t wait to get out of there. I mean I really feel that if, if *that’s* your feeling, you need to resign, you don’t need to keep participating and showing your disdain for the process. And then to find that, that person is now appointed onto another commission is very disappointing. I don’t know Mr. Pure, I’m sure he’s a, you know, a fine person. But I would say that if *he* is already on the Board of Ethics and not off of that Board until 2014, which is my understanding, then someone like Mr. Cockett would be a perfect choice. I’ve known Mr. Cockett for many years and I just think he’s such an outstanding community

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member, founder of, of Maui Unite. He's come to a lot of our Maui Tomorrow meetings, he's *always* engaged in what's going on, you know, throughout our community. So this process does not seem to be working very well and it does seem like it happens in a vacuum. So, you know, I would just add for the record that we would like to see what you folks could do to maybe help improve this process and that people that really genuinely are active in the community are given a chance to balance out these very important commissions. Thank you.

CHAIR MOLINA: Okay thank you, Ms. Bowie. Committee Members, questions for the testifier? Mr. Kaho'ohalahala?

COUNCILMEMBER KAHO'OHALAHALA: Thank you. Irene, did you say that you also have applied for...

MS. BOWIE: For Planning Commission, yes.

COUNCILMEMBER KAHO'OHALAHALA: For this, this round?

MS. BOWIE: Yes.

COUNCILMEMBER KAHO'OHALAHALA: And the only notification you got was receipt of your application?

MS. BOWIE: Right.

COUNCILMEMBER KAHO'OHALAHALA: No other word?

MS. BOWIE: Right. And, you know, for me personally I'm okay with that. I, I think that there does need to be west side representation. But, you know, I certainly would have been *really, really* happy to see Mr. Cockett's name put forward on this.

COUNCILMEMBER KAHO'OHALAHALA: Okay, thank you for that.

CHAIR MOLINA: Okay, thank you, Mr. Kaho'ohalahala. Any other questions for the testifier? Seeing none, thank you very much for your...oh, hang on, hang on, Ms. Bowie. Member Johnson?

COUNCILMEMBER JOHNSON: And, and if you don't feel comfortable saying, but the other nominee who you stated was, I guess, expressing some displeasure and exasperation, that is one of the nominees for the Cultural, CRC?

MS. BOWIE: Yes, yes.

COUNCILMEMBER JOHNSON: Okay.

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MS. BOWIE: And, you know, I would say I mean I've been surprised in those Planning Commission meetings that the Chair of the Planning Commission doesn't stop the meeting and, and point out that, that the people that come to testify are not meant to be abused, they, you know, they are there giving their public...doing their community service. And it's really surprising how *heated* it can become from Commission members--

COUNCILMEMBER JOHNSON: You know, and--

MS. BOWIE: --in particular a few . . . *(laughter)* . . .

COUNCILMEMBER JOHNSON: And I *thank* you because I also have been one of his victim's . . . *(laughter)* . . . Thank you.

UNIDENTIFIED MEMBER OF THE AUDIENCE: . . . *(laughter)* . . .

CHAIR MOLINA: . . . Okay. Thank you, Member Johnson. Seeing no other questions for the testifier, thank you, Ms. Bowie. Ms. Bowie is the last person to have signed up for public testimony, is there any one in the gallery that would like to testify? Please come on up to the podium and you can sign up afterwards, Ms. Moikeha.

MS. MOIKEHA: . . . Good morning, Chair and Committee Members. And thank you for this opportunity. I did not sign up and I was not intending to speak today, but I, too, have sat here and witnessed a few things that I feel as a member of the public that I would like to comment on. I truly believe that this process should be more transparent. In my experience here many, many years ago was --

COUNCILMEMBER VICTORINO: Mr. Chair?

MS. MOIKEHA: --appearing before you --

COUNCILMEMBER VICTORINO: . . . *(Inaudible)* . . .

MS. MOIKEHA: --as an appointee or a nominee...

CHAIR MOLINA: Hang on, Ms. Moikeha.

COUNCILMEMBER VICTORINO: Yeah.

CHAIR MOLINA: Mr. Victorino?

COUNCILMEMBER VICTORINO: Yeah, I didn't hear her introduce herself.

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CHAIR MOLINA: Oh, yes, please, could you state your full name?

MS. MOIKEHA: I'm sorry. Susan Moikeha.

COUNCILMEMBER VICTORINO: ...*(inaudible)*... so I can write your name down  
...*(laughter)*...

MS. MOIKEHA: Susan Moikeha. Thank you.

COUNCILMEMBER VICTORINO: Okay. Thank you.

CHAIR MOLINA: All right, continue.

MS. MOIKEHA: I, too, had gone through this process myself when I was appoint...up for nomination on the Maui Planning Commission--which I was appointed. And so I'm familiar with that process. And I'm very familiar with the process of serving within this community on, in that capacity and on other boards and commissions. I think it needs to be transparent, I think you do need to have a list of all that who have applied. And I'm sure that this Council could work with the Administration to make those changes. I was very impressed with the young lady that spoke earlier, Tamara; and I really believe that you need to have younger people on these boards and commissions. They *are* the future generations who we older people are making decisions for. I am probably old enough to be her mother and I have four children around her age and grandchildren, and my decision to be involved in the community came from what I would want my children to have in the future. . .and preservation of our culture, Hawaiian culture, and preservation of this land that they live and born on and is their birth right. Unfortunately, I was not born here but I am of Hawaiian decent, and my family goes back a long way here on this island. But I *feel* that those things are important, and I agree with the testifier in mentioning balance--not only cultural, but commerce and other things that you bring to the table that affect this whole island. I will also say in serving in these capacity, you are wide open for attack by the public. And I was very interested in the conversation that took place here and wondered why that didn't stop when the person that was being mentioned was Mr. U'u. And who is not even here to defend himself. Because many things can be taken out of context concerning *your* perspective and thrown out on the table with not all the information. And I would hope if that goes any further than this--considering that he *is* a nomination for another commission--that you would *thoroughly* investigate *both* sides of that story. I have sat and watched names of people I've served with, very *good* people, people in the Planning Commission that have a long history here and have a *great* understanding of the culture. And to see their names maligned and attacked and they don't attack back. And *that*, to me, is character--and I would say that of many of the people I've served with.

MS. HAMMAN: Three minutes.

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MS. MOIKEHA: So I would hope that you would go forward looking at *all* sides of the story, looking for balance in everything that you do, and bring forth people that are *truly* going to represent the hearts and the minds of the people of this County. And thank you for what you do in your service. Thank you.

CHAIR MOLINA: Thank you, Ms. Moikeha. Committee Members, questions for the testifier? Mr. Victorino?

COUNCILMEMBER VICTORINO: Thank you. And thank you, Ms. Moikeha. I didn't mean to interrupt you, but I wanted to get your name.

MS. MOIKEHA: Thank you. I'm sorry about that.

COUNCILMEMBER VICTORINO: Even though I knew who you were, but I don't know if always the public knows who, who's speaking, so I just wanted that thing. So please pardon me for interrupting you, yeah. Susan, you brought up a good point and, you know, you said there's always two sides to a story.

MS. MOIKEHA: Uh-huh.

COUNCILMEMBER VICTORINO: There's always two sides to every issue, yeah. And so in your personal experience and I'm going to ask you this question and--your observation, have you felt this party to be, in overall perspective, a fair individual? In *your* perspective, the individual you mentioned earlier?

MS. MOIKEHA: Mr. U'u?

COUNCILMEMBER VICTORINO: That is correct.

MS. MOIKEHA: Have *I* felt that?

COUNCILMEMBER VICTORINO: Yeah, you felt that?

MS. MOIKEHA: Yes, I have.

COUNCILMEMBER VICTORINO: Okay. And I just wanted your perspective and, and, and I'll say this, you are absolutely right. .as a public servant, whether you're on a commission, board or here, you're open for all kinds of scrutiny.

MS. MOIKEHA: Uh-huh.

COUNCILMEMBER VICTORINO: Everything we do, say, touch, eat, somebody has something to say about it, I hear it all the time. And like you, I'm one of those that, ah, if that's what they believe . . .

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MS. MOIKEHA: Uh-huh.

COUNCILMEMBER VICTORINO: . . . I move on.

MS. MOIKEHA: Right.

COUNCILMEMBER VICTORINO: 'Cause life is to short to bothered by little things, you know. So thank you, Ms. Moikeha, for your continued service to this community--both on GPAC and Planning Commission, and on and on and on. And hopefully you will continue to help us in many areas, we thank you very much.

MS. MOIKEHA: Thank you.

COUNCILMEMBER VICTORINO: Thank you, Mr. Chair.

CHAIR MOLINA: Okay thank you, Mr. Victorino. Committee Members, any other questions for the testifier? Member Baisa?

COUNCILMEMBER BAISA: Yes. Thank you, Susan, and thank you for being here, and again mahalo for all the stuff you do. I'm sorry about, you know, what we're dealing with here today, but like Member Victorino says, you know when you're a public face . . .

MS. MOIKEHA: Uh-huh.

COUNCILMEMBER BAISA: . . . you always make half of the people happy--

MS. MOIKEHA: Uh-huh.

COUNCILMEMBER BAISA: --and the other half hate you no matter what decision--

MS. MOIKEHA: Yes.

COUNCILMEMBER BAISA: --you make. So this is something one learns when you become a public servant. But what I wanted to ask you was this, we had mentioned earlier there were several criteria that people felt were important.

MS. MOIKEHA: Uh-huh.

COUNCILMEMBER BAISA: One was a longtime local connection, you know, roots in Maui, do you feel that's important?

MS. MOIKEHA: I feel that's extremely important. I think what, in my opinion, you should be looking for is that you have someone that has a frame of reference of experience that is

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wide and broad. I also think you need someone that--and, and I listened to Clare Apana talk about her inexperience with culture and arts. . . I can attest to you that we *don't* come to these commissions or boards necessarily as volunteers 'cause we are at the *expertise*. We are representative of our own frame of reference or experience in life, and the most important thing that I learned and still utilize till this day is an open mind, considering all sides of the resources of materials and information that come your way. And then once you have that, you use the guidelines or the parameters of whatever board or commission you're under--and they have rules and there is laws, particularly in the Planning Commission--and then you use that to make your decisions. I can tell you I have never gone and made a decision in my life on the Planning Commission that I ever regretted because I always applied that. And it's very hard to keep in balance your emotional feelings because you are guided by laws and rules--just like this Council is. And to keep that in a balance and then apply the laws and rules and make decisions. And in my experience, that's what I did and it served me well. For others, there may be a different methodology.

COUNCILMEMBER BAISA: So probably something we're really looking for is a person who is balanced . . .

MS. MOIKEHA: Uh-huh.

COUNCILMEMBER BAISA: . . . and open-minded and willing to listen and spend the time. Let's talk about time. Do you think a commitment of time is very important?

MS. MOIKEHA: Absolutely. I can tell you as the Planning Commission, you're meeting twice a month. We had reading material about that thick; and if you add on an EIS or an EA, it's double that work. It is an absolute commitment of time and reading and preparation, being prepared enough to know that when you come there you're going to ask the appropriate questions that maybe the report wasn't clear about or was not clearly represented by the developer or even the Planning Department.

COUNCILMEMBER BAISA: Another issue that was raised today is that of gender balance. Do you think that's important?

MS. MOIKEHA: I think that's important, too.

COUNCILMEMBER BAISA: Thank you.

MS. MOIKEHA: And along with that, balance of age.

COUNCILMEMBER BAISA: Balance of age; just really *balance* so that we have--

MS. MOIKEHA: Uh-huh.

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COUNCILMEMBER BAISA: --lots of aspects of the community represented.

MS. MOIKEHA: Right.

COUNCILMEMBER BAISA: Thank you so much.

MS. MOIKEHA: Okay, thank you.

CHAIR MOLINA: Okay, thank you, Ms. Moikeha. Committee Members, any other questions for the testifier? Seeing none, thank you very much for your testimony, Ms. Moikeha. We have one more testifier for Committee of the Whole Item 2(10). We have Dana Naone Hall.

*NOTE: Pause.*

MS. HALL: . . . Good morning, Council Members. I have two requests this morning. One, that you place someone from the Lahaina area on the Planning Commission who is--how can I say--more representative of the island of Maui and Lahaina in particular. And I would say Gordon Cockett would be such a candidate, although he's not here for nomination and approval today. I don't believe that Bob Pure would add anything to the Commission makeup at this point. The Commission is, is *very* unbalanced in terms of its gender and in terms of it's political persuasion, shall we say. . .and there is no one on that Commission with exception, from time to time, of Ward Mardfin who represents my end of the spectrum. And I don't occupy it by myself . . .*(laughter)*. . . There are many, many Maui citizens that feel the same way, so I encourage you not to approve Bob Pure. Also on the matter of the Cultural Resources Commission, I was taken aback when I saw Bruce U'u's name forwarded to the Council for approval. Because, for one thing, Mr. U'u is just, as you know, completing his tour of duty, as it were, on the Planning Commission. And I have had direct experience with Mr. U'u as a citizen, and I am currently. . .in for, in Second Circuit Court with a . . .appeal of the denial of a contested case in the Grand Wailea matter. I sat through those meetings where Mr. U'u and other members of the Commission ignored important information brought before it on the *numerous* burials on the Grand Wailea property that were disturbed when the Grand Wailea was being constructed, 344 burials. I was there when. . .I, I informed the Council, the Commission that an archaeological inventory survey needed to be prepared before the Special Management Area permit was granted so that we could determine where the other burials on the property are located before giving final discretionary approval to the project. I was *not* against. . .not developing the Grand Wailea or improving it, but I was for protecting the burial sites ahead of time.

. . . I, I really fail to see what qualifies Mr. U'u for a seat on the Cultural Resources Commission. The Cultural Resources Commission is required, by ordinance, to have certain members who represent certain professions. . .oh, certain professions as well as certain disciplines. And I know that Mr. U'u --

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MS. HAMMAN: Three minutes.

MS. HALL: --my experience with him on the Planning Commission, definitely does *not* have the cultural expertise to be on that Commission. Thank you.

CHAIR MOLINA: Okay, thank you, Ms. Hall. Committee Members, questions for the testifier?

COUNCILMEMBER NISHIKI: Question.

CHAIR MOLINA: Mr. Nishiki?

COUNCILMEMBER NISHIKI: Morning, Dana.

MS. HALL: Good morning.

COUNCILMEMBER NISHIKI: You mentioned two words and I was just curious if you could explain to me what do you mean by "political persuasion". You mentioned that many members in, in certain boards have these kinds of --

MS. HALL: Well, without

COUNCILMEMBER NISHIKI: --imbalances, I guess.

MS. HALL: Okay. Well, when you have a commission where certain members don't say a *word* during the commission meetings--not one word--and other members are only *attacking* public witnesses, and there doesn't seem to much, to be much *rational* discussion about the issues at hand, I would say that, that is commission or board that needs to have people who don't have those same *qualities*. You know have the ability to be *open* to all points of view, to apply the ordinances and the relevant statues appropriately--and that's not what I see on the Planning Commission. And that's, you know, and, and this also refers to the Cultural Resources Commission because they have to be aware of Historic Preservation laws and their application and their interpretation. And, you know, it's about *time* we started having boards and commissions that abided by the statutes and ordinances. You know I have a joke with my husband . . .(laughter). . . I said, you know, we've become kind of like dinosaurs . . .(laughter). . . here because we're the ones always railing and saying, hey, follow the process, follow the process. So, you know, that's what I mean. I don't mean that, you know, you know, that, that we have to have *extremists*. I'm saying we need to have people who really *understand* the process, *understand* the statutes, *understand* the ordinances, and are willing to *apply* them. Special Management Area is *so* important. And I'll bet you if you gave a *quiz* to any one of one of those Commissioners, with the exception of perhaps Commissioner Mardfin and maybe Commissioner Starr, they'd all fail miserably. . .on,

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you know, what, what, what is it that you're supposed to *do* when considering whether or not to grant the Special Management Area Permit. You know. . .that's all I can say.

COUNCILMEMBER NISHIKI: Thank you.

CHAIR MOLINA: Okay. Thank you, Mr. Nishiki. Members, any other questions for the testifier? Seeing none, thank you for your testimony, Ms. Hall. One last opportunity for anyone else in the gallery who would like to testify.

. . . See--okay--

MS. deNAIE, FROM THE AUDIENCE: I had signed up for two items.

CHAIR MOLINA: Oh, I'm sorry, yes, Ms. deNaie, please come back. Yes, Chair failed to mention that Ms. deNaie was testifying as well on Committee of the Whole Item 2(11) as well. My apologies to you, Ms. deNaie.

MS. deNAIE: E kala mai 'cause I could have done it when I was up here at the same time, we're not that busy. I just wanted to weigh in once again on the Cultural Resources Committee...Commission. And, you know, rather than point fingers or name names, I think it's important to look at a person's ability to understand the process. The Cultural Resources Commission has a very, very specific mandate. It's based on a *very, very* specific set of laws, 6E, and provisions on what their powers are. The Cultural Resources Committee...Commission, I appeared before them--

CHAIR MOLINA: Excuse me. Sorry, Ms. deNaie --

MS. deNAIE: Yeah?

CHAIR MOLINA: --can I direct your testimony to the 2(11)? I guess I don't see anywhere--

MS. deNAIE: Well, it says, Cost of Government, Hana Advisory Committee, Maui County Cultural Resources Commission...

CHAIR MOLINA: Okay. I'm sorry. Thank you.

UNIDENTIFIED SPEAKER: . . .*(inaudible)*. . .

MS. deNAIE: Am I incorrect there? That, that's the only reason I signed up.

CHAIR MOLINA: No, no. Go ahead, go ahead, continue.

MS. deNAIE: Yeah. All right, so thank you. At any rate, this requires people who are really willing to get very familiar with the laws and be willing to ask the hard questions. There

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are some excellent people on this Commission right now who are asking some of those questions. But the one nominee that's *known* to me, Mr. U'u, I never really heard him asking those kinds of questions even when that information was *brought* to him at the Planning Commission. In fact, *he always* took sort of a *different* tact which is, oh, it's all going to be okay because I know it's going to be okay. And I, I just don't think that that is going to be the . . . the best fit for this Commission. I respect Bruce, I think he's worked hard to try to bring out different points of view. He's a hard working young man, he has a great family, he does represent a point of view. But whether that point of view is the perfect fit for the Cultural Resources Commission, I, I'm not convinced. So I think you should you know interview him closely if you're going to make a decision about this, and ask about his familiarity with Chapter 6E, how it should be applied. Because I just saw great gaps in his apparent knowledge of these statutes. And of what Ms. Hall said . . . *(sigh)* . . . I was there at that meeting--it was like no one, except Mr. Mardfin, understood what the law was and everyone else was just willing to sort of, you know, bypass it. And Commissioner Sablas was not there, who did Chair the Cultural Resources Commission and is aware of those laws. But, you know, the other Commissioners just were not aware and they weren't willing to listen. So I, I don't think, you know, we should just put people on because they're nice people or they served on other board or commission; we should find out if there qualified. Thank you.

CHAIR MOLINA: Okay. Thank you, Ms. deNaie. Committee Members, questions for Ms. deNaie? Thank you very much for your testimony. My apologies, again, for that oversight. I think what caused the Chair some confusion is on Committee of the Whole Item 2(11), it does say Maui County Cultural Resources Commission, but there is no appointment for that *additional* vacancy, at this point, from the Mayor's Office. So, anyway, moving on from that, so seeing no one else coming up to testify on Committee....any of our agenda items today, if there are no objections, the Chair will close public testimony for our agenda items.

COUNCILMEMBER VICTORINO: No objections.

COUNCILMEMBER PONTANILLA: No objections.

CHAIR MOLINA: Okay. So ordered, Members.

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

**ITEM NO. 2(10): NOMINATIONS TO BOARDS, COMMITTEES, AND COMMISSIONS (VARIOUS) (C.C. No. 09-15)**

CHAIR MOLINA: All right, Members, I realized for some of you. . .you may need to take care of some of your personal needs, but before we do that the Chair would just like to do a *portion* of Committee of the Whole Item 2(10), just to have it read into the record, which is related to nominations to boards, committees, and commissions. The Committee is in

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receipt of a correspondence dated January 29, 2010, received January 29, 2010 from the Mayor requesting consideration of the following nominees to boards, committees, and commissions. And for the record--nominees to boards, committees, and commissions requiring Council approval or disapproval within 60 days for terms expiring on March 31, 2015, unless otherwise indicated. So what I'm going to do, Members, there is a . . . *(laughter)* . . . many, many names and boards and commission here to be read into the record. So I'm going to ask for the assistance of Staff. So please bare with the Chair and Staff as we have these names and the various boards and commissions these names are being considered for read into the record. And then afterwards, the Chair will offer a suggestion to the Committee prior to taking a short recess. Okay? Ms. Hamman, if you will.

MS. HAMMAN: Thank you, Mr. Chair. To the Affirmative Action Advisory Council, Karleen Hultquist, reappointment.

. . . To the Animal Control Board, Rosanna Cabatic for a term expiring on March 31<sup>st</sup>, 2013. Laurie Herrell, for a term expiring March 31<sup>st</sup>, 2013, and Judith Naone for a term expiring on March 31<sup>st</sup>, 2013. To the Board of Code Appeals, Gary Marshall. To the Board of Ethics, Frank Moe and Michael Westfall, reappointment. To the Board of Variances and Appeals, Bart Santiago Jr., and Rick Tanner. To the Civil Service Commission, David Hunkins, reappointment. To the Commission on Children and Youth, Karen Isenberg [*sic*], and Greg Kaufman. To the Commission on Culture and the Arts, Clare Apana and Phillip Gagle. To the Commission on Naming Streets, Parks and Facilities, Sonia Isotov and Brenda Del Rosario. To the Cost of Government Commission, Harold Davis, for a term expiring on March 31<sup>st</sup>, 2012. Robert Hill, reappointment, for a term expiring March 31<sup>st</sup>, 2012. Ivan Lay, reappointment, for a term expiring on March 31<sup>st</sup>, 2012, and Jody Yoshida for a term expiring on March 31<sup>st</sup>, 2012. To the Council on Aging, Anthony Fisher and Rhonda Fosbinder, reappointment. To the Fire and Public Safety Commission, Gwen Hiraga and Ryan Joslin. To the Lanai Planning Commission, Shelley Barfield and John Ornellas. To the Liquor Control Adjudication Board, Marilyn Chapman and Ron McOmber. To the Liquor Control Commission, Lee Ohigashi and Monica Revells. To the Maui County Commission on Persons with Disabilities, Joseph Crugnale and Elsie Santos, reappointment. To the Maui County Cultural Resources Commission, Jacey Laborte and Bruce U'u. To the Maui County Grants Review Committee, Lehua Kalua, re-appointment; and Richard Nishihara. To the Maui County Outdoor Lighting Standards Committee, Fern Duvall II, reappointment; and Joseph Ritter, reappointment. To the Maui Planning Commission, Joaquin "Jack" Freitas and Robert Pure. To the Molokai Planning Commission, Nathaniel Bacon, reappointment. To the Police Commission, Roger Dixon and Gregg Lundberg. To the Real Property Tax Review Board, Patrice Matsumoto, reappointment. To the Salary Commission, Maureen Ross and Agnes Terao-Guiala, reappointment. And, Mr. Chair, nominees to boards and committees, and commissions requiring Council approval or disapproval with no time limitation for terms expiring on March 15<sup>th</sup> [*sic*], 2015, unless other wise indicated: to the Kula Agricultural Park Committee, C. Vance

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Christensen and Ricky Kametani; to the Maui Redevelopment Agency, Robert Horcajo, reappointment; and to the Urban Design Review Board, Marie Kimmey, alternate; Jane Marshall; Bryan Maxwell; and Michael Silva.

CHAIR MOLINA: Okay. Thank you very much, Ms. Hamman. And, Members, as a reminder the Council must approve or disapprove these nominations that have a deadline by March 30<sup>th</sup>, 2010 or the nominations will be deemed approved. And of course the Committee may consider whether to recommend approval or disapproval of the nominations, and the Committee may also consider other related actions. So, Members, we've had...speaking of action, we've had a lot of action here with our, with regards to testimony and. . .I guess suggestions. Let me start, first, I would like to ask the body for any request for separation. And separation, for the record, is when any Member would want any of the separate. . .a separate vote be taken on various nominees to the commissions and so forth. Chair will start first, Chair is going to request a separation vote for the Maui Planning Commission involving Mr. Freitas and Mr. Pure. I want that stated for the record. And the Chair would now like to open up the floor as well for other considerations. We'll start with Member Baisa, followed by Member Johnson.

COUNCILMEMBER BAISA: No, you've covered my request. Thank you.

CHAIR MOLINA: Okay. Member Johnson?

COUNCILMEMBER JOHNSON: These are just my suggestions, and I'll wait for others. But Number H, Commission on Culture and the Arts to separate; Lanai Planning Commission, separate; and Maui County Cultural Resources Commissions, separate.

CHAIR MOLINA: Okay. Staff, did you get the request from Member Johnson for separation?

MS. HAMMAN: Yes. Just to clarify was the...

COUNCILMEMBER JOHNSON: . . . It would be H, M, and Q.

*NOTE: Silence.*

CHAIR MOLINA: That's it?

MS. HAMMAN: Got, got it, Mr. Chair. Thank you.

CHAIR MOLINA: All right. Any other considerations for separation? Separate vote? Mr. Kaho'ohalahala?

COUNCILMEMBER KAHO'OHALAHALA: Yeah. On, Chair, I'd like to take the Liquor Control Commission.

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*NOTE: Pause.*

CHAIR MOLINA: Thank you. Any other considerations, Members, for request for separation?

*NOTE: Silence.*

CHAIR MOLINA: All righty. And we also did hear from one nominee, a request to be removed for consideration from the Commission on Culture and the Arts as well.

COUNCILMEMBER JOHNSON: Yes.

COUNCILMEMBER BAISA: That's the one . . .*(inaudible)* . . .

CHAIR MOLINA: And that will--

COUNCILMEMBER JOHNSON: Yes.

CHAIR MOLINA: --be part of the separation. Thank you, Member Johnson. All right. At this point I'd like to ask the Administration for some brief comments, and then we will go into discussion. After, after Administration gives their comments--Members, do you want to take a break after the Administration gives their comments--

COUNCILMEMBER JOHNSON: Yes.

CHAIR MOLINA: --or proceed?

COUNCILMEMBER \_\_\_\_: Now.

COUNCILMEMBER JOHNSON: Yes.

CHAIR MOLINA: Okay. All right. Ms. Feenstra?

MS. FEENSTRA: Okay. Thank you, Chair. Good morning, Committee Chair Molina, Council Members, and persons in the gallery. Mayor appreciates your review of the 53 nominees before you today. Mayor would like to thank all of the Members who served on the boards, commissions, and committees--

CHAIR MOLINA: Excuse me, Ms. Feenstra, can you bring the microphone closer to your mouth? There we go, so we can get...you have a nice voice. Go ahead.

MS. FEENSTRA: Okay. Without whom we could not have served the community as successfully. She would also like to thank all of those whose submitted applications to serve and who may *not* have been selected at this time, and let them know that their applications will be maintained should vacancies occur due to resignations. Mayor

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would like to thank the nominees who were selected and are moving through the selection process. A special thanks to Jack Freitas and Bob Pure for taking time to come before the Council to be interviewed for their nominations to the Planning Commission. They're both giving up a greater portion of their day to do this and I know that they have traveled a distance. Mayor's EA, Darlene--I'd like to introduce Mayor's EA, Darlene Endrina. She will be handling and is transitioning into handling boards and commissions for the Mayor. And then, I also wanted to make note that on March 2<sup>nd</sup>, there was a communication from Mayor removing Nathaniel Bacon's reappointment due to a typographical error--which I believe is in your binders. His original term expires 3/31/14, not 2010. Therefore, there is not a vacancy for the Molokai Planning Commission as his term is still on going. I, I'm sure that you will have plenty of questions, and I want to let those members in the gallery know, that have given testimony, that their, I will relay their concerns and their testimony to the Mayor. And I would like to thank you all for coming forward with your concerns and recommendations.

CHAIR MOLINA: All right. Thank you, Ms. Feenstra.

MS. FEENSTRA: Thank you.

CHAIR MOLINA: Members, Chair's going to call for a recess, but before that Chair would like to just make a few comments. There have been questions asked by some of you, as well as comments from the public regarding the *process* and the selection. I'd like to ask Corp. Counsel, could you give us, in terms of *latitude* of discussion of *that*, because it's agendized here that we have strictly nominations, but how far can we go if the Members would like to question the Administration on, with regards to the process? Do we have a lot of latitude? Because I, I, again I want to respect the Sunshine Law and not stray off, you know, into a direction that may be considered inappropriate for today's agenda. Ms. Heely?

MS. HEELY: Mahalo, Chair, and good morning, Chair and Council Members. In terms of latitude, I'll leave that up to the Chair's discretion. The agenda items relate to nominees related to boards, commissions, and committees. In terms of process, we'll just see how the questions play out.

CHAIR MOLINA: All right, just let me know if we are crossing any, potentially crossing any boundaries that could violate the Sunshine Law. I'm going to depend on you to notify the Chair. And Members we do have a big agenda, we do have a 1:30 Economic and Agriculture Committee meeting. Mr. Kaho'ohalahala, will there be a recess, recess will continue for your...

COUNCILMEMBER KAHO'OHALAHALA: A reconvene.

CHAIR MOLINA: Okay.

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COUNCILMEMBER KAHO‘OHALAHALA: At 3 o’clock.

COUNCILMEMBER JOHNSON: . . .(*inaudible*) . . .

CHAIR MOLINA: So, Members, I do want to make you aware the Chair is considering a recess or *this* meeting as well, depending on how we proceed because we do have all time-sensitive items on our agenda today. We have a litigation matter that *could* possibly be required that we go into executive session. So I want to make you aware--look at your calendars, the, I guess we can consider an option of coming back *tonight* after Mr. Kaho‘ohalahala’s meeting. Because of the extensive of line of questions that was going on today, so I guess we’ve, you know, gone on quite long and lengthy so, otherwise if not tonight, then be prepared to look at possibly tomorrow at 1:30 after the Council meeting. So well see how we proceed today. So I just want to make you aware *now* to potentially clear your calendar for a recess of this meeting. Okay, Members, it’s 10:35, Chair’s going to call for a recess, we shall come back at 10:45 sharp. Meeting in recess. . . .(*gavel*) . . .

**RECESS: 10:34 a.m.**

**RECONVENE: 10:50 a.m.**

CHAIR MOLINA: . . .(*gavel*) . . . The Committee of the Whole meeting for March 4<sup>th</sup>, 2010 is now back in session. It’s ten minutes to the hour of 11 o’clock. Members, we are on Committee of the Whole Item 2(10), nominations to boards, committees, and commissions. Members, at this point, the Chair would like to offer a recommendation first for the boards and commissions that have not been requested for separation. So the Chair will call for a motion--and for the record, we will read the . . .boards and commissions and the nominees. . .you’ve heard the names of the nominees, Members, do you need those names repeated again --

COUNCILMEMBER BAISA: No.

COUNCILMEMBER JOHNSON: No.

CHAIR MOLINA: --for *this* initial motion? And again, this does not include the vote for the Commission on Culture and the Arts, the Lanai Planning Commission, Liquor Control Adjudication Board, Maui County Grants Review Committee, excuse me, there was no request for separation for that.

COUNCILMEMBER JOHNSON: No.

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CHAIR MOLINA: Okay. Scratch that. Maui Planning Commission. Okay, those, I believe are the--Staff, am I correct, those are the five boards and commissions that were requested for separation.

MS. HAMMAN: Mr. Chair, I believe there was a request for separation of the Liquor Control Commission, as opposed to the...

CHAIR MOLINA: Liquor Control Commission. Okay, not the Adjudication Board. Am I, am I correct, Mr. Kaho'ohalahala?

COUNCILMEMBER KAHO'OHALAHALA: Correct.

CHAIR MOLINA: Okay, sorry.

COUNCILMEMBER KAHO'OHALAHALA: Yeah.

CHAIR MOLINA: So there was a separation request for the Liquor Control Commission, not the Liquor Control --

COUNCILMEMBER KAHO'OHALAHALA: Yeah.

CHAIR MOLINA: --Adjudication Board. All right.

COUNCILMEMBER MEDEIROS: Mr. Chairman?

CHAIR MOLINA: Yes, Mr. Medeiros?

COUNCILMEMBER MEDEIROS: Yeah, I, I think, real quickly if you just give us the alphabet, it's easier to locate.

UNIDENTIFIED SPEAKER: ...*(laughter)*...

COUNCILMEMBER MEDEIROS: Just go down and tell what alphabets and we'll just mark it.

CHAIR MOLINA: Instead of the names of the boards? All right.

COUNCILMEMBER MEDEIROS: Yeah.

CHAIR MOLINA: All right. We're, we are going to take this. . .Chair's recommendation for this *initial* vote, motion to approve relates to letter A, letter B, letter C, letter D, letter E, letter F, letter G, letter I, letter J, letter K, letter L, letter N as in "Norman", letter P. . .letter R, letter S. . .letter V as in "Victor", letter W. . .letter X. . .and then letter A, B, and C--Kula Ag Park, Maui Redevelopment Agency, and Urban Design Review Board.

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And the Chair left out the Molokai Planning Commission. I would like to ask Staff to . . . apprise the Committee of a development with that.

MS. HAMMAN: Thank you, Mr. Chair. And I believe Ms. Feenstra mentioned this, but the nominee [*sic*] of Nathaniel Bacon. . . he is still serving his term. It does not expire on March 31<sup>st</sup>, 2010. . .

COUNCILMEMBER VICTORINO: Mr. Chair?

CHAIR MOLINA: Excuse --

COUNCILMEMBER VICTORINO: Mr. Chair?

CHAIR MOLINA: --me, folks in the gallery, can you tone it down?

AUDIENCE: . . . (*inaudible*). . .

CHAIR MOLINA: Meeting in recess. . . (*gavel*). . .

**RECESS: 10:53 a.m.**

**RECONVENE: 10:55 a.m.**

CHAIR MOLINA: . . . (*gavel*). . . The March 4<sup>th</sup>, 2010 Committee of the Whole meeting is now back in session. Members, I, I would like to inform you we're gonna take an extended recess. I do wanna make sure decorum of these Chambers are maintained. I know we have some very highly contentious items at this point. Staff is in the process of contacting additional security for these Chambers. So, Members, for the time being, we'll be in recess until ten minutes after 11:00. Members, so at this point, so please take care of additional needs if you have to. This meeting will be in recess until ten minutes past 11 o'clock. . . (*gavel*). . .

**RECESS: 10:56 a.m.**

**RECONVENE: 11:15 a.m.**

CHAIR MOLINA: . . . (*gavel*). . . The March 4<sup>th</sup>, 2010 Committee of the Whole meeting is now back in session, thank you very much, Members, for that break. And, again the Chair would like to express, one, his appreciation for everyone's passion. . . with regards to the various nominees to our boards and commissions; and again would like to ask for your kokua in helping maintain decorum of these Chambers. So we have a very long agenda here, Members, and as I've stated earlier, we're more than likely gonna have to look at a . . . potential recess, coming back. The Chair's going to suggest tomorrow at 1:30. . . unless Members would prefer coming back tonight. The Chair is available

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tonight after Mr. Kaho'ohalahala's recessed meeting as well. So, Members, any comments? First, lets start with availability for tomorrow after the Council Meeting. We'll start with Member Baisa, your comments on your availability?

COUNCILMEMBER BAISA: I, I'll be there.

CHAIR MOLINA: Okay, thank you, Member Baisa. Member Johnson?

COUNCILMEMBER JOHNSON: I'll be here.

CHAIR MOLINA: Thank you. Member Kaho'ohalahala?

COUNCILMEMBER KAHO'OHALAHALA: Available for both.

CHAIR MOLINA: Thank you, sir. Mr. Medeiros?

COUNCILMEMBER MEDEIROS: I'll make myself available, Chair.

CHAIR MOLINA: Thank you. Mr. Nishiki?

COUNCILMEMBER NISHIKI: Friday.

CHAIR MOLINA: Thank you. Mr. Pontanilla?

COUNCILMEMBER PONTANILLA: I'll be here.

CHAIR MOLINA: Thank you. All right so, Member's, we'll have it tentatively down for 1:30 tomorrow, March 5<sup>th</sup> as recess for discussing the agenda items for today. All right, Members, the Chair initially made a recommendation, I'm going to recommend a motion to approve the various boards and commissions that I mentioned prior to the recess. So again, this motion to approve *does not include* the Lanai Planning Commission, the Liquor Control Commission, the nominees for these commissions...Maui County Cultural Resources Commission, the Maui Planning Commission, and the Commission on Culture and the Arts. Are we all clear, Members? Staff, is the Chair correct?

UNIDENTIFIED SPEAKER: Yeah.

MS. HAMMAN: That's correct.

CHAIR MOLINA: Thank you.

MS. FEENSTRA: Mister--

CHAIR MOLINA: Any final considerations for separation before this vote?

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COUNCILMEMBER VICTORINO: No.

CHAIR MOLINA: Okay. Ms. Feenstra, you have a comment?

MS. FEENSTRA: Yeah, I just wanted to remind you about the, there was no need for a reappointment for the Molokai--

UNIDENTIFIED SPEAKER: Oh, yeah.

COUNCILMEMBER VICTORINO: Yeah.

MS. FEENSTRA: --seat.

CHAIR MOLINA: Right. Right. And yeah, and obviously we're not going to include that as well in, in this vote. Okay? All right, so with that being said--Mr. Nishiki?

COUNCILMEMBER NISHIKI: Mr. Chairman, I got one important question that I need to ask Administration, I thought we were going to have...

CHAIR MOLINA: Sure, the Chair will leave it open.

COUNCILMEMBER NISHIKI: . . . Were any. . .interviews that occurred with any of these members? Yes or no?

MS. FEENSTRA: Yes.

. . . Not all of the Members, you know, not all of the nominees. But there were interviews with nominees that either there was. . .either the Mayor was not familiar with the nominee. . .they were, there were questions as to their. . .knowledge. So nominees that the Mayor is familiar with and has a long-standing relationship with. . .because she, she was on Council as you know for 10 years, a member of the community for, for her entire life--she does not put them through an interview per se. She does meet with them, possibly goes to lunch with them, discusses their availability and their, their willingness to serve. But she does not sit down and have an *interview* as you or I would think of--like a *job* application interview--with each and every applicant. She doesn't have the time for that. I mean we're looking at 150 applications coming in, in a two-week period.

COUNCILMEMBER NISHIKI: Thank you.

CHAIR MOLINA: Okay.

COUNCILMEMBER BAISA: Chair?

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CHAIR MOLINA: Thank you, Mr. Nishiki. Members, any other questions for Administration?  
Member Baisa?

COUNCILMEMBER BAISA: Yes, thank you very much, Chair. I would like to be a little clearer, and I'm sure that the listening and viewing public would also be interested. I went to the Charter and went to Planning Commission to see what it said about the Planning Commission and how the people are selected and appointed and whatever. And it's *very, very* brief. It essentially says that each Planning Commission shall consist of nine members appointed by the Mayor with the approval of the Council. The members of each Planning Commission shall be residents of the *island* of the Planning Commission on which the member serves. The Director of the Department of Public Works and Environmental Management and the Director of the Department of Water Supply shall be non-voting ex-officio Members of each commission. Now the reason I brought this up is, you know, we've talked a lot today already about process, and if it's not in the Charter--there is nothing in this Charter that tells us *how* this process goes--how is our process determined and where does one find it so that one can take a look at it and say, well, this is how these appointments are made?

CHAIR MOLINA: Okay, thank you, Member Baisa. Ms. Feenstra or Corporation Counsel, are you able to respond to Member Baisa's question?

MS. HEELY: Mahalo, Mr. Chair and mahalo for the question, Councilmember Baisa. You're correct in terms of. . .it's the Charter. . .provides guidance; as well as the Maui County Code in certain sections in terms of each commission, board or committee, so we can look to that for guidance. But in terms of *how* the appointing authority or the *Mayor* goes ahead with that, it's really vague and left to the appointing authority. But we do know from treatises out there is that the person who is in the. . .authority to appoint can appoint during her term of service. But as you, as you stated in the Charter it says the Mayor has the authority to appoint, but with the approval of Council. So that's where you guys can come in and do the checks and balances--

UNIDENTIFIED SPEAKER: Uh-huh.

MS. HEELY: --too.

COUNCILMEMBER BAISA: So, so no where is there any kind of a process that is written up somewhere as a procedure or a practice. It's kind of ad hoc?

MS. HEELY: We have to look at the, the Charter. . .the, the guiding documents--the Charter and the Maui County Code. I know there's certain provisions in the Maui County Code that the Mayor has to take into consideration--she looks at the demographics, whether there is political affiliations involved and the sort, but that within the Maui County Code.

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COUNCILMEMBER BAISA: Anywhere does is talk about gender balance, which was brought up several times today?

MS. FEENSTRA: . . . I, I don't believe that it addresses that specifically; however...they, I feel that we have really bridged that gap with Mayor Tavares. I, I want to thank Mike Victorino 'cause he did let me know it is at 42 percent. . .gender, you know, female gender at this time. And Mayor is, Mayor is very conscious and aware of that. So she does take *all* things into consideration and there *are* a lot of factors and there are a lot of special interests. There, she's, basically she's looking for people that have an open mind, can sit on the board, *as well as* what she's mandated to do in the Charter and the laws that govern her selections. You know, of course, my being a member of her staff, I find her fair. . .and I will sit here and defend that fairness in her. She's not going to make everyone happy. I wish she *could*, I wish I could. . .and I'm sure that you all wish that *you* could. But that's not always possible. And the persons that came up and gave their testimony as to their willingness to serve and their backgrounds, I think that, you know, I...there's nothing to be said against those persons. They. . .they would be good selections but Mayor did nominate--

COUNCILMEMBER BAISA: Ms. Feenstra--

MS. FEENSTRA: --her nominees--

COUNCILMEMBER BAISA: --you answered my question, thank you. I have one more direct question and that's the last one. And that is how long are these applications kept? Because we had people refer to "I have applied many times" and "I applied a year ago" or whatever--how does that work so that people know?

MS. FEENSTRA: . . . I, I have not see any. . .rule that, that it has to be one year, two years, five years. And I have asked Corp. Counsel for that guidance in the past. So what we have done is we have maintained for two years.

COUNCILMEMBER BAISA: So if you applied within two years before a vacancy, your application is still in an active file?

MS. FEENSTRA: Yes.

COUNCILMEMBER BAISA: Thank you very much, that makes it very clear.

COUNCILMEMBER VICTORINO: Mr. Chair?

CHAIR MOLINA: Okay. Thank you, Member Baisa. Prior to recognizing Mr. Victorino and Mr. Nishiki, just as an FYI to the Members, we do have Mr. Pure and Mr. Freitas who are here waiting to be interviewed, so just as an FYI.

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COUNCILMEMBER JOHNSON: . . . *(inaudible)* . . .

COUNCILMEMBER VICTORINO: That's fine.

CHAIR MOLINA: And so--

COUNCILMEMBER VICTORINO: Just...

CHAIR MOLINA: I know it's, we have a good discussion going on process, but just as a FYI.  
Mr. Victorino--

COUNCILMEMBER VICTORINO: Thank you.

CHAIR MOLINA: --followed by Mr. Nishiki.

COUNCILMEMBER VICTORINO: Thank you. And thank you, Ms. Veenstrom [*sic*], for at least giving us what the Mayor, and Ms. Baisa for bringing the Charter 'cause it's, and in the Code they have like for certain geographical areas and all that kind of stuff. So it's all part of it. So we've done this before, this is not new, we've gone through this before. But the reason I wanted to, to clarify what I said--of the 57 nominees, 33 are male, 24 are female--so that's where the 42 percent comes from. Just so that we, it's not 42 percent of all the *girls*, you know what I mean. And, you know, and again geographic sometimes is very important because you need to know your areas. Long-term residents, yeah, I agree we need to know you're our people. But, you know, there are very well-qualified people sometimes that may not live here for many years and we have appointed some of these to various...in Planning Commission for example. And so, you know, all I'm saying, Mr. Chair, is I respect the Mayor sending down. It's our job now to decided if we think somebody should be put on that commission or not, that's our job. Her job is to send it down and I respect that, you know. How she chooses, really is really up to her. Whether a former Administration had a committee or whatever, that's them. This Mayor has chosen to do in this manner, and I respect that. So thank you, Mr. Chair, that's all I need to say about that.

CHAIR MOLINA: Okay. Thank you, Mr. Victorino. Mr. Nishiki?

COUNCILMEMBER NISHIKI: Um . . .

. . . Marian. . . you, you mentioned that the Mayor's too busy and sometimes can't do this process. My, my concern by listening to public testimony today is when Gladys asked you about how long is this list kept, you said two years. In listening to the general public testify as far as how much you...and I don't mean to tell you what to do, but I, I'm concerned about trying to do something better for people that have volunteered and, and want to serve on boards and commissions. I, I just feel that it is our responsibility to at least notify these people. . . certainly they've applied, that you've not been selected.

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Okay? I think it's another thing to tell people that your name will be on the list for another two years, if that's what the Administration's policy is. But in this process, I'm a little bit concerned about some of the inability. . .on, on how we treat people and the inability of us to make sure that they know what this process is. And so it's something for you to. . .to look at, not me telling you.

CHAIR MOLINA: Ms. Feenstra--

COUNCILMEMBER NISHIKI: Finally. . .the question about interviews. . .many. . .Maui Planning Commission members that applied. . .were some interviewed and some not interviewed or, or, or had this conversation?

CHAIR MOLINA: Okay, Ms. Feenstra?

MS. FEENSTRA: Are you talking about *each*, each Maui--

COUNCILMEMBER NISHIKI: Specifically, the Maui Planning Commission.

MS. FEENSTRA: Specifically, Maui Planning Commission?

COUNCILMEMBER NISHIKI: Yes.

MS. FEENSTRA: Mayor does communicate with each Planning Commission member that she selects via phone or. . .at lunch. She, she usually tends to have her meetings with them at lunch because she combines it with taking a break--due to her schedule. And as far as it, she is busy and the nominee she selects, she does have knowledge of. What I was trying to explain to you is that she does *not* interview each and every application that comes through.

COUNCILMEMBER NISHIKI: . . . I understand. Thank you, Mr. Chairman.

CHAIR MOLINA: Okay.

COUNCILMEMBER NISHIKI: I'm done.

CHAIR MOLINA: Thank you, Mr. Nishiki. Mr. Kaho'ohalahala?

COUNCILMEMBER KAHO'OHALAHALA: Chair, just a clarification is there a motion on the floor?

COUNCILMEMBER JOHNSON: Yes.

CHAIR MOLINA: No, currently there is no motion on the floor.

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COUNCILMEMBER JOHNSON: No?

COUNCILMEMBER KAHO‘OHALAHALA: There isn’t?

CHAIR MOLINA: The, the Chair had asked for a recommendation but, but then Mr. Nishiki made a request to discuss Administration or questions for Administration, but no formal motion was made.

COUNCILMEMBER KAHO‘OHALAHALA: Okay, then I would like to make another request, then.

CHAIR MOLINA: Proceed.

COUNCILMEMBER KAHO‘OHALAHALA: Since there’s no motion. If we could consider taking out the Liquor Control Adjudication Board as well.

CHAIR MOLINA: Okay, separation request?

COUNCILMEMBER KAHO‘OHALAHALA: Yes.

CHAIR MOLINA: Okay. All right...

COUNCILMEMBER KAHO‘OHALAHALA: And then I do have one question for...

CHAIR MOLINA: The Administration? Proceed.

COUNCILMEMBER KAHO‘OHALAHALA: Yeah. Ms. Feenstra, I was just along the same lines of the concerns that have been raised by other Members. . .but you, today, in terms of making a presentation earlier, thank the applicants publically. . .today at this meeting for applying. So my question was, do you ever communicate to them in writing and thanking them for submitting applications and telling them that they have *not* been selected for nomination at this time, and then that you would in fact be keeping their application on file? So I thought it was strange that you would be thanking them here today for their efforts, and do you ever communicate to them in writing for their efforts?

MS. FEENSTRA: Yes, we do. Mayor, actually Mayor does communicate that in writing. The letter comes from her, I do have a copy of it ‘cause I knew that there was concern if anyone would like to...

COUNCILMEMBER KAHO‘OHALAHALA: So each applicant has been notified?

MS. FEENSTRA: Each applicant receives a letter after the nominations have gone down, if it’s during the mass recruitment. If it’s. . .an application that comes in during the *year* and there isn’t a vacancy in one of the boards or commissions that they’ve applied for, we let

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them know that there are no vacancy's at that time and that we will maintain their application. So we do communicate.

. . . Yeah, it goes out, it's in the file. Each and every person's letter is in the file. So I, I don't know how to answer if someone says they did not receive the letter, other than maybe we did not receive the application.

COUNCILMEMBER KAHO'OHALAHALA: Okay, so then you do have a process, then?

MS. FEENSTRA: Yeah that's a standard operating process that, that we have for any applications that come in.

COUNCILMEMBER KAHO'OHALAHALA: Okay, well, I hope that that's clear now to everyone, because some of the testifiers seemed to be unclear as to how you were proceeding on anyone sending an application for consideration. Okay.

MS. FEENSTRA: Yeah, I've got the copies of the letters, so I, I don't, like I said I don't know how to answer their specific concerns. I don't know if that was before my time or, or what, but in general I, I believe that this has been done for a number of years.

COUNCILMEMBER KAHO'OHALAHALA: Okay. One of the testifiers said that she received a phone call.

MS. FEENSTRA: The phone call comes after, if they're being considered for an application--and I believe that was Clare Apana. And Darlene did call her. And her, on her application, because we did review it 'cause there was some concern that she had applied for one commission and have not applied for another. But there's a listing on the second page of the application form, and she had indicated she was interested in Culture and the Arts. I can *understand* how when Darlene phoned her she was excited 'cause it, thinking she had her first choice; but her second choice was Culture and the Arts. And that application is available to you folks, I believe, in binders.

COUNCILMEMBER KAHO'OHALAHALA: Okay, thank you, then, for that clarification.

CHAIR MOLINA: Thank you, Mr. Kaho'ohalahala. Member Johnson?

COUNCILMEMBER JOHNSON: Yes, and because I, I don't want to take up any more time, I would just ask that because this is something that's resurfaced many times and it seems to get greater and greater confusion every time . . . *(laughter)*. . . we have this, even on my part I must admit. . . what I would like to do is if there is any way that I could ask you to create an item in Committee specifically to discuss the process. And then lay out very clearly--even if, you know, if it's somewhere, that it resides somewhere or find out what *our* options are as far as if it needs clarification within the Charter, the Code, whatever it

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is. The more we can clarify and make clear to the public, the more transparent the process is, the less we will have these conversations. So I would--

CHAIR MOLINA: Thank you.

COUNCILMEMBER JOHNSON: --just respectfully ask that.

CHAIR MOLINA: I think that is a very good suggestion, Member Johnson.

COUNCILMEMBER JOHNSON: Thank you.

CHAIR MOLINA: And at a later point, the Chair is more than happy to make an inquiry with--

COUNCILMEMBER JOHNSON: Thank you.

CHAIR MOLINA: --Corp. Counsel is to what are our options, and then we can have a more fully detailed discussion and avoid, maybe, less . . .

COUNCILMEMBER JOHNSON: Yeah.

CHAIR MOLINA: --confusion or misunderstanding down the road. So thank you for that suggestion, Member Johnson.

COUNCILMEMBER JOHNSON: Thank you.

CHAIR MOLINA: Any other questions for the Administration prior to the Chair making a recommendation for the various boards and commissions, *not* including those that have been requested for separation? All right seeing none, Members, okay, again this vote will *exclude* decision making on the Commission of Culture and the Arts, the Lanai Planning Commission, the Liquor Control Adjudication Board, the Liquor Control Commission, the Maui County Cultural Resources Commission, and the Maui Planning Commission. So are we all clear, Members?

COUNCILMEMBER BAISA: Yes. Move--

CHAIR MOLINA: Motion to approve, okay--

COUNCILMEMBER BAISA: So moved, Chair.

CHAIR MOLINA: Excuse me?

MS. HAMMAN: Uh--

CHAIR MOLINA: Hang on.

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MS. HAMMAN: Just to clarify--and also it would exclude the Molokai Planning Commission.

CHAIR MOLINA: The Molokai Planning Commission as well, that's right. Okay, so the Chair is ready to entertain a motion for approval.

COUNCILMEMBER BAISA: Mr. Chair, I move that we adopt your suggestion or your recommendation.

CHAIR MOLINA: Okay. Thank you. Is there a second?

COUNCILMEMBER PONTANILLA: Mr. Chairman, second.

CHAIR MOLINA: Okay, the motion has been made by Member Baisa and seconded by Member Pontanilla to approve the nominees for the various boards and commissions as stated earlier, of course excluding the other boards and commissions that were mentioned as, earlier as well. Any discussion?

. . . Seeing none, all those in favor, signified by saying "aye".

COUNCIL MEMBERS: Aye.

CHAIR MOLINA: All those opposed?

CHAIR MOLINA: Thank you, the Chair will mark it seven "ayes"; with two "excusals", Members Mateo and Victorino.

**VOTE:       AYES:   Councilmembers Baisa, Johnson, Kaho'ohalahala, Medeiros, Nishiki, Pontanilla, and Chair Molina.**

**NOES:       None.**

**ABSTAIN:   None.**

**ABSENT:     None.**

**EXC.:       Councilmember Victorino and Councilmember Mateo.**

**MOTION CARRIED.**

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**ACTION: Recommending APPROVAL of various nominees, excluding the nominees to the Commission on Culture and the Arts, Lanai Planning Commission, Liquor Control Adjudication Board, Liquor Control Commission, Maui County Cultural Resources Commission, Maui Planning Commission, and Molokai Planning Commission.**

CHAIR MOLINA: Thank you very much, Members, I think we've cleared one major hurdle for today. Now. . .if there's no objections, I'd like to call upon the Planning, Maui Planning Commission nominees who are here today, who have made themselves available for question by you. We will start with Mr. Joaquin "Jack" Freitas. Mr. Freitas, would you like to come up and have a seat next to our Analyst, Ms. Hamman? Is that. . .or would you rather, would it be more. . .keep Mr. Freitas standing?

MS. HAMMAN: No, that's fine.

CHAIR MOLINA: What is your pleasure?

. . . Members, any objections to having Mr. Freitas here or would you have a preference to have him stay up at the rostrum?

COUNCILMEMBER BAISA: Wherever he's comfortable, Chair.

CHAIR MOLINA: Mr. Freitas, are you more comfortable sitting? Thank you.

COUNCILMEMBER BAISA: Maybe on the end so we can see him . . .*(laughter)* . . .

CHAIR MOLINA: The Chair is very sensitive to all nominees who are asked to come before a Council to be as comfortable as possible. We know it can be very demanding and very, you know, stressful, if you will. Mr. Freitas, good morning and thank you for coming here and making yourself available. I'd like to give you the first opportunity to make a brief opening statement--basically, just tell us a little something about yourself and tell us why you are interested in becoming a nominee to the Maui Planning Commission. You have the floor, Mr. Freitas.

MR. FREITAS: My name is Joaquin "Jack" Freitas, everybody knows me as "Jack". I was born and raised on Maui, lived Upcountry. I'm a lifetime. . .no, I spent 17 and a half years in the mainland, but majority of the time of my life has been on, on Maui. I have a small business. We employ 20 people--Maui Tow, Kihei Safe and Lock. I've been involved in different commissions, like. . .different boards like Crime Stoppers and. . .Cost of Government and other, other commissions. I. . .to clear up something that probably will come up--I was a Member of the board, the Contractors Association. I was on the board and I was there for, I haven't been there for. . .now seven years. And I believe that I can

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make Maui a better place to, to live by being in the Planning Commission. I have children, I have grandchildren that I would like to see live here.

CHAIR MOLINA: Okay, thank you very much for, for your opening remarks, Mr. Freitas. The Chair will now open the floor for questions from the Members for Mr. Freitas. We'll start with Member Johnson.

COUNCILMEMBER JOHNSON: Yes, thanks so much, Mr. Freitas, for being here.

MR. FREITAS: You're welcome.

COUNCILMEMBER JOHNSON: Because I know many times we ask the same question of all the people that are up, particularly for Planning Commission 'cause sometimes the meetings go on for hours and sometimes days--because you have a business, do you believe that you have sufficient freedom in order to serve and attended? Because sometimes I know they've had problems with quorum, if you could just address that question?

MR. FREITAS: Yes, ma'am, I believe I, I could. I am the boss.

COUNCILMEMBER JOHNSON: . . .*(laughter)*. . .

MR. FREITAS: I can take off when I want to.

ALL: . . .*(laughter)*. . .

COUNCILMEMBER JOHNSON: . . .*(laughter)*. . . And, and does that mean you...one of the other people, and I know this because this, this happened before. One of the other gentleman who got on the Board actually made the statement later on to me privately, he said, oh, my gosh, I had no idea how much *time* this took up. So his business *did* start to suffer as a result of it. But I just want to know upfront that, that you don't believe will be a concern of yours?

MR. FREITAS: No, I have a brother that I can trust and, and --

COUNCILMEMBER JOHNSON: Okay.

MR. FREITAS: --depend on.

COUNCILMEMBER JOHNSON: Okay, so, so and you've notified him that he's going to have a lot of work . . .*(laughter)*. . . at his plate.

MR. FREITAS: No--

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COUNCILMEMBER BAISA: . . .*(laughter)*. . .

MR. FREITAS: --he never leaves the place. He's--

COUNCILMEMBER JOHNSON: . . .*(laughter)*. . . Okay . . .*(laughter)*. . .

MR. FREITAS: He's as solid as a rock.

COUNCILMEMBER JOHNSON: And I, I hope you don't have him chained at the desk or anything . . .*(laughter)*. . . Thank you.

CHAIR MOLINA: Okay, thank you very much, Members, and. . .well, Members Johnson. And just to remind you, Members, if you could as much as possible confine your questions to Mr. Freitas' application if at all possible. And it is in the binder. . .for your perusal. Questions for Mr. Freitas? Member Baisa?

COUNCILMEMBER BAISA: Yes, just a quick question, which I think is the bottom line in all of this--why do you want to do this?

. . . I'm sorry--

MR. FREITAS: I don't know, maybe, maybe at my age I, you start looking for more punishment I guess, I don't know.

COUNCILMEMBER JOHNSON: . . .*(laughter)*. . .

COUNCILMEMBER BAISA: . . .*(laughter)*. . . I think I can relate to that. You know this is a very, very tough place to be, so I want to thank you for applying. Thank you.

MR. FREITAS: Thank you.

CHAIR MOLINA: Thank you, Member Baisa. Members--

COUNCILMEMBER PONTANILLA: Yeah.

CHAIR MOLINA: --additional questions for Mr. Freitas? Mr. Pontanilla?

COUNCILMEMBER PONTANILLA: Thank you. Good morning. How long ago did you serve on the Cost of Government Commission?

MR. FREITAS: It was before the...they made the rule where the Cost of Government Commission ...

. . . was ...

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. . . well, how they had it was the Cost of Government Commission would go off and then they would bring a whole new board in. So the last time that I served on the Cost of Government Commission, we asked the Council to make it a position where you had holdover members so that you could address the business that was left behind. Because what would happen, you'd have a new Cost of Government Commission come on and they'd start all over on a different issue and it was nothing, nothing got done because no, you had no holdovers. Now it is, you have holdovers so that they can carry on the, the business of the following year, yeah.

COUNCILMEMBER PONTANILLA: Yeah, we see that now. So this was back in the '80s, '90s?

MR. FREITAS: Yes.

COUNCILMEMBER PONTANILLA: The '80s?

MR. FREITAS: Yes.

COUNCILMEMBER PONTANILLA: Oh, long. Okay, thank you, Chairman.

CHAIR MOLINA: Thank you, Mr. Pontanilla. Any other questions for Mr. Freitas?

. . . Mr. Nishiki?

COUNCILMEMBER NISHIKI: Thank you.

. . . Do you belong to any investment huis?

MR. FREITAS: No, none whatsoever.

COUNCILMEMBER NISHIKI: Do you have any stock in any company that may be developing here in Maui County.

MR. FREITAS: None whatsoever.

COUNCILMEMBER NISHIKI: Do you believe, do you belong to any development board or maybe a member of any board?

MR. FREITAS: None.

COUNCILMEMBER NISHIKI: Um. . .what do you see in the Special Management Area that may be a, a concern that you have as you see the development of Maui County?

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MR. FREITAS: I . . . particularly am opposed to dense growth. I'm more to . . . smart growth, I, I think . . . we have, we, we're getting too dense. I, I don't believe in zero lot lines, you know, but that's my personal . . .

. . . opinion. But if they could prove to me that the development with zero lot lines would, would work, I have no problem with that. Give you a point in . . . I'll give you an example, Hale Mahaolu. That, that is a senior citizens' housing, that's basically zero lot line even though they don't own the place, it's a lease, lease option. Very well done, could live with something like that.

COUNCILMEMBER NISHIKI: Did you have a meeting with the Mayor?

MR. FREITAS: Yes, I did, couple of 'em.

COUNCILMEMBER NISHIKI: Okay. And you did apply for the Planning Commission, specifically?

MR. FREITAS: Yes, in fact the last...I was passed up the last time and they pulled my application when this, what do you call, position came up and then she interviewed me.

COUNCILMEMBER NISHIKI: Okay, I'm done. Thank you.

CHAIR MOLINA: Okay thank you, Mr. Nishiki. Members, any other questions for Mr. Freitas before he's excused?

. . . Seeing none, thank you very much, Mr. Freitas. The Chair would like to extend his appreciation as well to you for having an extended stay here with us this morning, and certainly I can appreciate you sharing your thoughts with the Committee in regards to your nomination to the Maui Planning Commission. Thank you, Mr. Freitas.

MR. FREITAS: Thank you.

CHAIR MOLINA: Next, I'd like to call upon the other nominee to the Maui Planning Commission, Mr. Bob Pure. Mr. Pure, I'll give you the option of either sitting up here or if you're more comfortable staying by the podium.

. . . Okay. Mr. Pure, again. . . like with Mr. Freitas, if you could give the Committee your brief opening remarks --

COUNCILMEMBER NISHIKI: Chairman?

CHAIR MOLINA: --about yourself and any . . . reason why you're interested in being on the Planning Commission. Hang on. Mr. Nishiki?

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COUNCILMEMBER NISHIKI: Yeah, thank you. I just want to notify my fellow Council Members that Mr. Pure was a Member of the Ethics Commission [*sic*] when I was going through with the complaint against me.

. . . In a way. . . I don't know how he voted because everything was done in executive session, but I think I need to also say that all of us as Council Members have to fill ethic information and it all goes to the Ethics Board. And so I feel a little uncomfortable about participating in this, and so I'd just like to relay that concern that I have amongst my Members, just because of the, his still sitting on the Ethics Board and, and me going through a process as he was a sitting and voting member.

CHAIR MOLINA: Okay, thank you, Mr. Nishiki, for disclosing that to the Committee. And obviously you have several options you can consider. You can either not participate or, again, you can ask for consideration for recusal [*sic*], if that is one, one option you'd like to consider. Any feedback from the Members with regards to Mr. Nishiki's situation?

COUNCILMEMBER JOHNSON: I--

CHAIR MOLINA: Member Johnson?

COUNCILMEMBER JOHNSON: I, I just had a question and that would be for Ms. Feenstra. Because when did Mr. Pure resign from the Board of Ethics or is he still a seated member?

MS. FEENSTRA: He is currently still seated. And depending on the nomination--

COUNCILMEMBER JOHNSON: . . .(*sigh*). . .

MS. FEENSTRA: --results, if he is nominated, he would put in a resignation from that Commission; and if not, then he will stay with that Board.

COUNCILMEMBER JOHNSON: Yeah. And I know there's nothing in the rules--and, and this is, you know, *nothing* against Mr. Pure at all, but I think this is putting *us*. . . as Council Members *and* Mr. Pure in a very awkward position because he is a seated member already on a board and commission. And I, I mean we are all . . .(*laughter*). . . every one of us, not just Mr. Nishiki--I feel *very* uncomfortable about being placed in this position. I was not made aware of any of this. And with all due respect, I'm sure *Mr. Pure* didn't realize this either. I thought he had already *resigned*, that was my understanding. So. . . I basically don't have any questions because I feel it's, it's *uncomfortable* for every one of us. And we have been put in this position, and I think that it's not fair to him, it's not fair to any of us. So I don't. . . I'm not going to be asking any questions of him, I already know. . .

CHAIR MOLINA: Okay, thank you, Member Johnson, for sharing that with us. Mr. Nishiki?

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COUNCILMEMBER NISHIKI: Yeah. And, and, and, and for myself, personally, I, I, I really want to recuse [*sic*] myself from any answering or questioning and, and, and voting on this issue.

CHAIR MOLINA: Okay, so noted.

COUNCILMEMBER NISHIKI: If there are no objections?

CHAIR MOLINA: Staff, should we have a...Mr. Nishiki make a formal motion to request recusal [*sic*] from voting on the, on the matter?

MS. HAMMAN: Yes, Mr. Chair, the Council Rules, rule 8(C) requires that if a Member is going to abstain, that the majority of the body would have to approve that--

CHAIR MOLINA: Okay--

MS. HAMMAN: --abstention.

CHAIR MOLINA: Should, should we wait until, when we do come that, to the decision making on Mr. Pure, at that point and then Mr. Nishiki make his motion?

MS. HAMMAN: Yes, Mr. Chair.

CHAIR MOLINA: Okay, so at this point, we'll refrain from you making the motion. But this does not prohibit Mr. Nishiki from staying in the room, at the very least.

MS. HAMMAN: Yeah.

COUNCILMEMBER NISHIKI: No. . .Mr. Chairman, I will not stay in the room or participate. Thank you.

CHAIR MOLINA: Okay, thank you, Mr. Nishiki. All right, Members, any other questions before I ask Mr. Pure to give his opening remarks? Seeing none, Mr. Pure, go ahead and proceed.

MR. PURE: Well, I'm a little baffled by all this, and it's not quite what I expected and I don't know quite how to respond. First of all, let me just say. . .it's still good morning to everybody. Some of you know who I am and, and some of you do not and may be seeing me for the first time. My name is Bob Pure, I'm going into my 9<sup>th</sup> year in Maui and I live in Lahaina. Just a little bit about me, I been involved in community service just about every place I lived, I can't imagine not being involved in community service. As soon as we moved to Maui in 2002, I immediately got involved with the Board of Directors, at the condo that I live in and eventually became the Board President. Soon after that, there

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was group formed called the LBN, which stands for the Lahaina Bypass Now. In March of 2006, I immediately joined that because I felt that West Maui needed some help in solving some of its transportation issues. I've been with LBN now for exactly four years. While I was on LBN, I was asked to join the Board of West Maui Taxpayers which is, as you know, a long standing grass roots community organization that's been around for about 30 years. And I'm now the Vice President of that organization. While on that organization, members of the Mayor's staff attended our meetings on a regular basis, both LBN and WMTA; and I was asked to apply to one of the County boards a year ago, which I did for the County Board of Ethics which I'm involved in now. And my reasons for the Planning Commission is strictly, I think it's a logical step, it's a bigger stage, it's more of an opportunity to make some impact on the future of Maui. I will say for myself. . .what do I bring to the table? Those of you who have been to meetings that I've been at, those of you who know me pretty well, I always keep an open mind on all issues, I have no preconceived agenda or overriding vision. I always ask good questions, I'm a very good listener, I've been know to change my mind if I get new facts, and I, I always try and learn as much as I possibly can at every meeting I go to. Those of you, who as I say, who have been to these meetings I, I think will agree. Thank you, Chair.

CHAIR MOLINA: Thank you, Mr. Pure. Prior to asking the Members for their responses to your comments, the Chair would like to share with you--we did receive, as a public document, a statement from a Margy O'Brien, an email. And I have to ask this question and forgive me if I know it may be a little uncomfortable but it is a public document and I do want to share this with you. In the email and I'll read it verbatim:

*Aloha, Council Members, you are being asked to approve the nomination of Bob Pure to the Planning Commission. He's not the choice of the majority of Kaanapali Royal owners who voted to remove him from our Board of Directors due to his arrogance, profanity and poor leadership. It cost our Association thousands of dollars to remove him. When he was nominated for the Ethics Committee, we tried over and over to see the Mayor, she never returned our calls. Finally, we visited one of her Assistants and gave all the information about the removal of Bob Pure from our Board. His term on the Ethics Committee expired in, expired. . .I guess would be, should be expires in 2014. Ask yourself why does he want to also be on the Planning Commission Board. And sincerely, Margy O'Brien.*

I'd like to give you a fair opportunity to respond to the letter that was sent into the Committee.

MR. PURE: Let me, let me say that the, the real answer is fairly long and fairly complicated, but I'll try to be as brief as I possibly can. Coming under the, the title that we call "condo wars", some of the things that happen in condominiums on condominium boards and associations have become much more contentious than they were years ago.

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. . . That letter. . . is *really* not about me, it's about things that happened while I was the Board President. Let me just mention this, when I was the President of the Board of Kaanapali Royal, every single thing I did was in conjunction with the AOA attorney. I did *absolutely* nothing that the AOA attorney did not approve of. And as Councilmember Baisa said earlier and she's absolutely right--every decision you make, you have people that agree with you and people who don't agree with you. And what had happened was is the atmosphere at the Kaanapali Royal became more contentious and more contentious and more contentious as legal issues came to the front. I'll just briefly say when I became Chairman of the. . . President of the Board of Kaanapali Royal, there were many, many owners who had done *a lot* of very illegal things, and prior Boards had tended to look the other way. They allowed these illegal structures to take place for *24* years. When I became the Board President in conjunction with the AOA attorney, we tried to *solve* them. And as you can possibly imagine, it was a *very* contentious issue, there's still contentious issues. And so you half the, if, you had half the. . . owners that supported what you do, what you did and half that did not. Mr. and Mrs. O'Brien had been on the side of some of the more contentious owners on legal issues that are *still* ongoing with Kaanapali Royal. And these are, these are condo wars that, just as I said, have become more and more contentious.

. . . If, if we had hours to spend, I could give you the long history of all the various things that happened in Kaanapali Royal over time, some of which are still going on. These are some *very* tough legal issues, as I say, that literally pitted homeowner against homeowner. And as it applies to myself, I think if you had letters from a lot of *other* homeowners, you would see the other side. And the side was I did everything in my power to do what the AOA attorney said I *had* to do. And when the attorney says to you as a Board President and Board member the Board *has to do the following things to remedy illegal things*, I had no choice but to do them. The fact that people got *upset* by this, I understand that and I respect that. But I had absolutely no choice but to pursue legal remedies for things that were *illegal*. And I say, I don't want to take any more on your time on this, I think I've explained it as best as I possibly could.

CHAIR MOLINA: Okay.

MR. PURE: Thank you.

CHAIR MOLINA: Thank you, Mr. Pure. I think you've done a good job in explaining that side, your side of the issue I should say. Committee Members, the floor is open for additional questions for Mr. Pure.

. . . Okay, seeing none, Mr. Pure, you're excused.

MR. PURE: Okay.

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CHAIR MOLINA: Thank you for taking the time to . . .discuss this matter with the Committee. Alrighty, Members, we have no one else that was requested to come in for an interview. We are on the Maui Planning Commission nominees. At this point, what is the pleasure of the body? Would you like to conduct the vote today? In all likelihood, we will have to recess the Committee--

COUNCILMEMBER JOHNSON: . . .*(inaudible)*. . .

CHAIR MOLINA: --meeting until tomorrow.

COUNCILMEMBER JOHNSON: Go ahead.

CHAIR MOLINA: Okay, Members, so we shall conduct the vote on the Maui Planning Commission nominees. First, we will start with Mr. Freitas. The Chair will entertain a motion to approve. Member Baisa?

COUNCILMEMBER BAISA: Mr. Chair, I make a motion to approve Mr. Freitas

COUNCILMEMBER MEDEIROS: Second.

CHAIR MOLINA: Okay, the motion has been made by Member Baisa to approve Joaquin "Jack" Freitas to the Maui Planning Commission, and seconded by Member Medeiros. Any discussion?

COUNCILMEMBER MEDEIROS: Chair?

CHAIR MOLINA: Mr. Medeiros?

COUNCILMEMBER MEDEIROS: Yeah, I, I'd like to support this nomination for the reasons that I have worked with Mr. Freitas--which he humbly didn't include in his application, he was a part of our Solid Waste Resource Committee that was appointed through the Mayor's Office to discuss the future plan of solid waste for our County. And he made himself available, as a busy businessman, to be at meetings. And he does ask very good questions that are not based on particular or special interest, but how would it affect our County. And I, I think one of the things I enjoyed about Mr. Freitas in that work was that he can combine seriousness but with some humor that everybody enjoyed in long meetings. So I want to support his nomination at this time. Mahalo, Mr. Chairman.

CHAIR MOLINA: Thank you, Mr. Medeiros. Any other comments as it relates to the motion on the floor to approve Mr. Joaquin "Jack" Freitas to the Maui Planning Commission? Member Baisa?

COUNCILMEMBER BAISA: Oh, thank you very much, Chair. I want to support my motion. One of the reasons that--of course, I know Mr. Freitas very well, but I. . .and I know his

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community service, I know his business. But I think we were asked earlier about indications of community service and I know a lot of people may not have made the connection, but he must be involved in some way because wherever the wife is involved, usually the husband gets dragged in whether he wants to be or not. But Mr. Freitas' wife is a lady that's going around Maui, heading this picking up of all this excess fruit and taking it to the Food Bank. And so it kind of tells me what kind of a family this is. Thank you.

CHAIR MOLINA: Okay, thank you, Member Baisa. Member Pontanilla?

COUNCILMEMBER PONTANILLA: Thank you. I too will also support this nominee for the Maui Planning Commission. I've known Jack for eight years now or maybe ten. And he's a true man--when he decides that what is best for Maui County, he's not afraid to act. So I'm going to be supporting this nominee.

CHAIR MOLINA: Okay, thank you, Mr. Pontanilla. Chair would like to share his comments. I've known Mr. Freitas, he comes from a very well-respected family in the Upcountry area. He is the proverbial straight-shooter and he is, he also didn't mention that he's also a Veteran of the United States Navy--and thank you for serving our Country in this capacity. And he's been involved in many, many community issues in the Upcountry area, as well as other areas here in Maui County. So you have full support, Mr. Freitas. Members, without any additional discussion, the Chair will call for the vote. All those in favor of supporting Mr. Joaquin "Jack" Freitas to the Maui Planning Commission, signify by saying "aye".

COUNCIL MEMBERS: Aye.

CHAIR MOLINA: All those opposed? Thank you. The Chair will mark it seven "ayes" with two "excusals", Members Mateo and Member Victorino.

**VOTE:       AYES:   Councilmembers Baisa, Johnson, Kaho'ohalahala, Medeiros, Nishiki, Pontanilla, and Chair Molina.**

**NOES:       None.**

**ABSTAIN:   None.**

**ABSENT:    None.**

**EXC.:       Councilmember Victorino and Vice-Chair Mateo.**

**MOTION CARRIED.**

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**ACTION:    Recommending APPROVE nomination of Joaquin “Jack” Freitas to the Maui Planning Commission.**

CHAIR MOLINA: Thank you, Mr. Freitas. All right, Members, the Chair’s aware of the time, we’ll conduct this last vote and then at this point the Chair will recess. Up for consideration now for the Maui Planning Commission is Mr. Robert Pure. Members, I have heard all of the comments from the public and I know this could generate some discussion, so the Chair’s mindful of that. Member Johnson?

COUNCILMEMBER JOHNSON: If because of...I, I just have a technical question. If I move to disapprove, is that also an appropriate motion?

CHAIR MOLINA: Uh...apparently it doesn’t prohibit you...anyone from the floor --

COUNCILMEMBER JOHNSON: Okay.

CHAIR MOLINA: --if they want to beat the Chair to the punch or whatever, you are free--

COUNCILMEMBER JOHNSON: No, I, I just--

CHAIR MOLINA: --to go ahead and put a motion on the floor.

COUNCILMEMBER JOHNSON: --You know, I’ll state my reasons after I make the motion.

CHAIR MOLINA: You have the floor, Member Johnson.

COUNCILMEMBER JOHNSON: So, Mr. Chair, I move to disapprove the name of Mr. Bob Pure for nomination to Planning Commission.

CHAIR MOLINA: Okay. Motion has been made by Member Johnson to disapprove the nomination of Robert Pure to the Maui Planning Commission. Is there a second?

COUNCILMEMBER KAHO‘OHALAHALA: I’ll second the motion.

CHAIR MOLINA: Okay, second has been made by Mr. Kaho‘ohalahala. Member Johnson, you have the floor.

COUNCILMEMBER JOHNSON: Yes and, and this has nothing to do with Mr. Pure’s qualifications or anything else, but I think that because I did ask a number of people to submit their applications, they did so, that was verified by Ms. Feenstra that some of those applications have been received. . .I felt that to give an opportunity for people to serve their community where they’re already not seated on an existing board or commission, I felt that was more appropriate. So I would just ask that the Administration work with those individuals who have submitted applications that are not *currently*

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serving on boards and commissions. So I would ask for the support of my fellow Members. Thank you.

CHAIR MOLINA: Okay, thank you, Member Johnson. Committee Members, any other comments as it relates to the motion to disapprove? Member Baisa?

COUNCILMEMBER BAISA: Thank you very much, Chair. As everyone knows, these are not easy votes for us to make and they're made publicly. And, again, I'll say whatever we do, some people will be happy and some won't. But I have a little bit of discomfort. Although I have the greatest respect for Mr. Pure and what he's done for, in our community, but I have concerns about, you know we sat here a few months ago, I don't think it was that long ago, and *agonized* over the appointment of the last Commissioner because we wanted to have some body represent West Maui. And we were so adamant about this person being West Maui's choice. And it's disconcerting that we sit here and we're having to listen to, you know, our own representative from West Maui saying I'm not comfortable. And that makes me uncomfortable. So I just wanted to say that.

CHAIR MOLINA: Thank you, Member Baisa. Any other discussion before the Chair offers his comments?

. . . Okay. Seeing none, the Chair will offer his comments regarding Mr. Pure. First of all, I want to thank you for being here, it certainly took a lot of courage to come before this body and, you know, try to justify your nomination to the Planning Commission, and on top of that hearing the testimony given by the public. I know several of us have been before various boards and to try to explain our situation or concerns members of the public have with us--and it's certainly is not comfortable. So I applaud your courage, Mr. Pure. I am concerned about. . .that you're currently serving on the Ethics Board and then now the Administration wants to put you on the Planning Commission. And I know your tenure has been very brief thus far on the Ethics Board. If I may ask, Ms. Feenstra, when officially was Mr. Pure. . .confirmed and appointed by the Council to the Ethics Board?

MS. FEENSTRA: He was appointed last year. And, yeah, just to reiterate . . .

. . . the Planning Commission, as you know, is a Commission that takes a lot of time. And Mr. Pure had done a very good job on the Ethics Committee. And *his* first choice was not Ethics, it was the Planning Commission. So because his, his job on the Planning, on the Ethics Board was...exceptional, you know, it's, it's kind of like let's give him a opportunity, we've seen the results. So that was the thinking that went into it--just for your information. As far as I, you know, I would take responsibility for--he would have been more than happy to give his resignation at the beginning of this process. . .but, you know, you can put that on me. I'm sure he would more than willing to submit his resignation right now if that were to make a difference.

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CHAIR MOLINA: Okay, thank you.

MS. FEENSTRA: So I just wanted to give you that information.

CHAIR MOLINA: Thank you, Ms. Feenstra. And I certainly respect the position you're taking. At the same time, it *does* put the Council in somewhat of an awkward or uncomfortable position. And I ask...the reason I asked for how long Mr. Pure has served on the Ethics Board, it's basically a brief tenure thus far, but I have heard very positive comments about his performance on the Board. And I'll just state for myself, I would like to see any individual try and complete their tenure as *long* as possible, and I think with basically just serving only a year on a very important board. . .I would like to, my preference is to see him to complete that tenure. And being the demands of Planning Commission is quite a lot, mix that in with the Ethics Board, it can be quite taxing on any individual's time. And my...I will be supporting the motion to deny, and again it's not personal towards Mr. Pure, its more based on the fact I would like to see him complete his tenure on the Ethics Board first, and then at a later time in the future, a future Council or Administration can consider his nomination to the Maui Planning Commission if that is his choosing in the future. So that is my statement to you, Members. So with that being said, Members, the Chair will call for the vote on the motion to deny Robert Pure to the Maui Planning Commission. All those in favor of the denial, signify by saying "aye".

COUNCIL MEMBERS: Aye.

CHAIR MOLINA: All those opposed to the denial? Chair will mark it six "ayes" in favor of denial, with three excusals--Members Mateo, Victorino, and a recusal [*sic*], Mr. Nishiki. So unfortunately the. . .motion for Mr. Pure passes, so the denial goes into effect.

**VOTE:       AYES:   Councilmembers Baisa, Johnson, Kaho'ohalahala, Medeiros, Pontanilla, and Chair Molina.**

**NOES:       None.**

**ABSTAIN:   None.**

**ABSENT:    None.**

**EXC.:       Councilmembers    Nishiki       and       Victorino       and  
              Councilmember Mateo.**

**MOTION CARRIED.**

**ACTION:     Recommending DISAPPROVAL of the nomination of  
              Robert Pure to the Maui Planning Commission.**

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CHAIR MOLINA: All right, Members, we have just a few minutes, we do have a couple of . . . maybe one item that might not take up a lot of time. Is it the preference of the body to continue or would you like to basically recess at this point and continue tomorrow?

. . . Okay, judging by the looks on your faces and remarks, I think we would like to end our proceedings or recess our proceedings today. Mr. Pontanilla, before we recess?

COUNCILMEMBER PONTANILLA: Thank you, Chairman. Before we recess, I know one of the Members had inquired about a possibility of having some guidelines on how we select nominees for the various boards and commission. And hopefully we can come out with a guideline that will, you know, just now we just voted a person that was nominated by the Mayor for West Maui, Planning Commission, and, and for good reasons you know we denied that application. In the future, though, what I would like to see is that for reappointments, or having a person resign from one commission to be selected in another, that one of the criteria's, you know, like you said, Chairman, you serve five years and then, you know, reapply for another commission. It, it puts us in a precarious position whenever, you know, members of the public are selected for various commission, and it's hard to make, you know, a good decision. I have no qualms with the last applicant, you know, just his personal views I consider was true views from his heart. So in the future, you know, hopefully we can get clear guidelines in, in regards to how we select nominees for any commission for Maui County. So, thank you.

**COUNCIL MEMBERS VOICED NO OBJECTIONS.** (excused: DAM, WKN, and MPV)

**ACTION: DEFER Item COW-2(10) and (11) pending further discussion.**

CHAIR MOLINA: All right thank you, Mr. Pontanilla. Members, I've just been made aware our last agenda item for today which was scheduled for today, Committee of the Whole Item 1(27), related to the Indemnification Authorization James R. Davis Versus County of Maui et al, there is a need to consider a discharge of this item because it is on *tomorrow's* Council agenda for consideration--because of the time sensitivity connected to it.

**ITEM NO. 1(27): LITIGATION MATTERS (INDEMNIFICATION AUTHORIZATION: JAMES R. DAVIS V. COUNTY OF MAUI, ET AL.; CIVIL NO. CV 10-00070 KSC) (C.C. No. 09-14)**

CHAIR MOLINA: Members, I would like, if we can at least address this today, we can keep it very brief and we can continue the discussion at greater length tomorrow

COUNCILMEMBER BAISA: No objection, Chair.

CHAIR MOLINA: What's the pleasure of the body? No objections? Okay, Members, I'll just read the item into the record. Committee of the Whole Item 1(27)--Committee is in

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receipt of the following, correspondence dated February 19<sup>th</sup>, 2010, from the Corporation Counsel's office, requesting consideration of a proposed resolution indemnifying Charmaine Tavares and Jeffrey K. Eng in the James R. Davis versus County of Maui et al., Civil case Number CV 10-00070 KSC, and transmitting a copy of the complaint. The complaint alleges violations of, of the plaintiff's constitutional rights through the implementation of the water meter regulatory scheme for the Upcountry water system, resulting in a plaintiff's inability to obtain water meters for his real property in Kula, Maui. In addition, a correspondence dated February 24<sup>th</sup>, 2010 from the Corporation Counsel's office, transmitting a revised propose resolution entitled: Indemnifying Charmaine Tavares and Jeffrey K. Eng in James R. Davis versus the County of Maui. The purpose of the proposed resolution is to indemnify Charmaine Tavares and Jeffrey K. Eng in this particular matter. We have from the Corporation Counsel's office, we have Ms. Lovell. If you can give us a brief overview of this matter, and then at that point I would ask the Committee Members if they could refrain on questions and wait until possibly tomorrow. . .and anything that you can disclose for the open session at this point?

MS. LOVELL: Thank you very much, Chair, and thank you, Committee Members. I'm, I'm really sorry to jam you on the timing on this, but because in the Federal Court you only have 21 days from the date that you're served with a complaint within to which to either answer it or to file a motion to dismiss, it's, it's important to get your decision on this issue before the answer or the motion to dismiss is due. And that deadline is March 12<sup>th</sup>. Briefly, this is a lawsuit filed by Mr. Fosbinder on behalf of his client, James Davis. And it has to do with the constitutionality of our Upcountry water meter rule. He served, he, he named as defendants, the County, the Board of Water Supply, and the Department of Water Supply. All of those entities will be represented by our office, and in fact by me. Unfortunately, the way the complaint is written, it's not possible to really tell whether he is naming Mayor Tavares and Director Eng in their *individual* capacities or in their *official* capacities. In the caption, it names them, it names their official titles. In the body of the complaint, it uses the word "individual" in describing them. We've been through this before with Mr. Fosbinder in his office, this is just the way he likes to do things. It makes it difficult for us. However to err on this side of caution, I'm *assuming* that he is intending to sue Mayor Tavares and Director Eng in their *individual* capacities. Therefore, we need to have a resolution indemnifying them so that our office can represent each of those individuals. If it is not the will of the body to indemnify them, then they would have to get separate counsel, and the time is, you know, will be very tight for that.

CHAIR MOLINA: Okay, thank you--

MS. LOVELL: I can, I can represent to the Committee that I have looked at the complaint. I'm familiar with the history of this case because it's already been through the Board of Water Supply. I've read the transcripts, I've read the information that was produced by Mr. Davis, and it's my personal opinion that, that neither the Mayor nor the Director did

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anything untoward or wrong. I, I can't even see that they're really *accused* of doing much wrong other than enforcing the rules in as even-handed way as they know how.

CHAIR MOLINA: All right thank you, Ms. Lovell. Thank you for giving the Committee the overview. Again, Members, if you can wait on asking questions, maybe tomorrow. I'm just kind of respecting the time, we're being pressed for time because of our next Committee meeting. Member Johnson, as the Chair of the--

COUNCILMEMBER JOHNSON: This is--

CHAIR MOLINA: --next Committee?

COUNCILMEMBER JOHNSON: Yeah, this is just. . .I just want to ask--are we going to move to discharge the Committee?

CHAIR MOLINA: Technically, the Chair's recommendation would be to defer today --

COUNCILMEMBER JOHNSON: Defer.

CHAIR MOLINA: --and then tomorrow the consideration to discharge will be --

COUNCILMEMBER JOHNSON: Okay.

CHAIR MOLINA: on the Council agenda and then we --

COUNCILMEMBER JOHNSON: Okay.

CHAIR MOLINA: --could take action on it.

COUNCILMEMBER JOHNSON: Okay that's, that's fine.

CHAIR MOLINA: And if necessary, we can convene in executive session if that is the will of the body tomorrow.

COUNCILMEMBER JOHNSON: Uh-huh. No. That's fine.

CHAIR MOLINA: I just asked Ms. Lovell to give us an overview to you, and the Chair would recommend deferral and, for additional questions.

COUNCILMEMBER JOHNSON: No objection . . .*(laughter)*. . . no objection.

CHAIR MOLINA: Okay, no other questions? So if there's no objections, the Chair's going to recommend deferral of Committee of the Whole Item 127.

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CERTIFICATE

I, Chante Diaz, hereby certify that the foregoing represents to the best of my ability, a true and correct transcript of the proceedings. I further certify that I am not in any way concerned with the cause.

DATED this 29<sup>th</sup> day of March 2010, in Wailuku, Hawaii.



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Chante Diaz

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COUNCILMEMBER JOHNSON: No objection.

COUNCIL MEMBERS: No objections.

CHAIR MOLINA: Okay, so ordered.

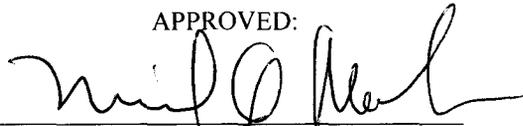
**COUNCIL MEMBERS VOICED NO OBJECTIONS.** (excused: DAM, WKN, and MPV)

**ACTION: DEFER Item COW-1(27) pending further discussion.**

CHAIR MOLINA: All right, Members, this Committee of the Whole meeting for March 4<sup>th</sup>, 2010 is in recess. We will reconvene tomorrow, Friday, March 5<sup>th</sup> at 1:30 p.m. right here in the Council Chambers. This meeting is in recess. . . .(gavel). . .

**RECESS:** 12:15 p.m.

APPROVED:



MICHAEL J. MOLINA, Chair  
Committee of the Whole

cow:min:100304

Transcribed by: Chante Diaz