

COMMITTEE OF THE WHOLE

Council of the County of Maui

MINUTES

September 2, 2010

Council Chamber, 8th Floor

CONVENE: 9:00 a.m.

PRESENT: Councilmember Michael J. Molina, Chair
Councilmember Danny A. Mateo, Vice-Chair
Councilmember Gladys C. Baisa, Member
Councilmember Jo Anne Johnson, Member (In 9:07 a.m.; Out 10:29 a.m.)
Councilmember Sol P. Kaho‘ohalahala, Member (In 9:09 a.m.)
Councilmember Bill Kauakea Medeiros, Member
Councilmember Wayne K. Nishiki, Member
Councilmember Joseph Pontanilla, Member

EXCUSED: Councilmember Michael P. Victorino, Member

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

ADMIN.: Darlene Endrina, Executive Assistant, Office of the Mayor (Item Nos. 2(26) and 2(27))
Traci Fujita Villarosa, First Deputy Corporation Counsel, Department of the Corporation Counsel (Item No. 2(26) and 2(27))
Cheryl A. Tipton, Deputy Corporation Counsel, Department of the Corporation Counsel (Item No. 1(29))
Richard B. Rost, Deputy Corporation Counsel, Department of the Corporation Counsel (Item No. 1(31))

OTHERS: None

PRESS: *Akaku: Maui Community Television, Inc.*

CHAIR MOLINA: . . .(*gavel*). . . The September 2nd, 2010 Committee of the Whole meeting will now come to order. For the record, we have in attendance Committee Vice-Chair and Council Chair Danny Mateo. Good morning.

VICE-CHAIR MATEO: Good morning, Chair.

CHAIR MOLINA: And we have Committee Member Gladys Baisa.

COUNCILMEMBER BAISA: Good morning, Chair.

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CHAIR MOLINA: And also Committee Member Bill Medeiros.

COUNCILMEMBER MEDEIROS: Aloha. Good morning, Chair.

CHAIR MOLINA: Good morning. And joining us as well is Committee Member Wayne Nishiki.

COUNCILMEMBER NISHIKI: Morning.

CHAIR MOLINA: And Committee Member Joseph Pontanilla.

COUNCILMEMBER PONTANILLA: Good morning.

CHAIR MOLINA: Good morning. And we have three excusals this morning--Councilmembers Jo Anne Johnson, Sol Kaho'ohalahala, and Mike Victorino. I know everybody's a little bit under the weather, it's that time of year again, change from summer to fall. So, everybody, please take care of your health, number one priority. Joining us...as our Committee Staff as well, we have Committee Secretary Camille Sakamoto, and...and Committee Analyst Kirstin Hamman. And from the Administration, we have Corporation Counsel, Traci Fujita Villarosa; as well as Darlene Endrina. Members, we have four items on our agenda today. And we have, at this point, no one signed up for testimony. Let me confirm that with the Committee Secretary. Do I have any signups for--

MS. SAKAMOTO: No, Mr. Chair.

CHAIR MOLINA: Okay. No signups for any of our items on our agenda today. So with that being said, Members, if there are no objections, the Chair will close public testimony for today's proceedings.

COUNCILMEMBER MEDEIROS: No objections.

COUNCIL MEMBERS: No objections.

CHAIR MOLINA: Okay. So ordered. Let's go right into our first item, Committee of the Whole Item 2(26), nominations to boards, committees, and commissions.

ITEM NO. 2(26): NOMINATIONS TO BOARDS, COMMITTEES, AND COMMISSIONS (MAUI COUNTY CULTURAL RESOURCES COMMISSION and URBAN DESIGN REVIEW BOARD) (C.C. No. 09-15)

CHAIR MOLINA: This relates to the Maui County Cultural Resources Commission and Urban Design Review Board. The Committee is in receipt of a correspondence dated July 30th, 2010, received August 2nd, 2010 from the Mayor, requesting consideration of

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the following. . .to the Maui County Cultural Resources Commission, Warren Osako, for a term expiring on March 31st, 2015; and for the Urban Design Review Board, John Morgan Gerdel, replacing John P. Ryan, for a term expiring on March 31st, 2014. And for your information, Members, the Council must approve or disapprove the nominations to the Maui County Cultural Resources Commission by October 1st, 2010 or the nomination would be deemed approved. The Committee may consider whether to recommend approval or disapproval of the nominations, and the Committee may also consider other related action. So with that being said, I'll turn matters over to Ms. Endrina to give us an overview of both of the nominees.

MS. ENDRINA: Thank you. Good morning, Committee Chair Molina, Members of the Council, and community in the gallery. Mayor Tavares appreciates your review of the nominees before you today. Mayor would like to thank all members that volunteer their service on boards, commissions, and committees. These volunteers help service our community successfully. Mahalo to those nominations before you today--Warren Osako, Cultural Resources Commission; John Morgan. . .Gerdel, Urban Development Review Board; and Jim Shefte for the Office on Aging. Thank you. You have to excuse me, my voice is not. . .not happening too, here, this morning. . .*(laughter)*. . .

CHAIR MOLINA: Okay. All right, thank you, Ms. Endrina. And at a later point we'll address the. . .the nominee for the Office on Aging--

MS. ENDRINA: Yes.

CHAIR MOLINA: --which is a separate Committee item.

MS. ENDRINA: Yes.

CHAIR MOLINA: So, Members, you have the overview from Ms. Endrina. Any questions. . .related to any of the nominees? Mr. Medeiros?

COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman. And. . .good, good morning.

MS. ENDRINA: Good morning.

COUNCILMEMBER MEDEIROS: I, I wanted to ask. . .about the nominee, Osako.

MS. ENDRINA: Yes?

COUNCILMEMBER MEDEIROS: Because I had asked to, for him to be present, but there weren't two other. . .Members that requested the same. I, I wanted to know in, in his consideration of being on this. . .board or commission . . .

. . . did the Mayor's Office interview him, to start with?

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MS. ENDRINA: I know that I had given the application for him to Mayor. But I have not had time to speak with her, whether or not they had spoken. Warren is a Lanai person, and we *need one* Member from the island of Lanai.

COUNCILMEMBER MEDEIROS: Okay. And, and that leads to my second question. What's his commitment to be able to come to Maui for the meeting?

MS. ENDRINA: He is now retired. So that, I found very helpful. We have talked with a lot of people from Lanai, and there's a concern. Those people that still are fortunate enough to have employment. . .are not able to take time off from work to come to Maui for the time that is needed once a month. A lot of people are not fulltime anymore. And if they miss a certain amount of hours, they will lose their medical. So when Warren applied and we had spoken with him, and he is retired and *very* involved with our cultural and heritage center. . .you know, we felt that was a good nomination to put forward. And then we had asked for his résumé and so forth. . .and Mayor had reviewed it. But I, I'm not, I'm not sure of a communication between the two of them.

COUNCILMEMBER MEDEIROS: Okay. And then. . .yeah, thank you for including his résumé and write up. . .certainly he. . .is. . .very qualified. So this, does this meet one of the professional-level persons on the Commission?

MS. ENDRINA: Yes, it does, because he . . .

COUNCILMEMBER MEDEIROS: Anthropologist?

MS. ENDRINA: Yes. He's an Anthropologist. He does the study of the history of Lanai and he's very involved in keeping the *culture* alive there, and also very protective of the historical sites on Lanai, which is important.

COUNCILMEMBER MEDEIROS: Yeah.

MS. ENDRINA: And he *is* from Lanai.

COUNCILMEMBER MEDEIROS: Lanai.

MS. ENDRINA: And that is a seat that we needed, yes.

COUNCILMEMBER MEDEIROS: Yeah, according to his write up, yeah, pretty much. . .from Lanai and you know has gone away to school and so forth. So I, I, I for myself think he's a great nominee to consider for this Commission. Thank you for your responses.

MS. ENDRINA: You're welcome.

COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman.

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CHAIR MOLINA: Okay, thank you, Mr. Medeiros. Members, any questions for the Administration related to the nominee or any of the nominees? Mr. Nishiki?

COUNCILMEMBER NISHIKI: Yeah, I, I, I, I think the, the concern that we've constantly raised and...and again nothing against the Administration's representative here, but...you know, when we ask about whether this person has been interviewed or whatever, I, I think we should at least get an *answer*. You know? I'm not, without telling you people what to do. You know, I mean, ask if there's been...he's been interviewed or not--I, I think this has been a concern for many of us when we have people from the public saying that they weren't given the opportunity to, to be interviewed, even after they applied. And not against this person, also, Mr. Chairman. Um...you know, I was checking through...because of the last...person that we interviewed, I think her name was Brandis...Brandis Sarich.

MS. ENDRINA: Brandis Sarich, yes.

COUNCILMEMBER NISHIKI: Yeah, and we had asked her, because she had put on her application that she was a part-time but then she said no, she's fulltime and she would be able to make these meetings. And, and, and obviously all of us took that as a reason why we then voted to...

... give her that position. Well, I checked back with the Chairman of the Commission, and this lady has missed all the meetings...

... Mr. Chair.

MS. ENDRINA: Uh, if memory serves me correctly--

COUNCILMEMBER NISHIKI: Can I, and...can I--

CHAIR MOLINA: Hang on, hang on--

COUNCILMEMBER NISHIKI: --can I finish?

MS. ENDRINA: ...*(inaudible)*...

CHAIR MOLINA: --Ms. Endrina.

COUNCILMEMBER NISHIKI: And, and the other--

CHAIR MOLINA: Mr. Nishiki...*(inaudible)*...

COUNCILMEMBER NISHIKI: --the other thing is, is that...he also stated that the Commission hasn't been able to meet because of the lack of quorum...the last two meetings. So...there's something definitely...a problem. And, and, and, and I think

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that the, the, the question of Mr. Osako and being that we didn't. . .ask, but Mr. Medeiros was concerned about it, is is he really going to be--

MS. ENDRINA: He is retired. . .and yes, he said he has no problem making all meetings.

COUNCILMEMBER NISHIKI: Anyway, I, I wish that you would check on this also because--

MS. ENDRINA: Uh-huh.

COUNCILMEMBER NISHIKI: --you know, Ms. Sarich hasn't met, been to one meeting--

MS. ENDRINA: Okay--

COUNCILMEMBER NISHIKI: --and, and, and that concerns me.

UNIDENTIFIED SPEAKER: Okay.

CHAIR MOLINA: Okay--

MS. ENDRINA: May I--

CHAIR MOLINA: --thank you--

MS. ENDRINA: --address that, Chair?

CHAIR MOLINA: I'd like to stay away from. . .because her name is not on the agenda--

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

COUNCILMEMBER NISHIKI: Yeah.

CHAIR MOLINA: --and I don't really get into details on that. But I'm sure--

COUNCILMEMBER NISHIKI: I'm sorry, I didn't mean to *name* the person--

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

COUNCILMEMBER NISHIKI: --but just the fact that--

CHAIR MOLINA: Uh-huh. Maybe what we can do from the Committee, we can just request, you know. . .that issue in terms of attendance at various boards and commissions and in light of recent nominees, if you could respond to us in writing if that. . .that is any objections from the Committee on that?

COUNCILMEMBER ____: No objection.

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CHAIR MOLINA: Just to get a status. Because I, I, I do realize there's been concerns with some of the nominees for *certain* boards and commissions. And we surely would like to know, you know, upon the interview of the nominee. . .and we certainly want to make sure that they honor their commitment when they tell us that they can be at all the meetings; and if they're not coming to the meetings or. . .at least we can get some insight as to what their reasons are for not showing up. So the Chair will do that on the committee's behalf and make a request for a written response from the Administration.

MS. ENDRINA: Thank you, Chair.

CHAIR MOLINA: Okay. All right, Members, and joining us for our proceedings this morning, we have Member Kaho'ohalahala and Member Johnson.

COUNCILMEMBER JOHNSON: Aloha.

COUNCILMEMBER KAHO'OHALAHALA: Good morning, Chair.

CHAIR MOLINA: Mr. Kaho'ohalahala, as the Lanai representative, you have any questions related to the nominee, Mr. Osako?

COUNCILMEMBER KAHO'OHALAHALA: No. I know Mr. Osako and. . .I think he would do a good job. So I am supporting his nomination, and thank him for taking the time. Now that he's no longer, he's been a flight attendant for most of his life--

CHAIR MOLINA: Uh-huh.

COUNCILMEMBER KAHO'OHALAHALA: --but now he's grounded . . .(laughter). . .

MS. ENDRINA: . . .(laughter). . .

COUNCILMEMBER KAHO'OHALAHALA: . . . on, home. So, so this would give him a chance to participate in some of these things that--and for the first time, maybe, put his training in anthropology to some. . .some use on Lanai. So, thank you.

CHAIR MOLINA: Yeah. Thank you, Mr. Kaho'ohalahala. Yeah, he's certainly provided us a very impressive résumé--a U. S. Army veteran, graduate of University of Hawaii with a Bachelor's degree in Anthropology. So he seems more than qualified to serve on this Commission. Members, any other questions related to Mr. Osako or the other nominee, Mr. Gerdel? Okay, seeing none, the Chair will offer a recommendation.

VICE-CHAIR MATEO: Recommendation, Chair?

CHAIR MOLINA: Okay, Chair will ask for a motion to approve the nominations of Warren Osako, for a term expiring on March 31st, 2015 to the Maui County Cultural

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Resources Commission; and John Morgan Gerdel, replacing John P. Ryan, for a term expiring on March 31st, 2014 to the Urban Design Review Board.

VICE-CHAIR MATEO: Mr. Chairman, I move for the . . .approval of both nominations as you had so recognized.

CHAIR MOLINA: Is there a--

COUNCILMEMBER BAISA: Mr. Chair, I second the motion.

CHAIR MOLINA: Okay. The motion has been made by Vice-Chair Mateo, and seconded by Committee Member Baisa to approve the nominations to both the Maui County Cultural Resources Commission and the Urban Design Review Board. Any discussion? Seeing none, Chair will call for the vote. All those in favor, signify by saying "aye".

COUNCIL MEMBERS: Aye.

CHAIR MOLINA: All those opposed?

. . . Thank you. The Chair will mark it eight "ayes" with one "excusal", Member Victorino.

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

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmember Victorino.

MOTION CARRIED.

ACTION: Recommending APPROVE nominations and TRANSMIT copy of committee report to the Mayor.

CHAIR MOLINA: Thank you, Members. All right, Members, moving on to the next item, which is Committee of the Whole Item 2(27), nominations to boards, committees, and commissions.

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ITEM NO. 2(27): NOMINATIONS TO BOARDS, COMMITTEES, AND COMMISSIONS (COUNCIL ON AGING) (C.C. No. 09-15)

CHAIR MOLINA: The Committee is in receipt of a correspondence dated August 11th, 2010, received August 12th, 2010 from the Mayor, requesting consideration of the nomination of James Shefte, replacing Anthony Fisher to the Council on Aging, for a term expiring on March 31st, 2015. Council must approve or disapprove the nomination by October 11th, 2010 or the nomination will be deemed approved. And earlier we had Ms. Endrina give us some opening remarks on the nominee. Any additional remarks, Ms. Endrina, before I turn matters over to the Committee?

MS. ENDRINA: Mr. Shefte is excited about being a part of this Commission. And he said he's retired and he loves giving back. And he thought Office [*sic*] on Aging was great place to be.

CHAIR MOLINA: Okay. Thank you, Ms. Endrina. And, Members, for your information, he's also provided, like Mr. Osako provided, a résumé as well...with regards to his background. Members, any questions regarding Mr. Shefte? Ms. Johnson?

COUNCILMEMBER JOHNSON: Not a question, but just I wanna let everyone know that I think Mr. Shefte will do an excellent job. And I've known him for a number of years. He's always contributed greatly to the community. So I, I know. And, and particularly replacing Tony Fisher--

MS. ENDRINA: Yes.

COUNCILMEMBER JOHNSON: --because Tony is such a, you know, he was such a wonderful guy. And I think that its fitting that he's replaced by another wonder guy. So I really appreciate it. And I thank Mr. Shefte for being willing to serve.

CHAIR MOLINA: Okay. Thank you, Ms. Johnson. Committee Members, any other questions related to the nominee, Mr. Shefte?

COUNCILMEMBER MEDEIROS: Question.

CHAIR MOLINA: Mr. Medeiros?

COUNCILMEMBER MEDEIROS: Mahalo. . .Mr. Chairman. Ms. Endrine [*sic*]?

MS. ENDRINA: Yes?

COUNCILMEMBER MEDEIROS: I just want to ask again, looking at his application and his résumé. . .you know, which is a . . .very good résumé. Again, I was wondering if he was asked if he has participated in any seniors' programs and services.

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MS. ENDRINA: He said he has been doing things since he's been retired, and he would like to get *more* involved in senior programs.

COUNCILMEMBER MEDEIROS: Okay. So he has done things with the senior programs and--

MS. ENDRINA: Yes.

COUNCILMEMBER MEDEIROS: --services. Okay.

. . . And I guess, Mr. Chairman, being that the Administration's process is just to receive the application by the Mayor's staff and then they forward it to the Mayor without an interview, our only opportunity now is to interview him here on the floor. So I, I think the Members need to consider that if they think a interview is important--that we gotta request to have the applicant or nominee here. Thank you, Mr. Chairman.

CHAIR MOLINA: Okay, thank you, Mr. Medeiros. Members, any other questions as it relates to the nominee? Seeing none, the Chair will offer a recommendation.

VICE-CHAIR MATEO: Recommendation, Chair?

COUNCILMEMBER BAISA: Recommendation?

CHAIR MOLINA: Chair will entertain a recommendation to approve the nomination of James Shefte, replacing Anthony Fisher to the Council on Aging, for a term expiring on March 31st, 2015.

VICE-CHAIR MATEO: Mr. Chair, move for the approval of the nomination of James Shefte, replacing Anthony Fisher to the Council on Aging, for a term expiring on March 31st, 2015.

COUNCILMEMBER BAISA: Mr. Chair, I second the motion.

CHAIR MOLINA: Okay, the motion has been made by Council Chairman Mateo and seconded by Committee Member Baisa to approve the nomination of Mr. Shefte to the Council on Aging. Members, discussion?

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

COUNCIL MEMBERS: Aye.

CHAIR MOLINA: All those opposed? Thank you, the Chair will mark it eight "ayes"; one "excusal", Member Victorino.

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VOTE: AYES: Chair Molina, Vice-Chair Mateo, and Councilmembers Baisa, Johnson, Kaho‘ohalahala, Medeiros, Nishiki, and Pontanilla.

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmember Victorino.

MOTION CARRIED.

ACTION: Recommending APPROVE nomination and TRANSMIT copy of committee report to the Mayor.

CHAIR MOLINA: Members, we'll now go to our next item, Committee of the Whole Item 1(29). This relates to a settlement authorization, Dolores Abreu versus Herbert Kinores Jr., et al., Civil case number 07-1-0216(1).

ITEM NO. 1(29): LITIGATION MATTERS (SETTLEMENT AUTHORIZATION: DOLORES ABREU V. HERBERT KINORES, JR., ET AL., CIVIL NO. 07-1-0216(1)) (C.C. No. 09-14)

CHAIR MOLINA: The Committee received a correspondence dated May 14th, 2010 from the Department of the Corporation Counsel, requesting consideration of the proposed resolution which authorizes the settlement of this matter, along with a copy of the complaint. The purpose of the proposed resolution is to authorize settlement of the case. The complaint alleges that on December 20th, 2006, Dolores Abreu suffered injuries when her vehicle collided with a garbage truck operated by Herbert Kinores Jr., a County employee. And to give us an overview of this matter in open session, we have Ms. Fujita Villarosa from the Corporation Counsel's office.

MS. FUJITA VILLAROSA: . . .*(inaudible)*. . .

CHAIR MOLINA: Okay, I think we have, someone else from the Corporation Council will be doing this matter. So, Members, we'll take a brief recess to await the arrival of the attorney that will be handling this matter. So, Member. . .Members, this meeting will be in recess until 9. . .25? Oh, well, we'll take five. Five-minute recess, Members . . .*(gavel)*. . .

RECESS: 9:18 a.m.

RECONVENE: 9:22 a.m.

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CHAIR MOLINA: . . .(*gavel*). . . The Committee of the Whole meeting for September 2nd, 2010 is now reconvened. Members, we last left on, left off on Committee of the Whole item 1(29), this is the settlement authorization, Dolores Abreu versus Herbert Kinores Jr. And we have from the Corporation Counsel's office, Ms. Tipton to give us an overview in open session on this matter.

MS. TIPTON: Thank you, Mr. Chair, Council members. In the predawn hours of December 20th, 2006, Plaintiff. . .Plaintiff Dolores Abreu was driving south on Kula Highway, heading to her work at the Kula Post Office. Defendant Herbert Kinores Jr., who was operating a large well-lit garbage truck owned by the County of Maui was parked at Keoni Place at the intersection of Keoni Place and Kula Highway, picking up the trash that had been left there by the people who lived along the road on Keoni Place. Plaintiff claims that a portion of the garbage truck was protrude, protruding onto the Highway. However, she *broadsided* our truck because she did not see it, even though it was well-lit. Plaintiff alleges she was injured as a result of the accident, and on June 15th, 2008 filed a lawsuit against the County and Mr. Kinores individually. The case was presented to a court-appointed arbitrator. And that arbitrator, after hearing testimony from the parties, determined that the County and Mr. Kinores were *not* liable for her damages. However, Abreu has appealed that decision and the case will be heard by a jury sometime early next year. We're here today to discuss a settlement offer by Abreu and possible authorization for settlement. Corporation Counsel previously requested indemnification for Mr. Kinores, and the Council approved that request. Because we'll be discussing settlement, Corp. Counsel believes that an executive session will be necessary.

CHAIR MOLINA: Okay. Thank you, Ms. Tipton. Members, if you have any questions in open session, now's the time to ask them anything related to the documents that are in your binders. So if you have questions in open session, now is the time to ask them. Otherwise, the Chair will. . .probably more than likely make a recommendation to go into executive session relating to this matter. Questions in open session for this particular settlement proposal?

. . . Okay, seeing none, Members, what we're gonna do, we have another Committee item that will probably, mostly like have to go into executive session as well, so if there are no objections, I'd like to have an overview on that matter and then we can consider an executive session vote. Uh, you know, what let me check--on a technical matter, if you could just hang on, Members. I've been reminded by Staff that we should take two separate executive session votes for each Committee item. So what I'll do, we'll go ahead and take a vote on the executive session for Committee of the Whole 1(29), and we'll remain in open session to address Committee of the Whole 1(31) and then take a separate executive session vote on that--if there are no objections to proceeding in that fashion.

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

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CHAIR MOLINA: Okay, Members, so at this point the Chair is gonna ask for a motion to go into executive session for Committee of the Whole Item 1(29), and this is related to Section 92-5(a)(4), Hawaii Revised Statutes, to consult with legal counsel on questions and issues pertaining to the powers, duties, privileges, immunities, and liabilities of the County, the Council, and the Committee; and Section 92-5(a)(8), HRS, to deliberate and make a decision upon a matter that requires the consideration of information that must be kept confidential pursuant to State or Federal law or a court order.

VICE-CHAIR MATEO: Mr. Chairman, I move for executive session for COW Item 1(29).

COUNCILMEMBER BAISA: Mr. Chair, I second the motion.

CHAIR MOLINA: Okay, the motion has been made by Committee Vice-Chair Mateo, seconded by Committee Member Baisa to go into executive session. Members, any discussion? Seeing none, all those in favor, signify by saying "aye".

COUNCILMEMBER ____: Aye.

CHAIR MOLINA: All those opposed?

. . . Thank you. The Chair will mark it eight "ayes", zero "noes" to go into executive session for Committee of the Whole Item 1(29).

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

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmember Victorino.

MOTION CARRIED.

ACTION: APPROVE; RECESS open meeting and CONVENE executive meeting.

CHAIR MOLINA: So we will go into executive session once we address the other item as well. So the next item is Committee of the Whole Item 1(31), which is also a settlement authorization, James Mattos versus the County of Maui.

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**ITEM NO. 1(31): LITIGATION MATTERS (SETTLEMENT AUTHORIZATION:
JAMES MATTOS V. COUNTY OF MAUI, CASE NO. 7-08-01871) (C.C. No. 09-14)**

CHAIR MOLINA: The Committee received a correspondence, dated August 18th, 2010, from the Corporation Counsel's office, requesting consideration of a proposed resolution related to this matter. The purpose of the proposed resolution is to authorize settlement of the worker's compensation claim. And to give us an overview in open session, we have Counselor Richard Rost. Good morning, Mr. Rost. If you will?

MR. ROST: Good morning. Thank you, Mr. Chair. This is a settlement of a worker's compensation claim arising out of a work-related injury suffered by an employee on June 28, 2008. This injury occurred while the employee was lifting a heavy garbage bag. We're requesting executive session to discuss this because of the medical issues involved.

CHAIR MOLINA: Okay. Thank you, Mr. Rost. Members, any questions in open session or any of the, related to the documents that are in your binder from Mr. Rost?

. . . Okay, seeing none. . .so, Mr. Rost, this will also be something that we'll have to consider for executive session as well?

MR. ROST: . . .*(inaudible)*. . .

CHAIR MOLINA: Okay. All right, Members, so the Chair will call for a vote to go into executive session for Committee of the Whole Item 1(31); and therefore, will entertain a motion to go into executive session pursuant to Section 92-5(a)(4), Hawaii Revised Statutes, to consult with legal counsel on questions and issues pertaining to the powers, duties, privileges, immunities, and liabilities of the County, the Council, and the Committee.

VICE-CHAIR MATEO: Mr. Chairman, I move for executive session regards to Committee of the Whole Item 1-31 [*sic*].

COUNCILMEMBER BAISA: Mr. Chair, I second the motion.

CHAIR MOLINA: Okay. Motion has been made by Committee Vice-Chair Mateo, seconded by Committee Member Baisa to go into executive session for Committee of the Whole Item 1(31). Members, any discussion?

. . . Seeing none, the Chair will call for the vote. All those in favor, signify by saying "aye".

COUNCILMEMBER BAISA: Aye.

COUNCILMEMBER PONTANILLA: Aye.

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CHAIR MOLINA: All those opposed?

. . . Thank you. Chair mark it eight "ayes"; one excusal, Member Victorino, to go into executive session for this matter.

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

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmember Victorino.

MOTION CARRIED.

ACTION: APPROVE; RECESS open meeting and CONVENE executive meeting.

CHAIR MOLINA: So, Members, we will now prepare the Chambers to go into executive session. And for the record, we will be discussing both items in executive session. so at this point, the Chair will recess the meeting. Recess, subject to the call of the Chair to prepare the Chambers to go into executive session for both of these items. Meeting in recess . . .(gavel). . .

RECESS: 9:27 a.m.

RECONVENE: 10:54 a.m.

CHAIR MOLINA: . . .(gavel). . . The Committee of the Whole meeting for Thursday, September 2nd, 2010 is now reconvened in open session. The Chair would like to offer a recommendation on Committee of the Whole Item 1(29).

ITEM NO. 1(29): LITIGATION MATTERS (SETTLEMENT AUTHORIZATION: DOLORES ABREU V. HERBERT KINORES, JR., ET AL., CIVIL NO. 07-1-0216(1)) (C.C. No. 09-14)

COUNCIL MEMBERS: Recommendation?

CHAIR MOLINA: Thank you, Members. The recommendation is, the Chair will entertain a motion to support a proposed resolution entitled AUTHORIZING SETTLEMENT OF

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DOLORES ABREU VERSUS HERBERT KINORES JR., ET AL., CIVIL CASE NUMBER 07-1002161.

VICE-CHAIR MATEO: Mr. Chairman, I move for the adoption of the proposed resolution as you had just read.

COUNCILMEMBER BAISA: Mr. Chair, I second the motion.

CHAIR MOLINA: Okay, the motion to approve has been made by Committee Vice-Chair Mateo and seconded by Committee Member Baisa. Discussion?

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

COUNCILMEMBER BAISA: Aye.

COUNCILMEMBER MEDEIROS: Aye.

CHAIR MOLINA: All those opposed?

. . . Thank you. The Chair will mark it seven "ayes"; two "excusals", Members Johnson and Victorino.

VOTE: AYES: Chair Molina, Vice-Chair Mateo, and Councilmembers Baisa, Kaho'ohalahala, Medeiros, Nishiki, and Pontanilla.

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmembers Johnson and Victorino.

MOTION CARRIED.

ACTION: Recommending ADOPTION of resolution.

CHAIR MOLINA: Thank you, Members. Members, the next item, Committee of the Whole 1(31), which relates to settlement authorization of James Mattos versus County of Maui.

ITEM NO. 1(31): LITIGATION MATTERS (SETTLEMENT AUTHORIZATION: JAMES MATTOS V. COUNTY OF MAUI, CASE NO. 7-08-01871) (C.C. No. 09-14)

CHAIR MOLINA: The Chair is going to recommend a deferral on this matter. As you probably know, tomorrow we have a Council meeting, and posted on the agenda is this item for a

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discharge and action to be taken because this is a time-sensitive matter. A court date [sic] has been scheduled and being that if we went through the normal procedure, we would miss the court date [sic]. So at this point, for today's purposes only, for Committee of the Whole 1(31), the Chair will defer. And this matter will be taken up at Council tomorrow. Any objections?

COUNCILMEMBER BAISA: No objections.

COUNCILMEMBER MEDEIROS: No objection.

CHAIR MOLINA: Okay, so ordered.

COUNCIL MEMBERS VOICED NO OBJECTIONS. (excused: JJ and MPV)

ACTION: DEFER pending further discussion.

CHAIR MOLINA: All right, Members, I believe that concludes business for today.

COUNCILMEMBER ____: Whoo. . .good job.

CHAIR MOLINA: It is five minutes to the hour of 11 o'clock. The Chair thanks you all for your attendance; to our wonderful Committee Staff and to the Administration--thank you all for your professionalism. The Committee of the Whole meeting for Thursday, September 2nd, 2010 is now adjourned . . .(gavel). . .

ADJOURN: 10:56 a.m.

APPROVED:


MICHAEL J. MOLINA, Chair
Committee of the Whole

cow:min:100902

Transcribed by: Camille Sakamoto