

COUNCIL OF THE COUNTY OF MAUI
POLICY COMMITTEE

May 10, 2011

Committee
Report No. _____

Honorable Chair and Members
of the County Council
County of Maui
Wailuku, Maui, Hawaii

Chair and Members:

Your Policy Committee, having met on April 15, 2011, makes reference to County Communication No. 11-31, from Council Chair Danny A. Mateo, relating to the matter of nominations to boards, committees, and commissions.

By correspondence dated April 1, 2011 and April 4, 2011 (both received April 5, 2011), the Mayor transmitted two draft resolutions entitled "APPOINTMENT OF MEMBERS TO THE BOARDS AND COMMISSIONS FOR THE COUNTY OF MAUI", along with completed application forms for the nominees. The purpose of the draft resolutions is to approve or disapprove the appointment of the Mayor's nominees to various boards, committees, and commissions (for terms expiring on March 31, 2016, unless otherwise indicated). The first draft resolution relates to nominees for the Maui County Commission on Persons with Disabilities and the Subdivision Engineering Standards Committee, while the second draft resolution relates to nominees for the six remaining boards. The nominees are as follows:

- A. MAUI COUNTY COMMISSION ON PERSONS WITH DISABILITIES
 1. Yolanda Mau;
 2. Charlotte Smith; and
 3. Ramoda Anand (replacing Tracy Souza), for a term expiring on March 31, 2014.

- B. SUBDIVISION ENGINEERING STANDARDS COMMITTEE
 1. James Spence; and
 2. Lee Aldridge.

- C. BOARD OF CODE APPEALS
 1. Thomas Godfrey (replacing Gary Marshall), for a term expiring on March 31, 2015.

- D. BOARD OF ETHICS
 1. Gene Viglione.

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- E. BOARD OF WATER SUPPLY
 - 1. James Rust.

- F. COMMISSION ON CULTURE AND THE ARTS
 - 1. Evalina “Nani” Watanabe.

- G. LIQUOR CONTROL ADJUDICATION BOARD
 - 1. Dana Souza.

- H. MOLOKAI PLANNING COMMISSION
 - 1. Oliver DeGray Vanderbilt (replacing Napua Leong), for a term expiring on March 31, 2014.

Your Committee notes that general appointment procedures for the above-referenced boards, committees, and commissions are outlined in Section 13-2, Revised Charter of the County of Maui (1983), as amended (“Charter”), and Chapter 2.41, Maui County Code (“MCC”). Your Committee further notes that the following general appointment procedures apply to the various boards, committees, and commissions for which the Mayor submitted nominations.

The Mayor is required to submit nominees 60 to 70 days before the prior members’ terms expire, and the Council must approve or disapprove the nominee within 60 days thereafter. When a vacancy occurs due to death, resignation, or removal, the Mayor is required to submit a nominee within 30 days from the date of the occurrence, and the Council shall have 60 days thereafter to approve or disapprove the nominee. If the Council fails to approve or disapprove the Mayor’s nominee within the time period provided, the nominee shall be deemed appointed to fill the vacancy upon its occurrence. If the Council disapproves a nominee, it shall immediately notify the Mayor of its action. If the Mayor fails to submit the name of a nominee within the time periods provided, the Council may, within 60 days, nominate and approve the appointment of an individual to fill the vacancy. If the Mayor submits the name of a nominee within this 60-day period, the Mayor’s submittal shall be deemed invalid.

Your Committee further notes that, according to the Department of the Corporation Counsel, if neither the Mayor nor the Council nominates an individual to fill a vacancy within the periods provided in the Charter, the Mayor again has an opportunity to nominate an individual for that vacancy. Therefore, for the vacancies that were created

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by the expiration of members' terms on March 31, 2011, the Mayor had another opportunity to nominate individuals on April 1, 2011.

Your Committee further notes that specific provisions for these boards, committees, and commissions are contained in the Charter and the MCC as follows:

- A. Maui County Commission on Persons with Disabilities (Chapter 2.32, MCC);
- B. Subdivision Engineering Standards Committee (Section 2.40.020 and Chapter 18.40, MCC);
- C. Board of Code Appeals (Sections 2.40.190 and 16.26.105, MCC);
- D. Board of Ethics (Section 10-2, Charter);
- E. Board of Water Supply (Section 8-11.3, Charter);
- F. Commission on Culture and the Arts (Chapter 2.37 and Section 2.40.200, MCC);
- G. Liquor Control Adjudication Board (Section 8-13.3, Charter); and
- H. Molokai Planning Commission (Section 2.28.020, MCC; Section 8-8.4, Charter).

For all valid nominations, the Council must approve or disapprove the nominations by June 4, 2011, or the nominations will be deemed approved.

Your Committee notes that the Mayor nominated Mr. Anand to the Maui County Commission on Persons with Disabilities to replace Tracy Souza, who passed away on February 9, 2011. Under Section 13-2 of the Charter, the Mayor had until March 11, 2011, to nominate an individual to fill the vacancy created by Mr. Souza's death. This nomination was not submitted to the Council within the applicable time period and, pursuant to Section 2.41.050(A), MCC, the nomination is therefore invalid. Accordingly, the Council has until May 10, 2011, to nominate and approve an individual to fill the vacancy.

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Your Committee received written testimony objecting to the Mayor's nomination of Oliver DeGray Vanderbilt to the Molokai Planning Commission. The testimony included assertions that Mr. Vanderbilt is not a resident of Molokai. Your Committee notes that Section 8-8.4 of the Charter states, "The members of each planning commission shall be residents of the island of the planning commission on which the member serves." Your Committee requested that the Office of the Mayor research and verify the status of Mr. Vanderbilt's residency. Your Committee notes that Section 2.41.030, MCC, provides that if the mayor submits the name of a nominee who is not eligible to serve on a board, the submittal shall be deemed invalid.

Your Committee further notes that, with respect to the composition of the Subdivision Engineering Standards Committee, Section 18.40.010, MCC, provides that "not less than three appointed members shall be registered professional engineers". It appears that there are currently three engineers sitting on the committee, and that the application for nominee Lee Aldridge, which indicates that he is a professional engineer, will add a fourth engineer to the Committee.

Your Committee further notes that the Mayor's nomination of an individual to fill a vacancy on the Commission on Culture and the Arts should have been for a term expiring on March 31, 2015, rather than 2016. Members on the Commission serve staggered five-year terms, and the most recent vacancy on the Commission is due to the expiration of Elaine Slavinsky's term on March 31, 2010. Accordingly, the nomination of Evalina "Nani" Watanabe to fill the vacancy on the Commission on Culture and the Arts should be for a term expiring on March 31, 2015.

Your Committee was generally satisfied with the information provided on the nominees' application forms and did not request an interview with any of the nominees.

Your Committee recommended that the title of the first draft resolution involving nominees for the Maui County Commission on Persons with Disabilities and the Subdivision Engineering Standards Committee be revised to reflect the names of the commission and committee, respectively, to more readily distinguish the first resolution from the second. Your Committee further recommended that the name of nominee Ramoda Anand be deleted from Exhibit "A" (the list of the Mayor's nominees). Your Committee also recommended that all remaining nominees' names (Yolanda Mau, Charlotte Smith, James Spence, and Lee Aldridge) and their respective terms, by commission or committee, be placed on Exhibit "B" for approval.

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With respect to the second draft resolution involving six boards and commissions, your Committee recommended that the names of all nominees other than Mr. Vanderbilt (Thomas Godfrey, Gene Viglione, James Rust, Evalina “Nani” Watanabe, and Dana Souza) be placed on Exhibit “B” for approval, along with their respective terms, by board or commission. Your Committee revised Ms. Watanabe’s term to expire on March 31, 2015, consistent with the vacancy she would be filling. Your Committee declined to place Mr. Vanderbilt’s name on either the approving or disapproving exhibit of the resolution, pending further discussion.

Your Committee voted 9-0 to recommend adoption of both draft resolutions, as revised. Committee Chair Hokama, Vice-Chair Carroll, and members Baisa, Cochran, Couch, Mateo, Pontanilla, Victorino, and White voted “aye”.

Your Committee is in receipt of a proposed resolution entitled “APPOINTMENT OF MEMBERS TO THE MAUI COUNTY COMMISSION ON PERSONS WITH DISABILITIES AND THE SUBDIVISION ENGINEERING STANDARDS COMMITTEE” and a proposed resolution entitled “APPOINTMENT OF MEMBERS TO THE BOARDS AND COMMISSIONS FOR THE COUNTY OF MAUI”, both approved as to form and legality by the Department of the Corporation Counsel, incorporating your Committee’s recommended revisions.

Your Policy Committee RECOMMENDS the following:

1. That Resolution No. _____, attached hereto, entitled “APPOINTMENT OF MEMBERS TO THE MAUI COUNTY COMMISSION ON PERSONS WITH DISABILITIES AND THE SUBDIVISION ENGINEERING STANDARDS COMMITTEE”, be ADOPTED; and
2. That Resolution No. _____, attached hereto, entitled “APPOINTMENT OF MEMBERS TO THE BOARDS AND COMMISSIONS FOR THE COUNTY OF MAUI”, be ADOPTED.

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This report is submitted in accordance with Rule 8 of the Rules of the Council.



G. RIKI HOKAMA, Chair

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Resolution

No. _____

APPOINTMENT OF MEMBERS TO THE MAUI COUNTY
COMMISSION ON PERSONS WITH DISABILITIES AND THE
SUBDIVISION ENGINEERING STANDARDS COMMITTEE

WHEREAS, by letter dated April 1, 2011, Mayor Alan M. Arakawa notified the Council that he nominated the persons listed in Exhibit "A", attached hereto, as members to the various boards and commissions of the County of Maui, pursuant to Section 13-2, Revised Charter of the County of Maui (1983), as amended ("Charter"); and

WHEREAS, Section 13-2 of the Charter requires the Mayor's nominees to be approved by the Council; and

WHEREAS, Section 13-2(16) of the Charter requires the Council to approve or disapprove the nominees within sixty (60) days after the Mayor submits the nominees to the Council; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That it hereby approves the appointment of the persons listed in Exhibit "B", attached hereto, as members to the various boards and commissions for terms as specified therein; and

2. That it hereby disapproves the appointment of the persons listed in Exhibit "C" as members to the various boards and commissions as nominated by the Mayor; and

3. That certified copies of this Resolution be transmitted to the Mayor, the Managing Director, and the Corporation Counsel.

APPROVED AS TO FORM
AND LEGALITY:



EDWARD S. KUSHI, JR.
First Deputy Corporation Counsel
County of Maui

NOMINATED BOARDS AND COMMISSIONS MEMBERS AND TERMS

MAUI COUNTY COMMISSION ON PERSONS WITH DISABILITIES

Yolanda Mau
Charlotte Smith

Exp. 3/31/16
Exp. 3/31/16

SUBDIVISION ENGINEERING STANDARDS COMMITTEE

James Spence
Lee Aldridge

Exp. 3/31/16
Exp. 3/31/16

APPROVED BOARDS AND COMMISSIONS MEMBERS

MAUI COUNTY COMMISSION ON PERSONS WITH DISABILITIES

Yolanda Mau
Charlotte Smith

Exp. 3/31/16
Exp. 3/31/16

SUBDIVISION ENGINEERING STANDARDS COMMITTEE

James Spence
Lee Aldridge

Exp. 3/31/16
Exp. 3/31/16

DISAPPROVED BOARDS AND COMMISSIONS MEMBERS

EXHIBIT "c"

Resolution

No. _____

APPOINTMENT OF MEMBERS TO THE BOARDS AND COMMISSIONS FOR THE COUNTY OF MAUI

WHEREAS, by letter dated April 4, 2011, Mayor Alan M. Arakawa notified the Council that he nominated the persons listed in Exhibit "A", attached hereto, as members to the various boards and commissions of the County of Maui, pursuant to Section 13-2, Revised Charter of the County of Maui (1983), as amended ("Charter"); and

WHEREAS, Section 13-2 of the Charter requires the Mayor's nominees to be approved by the Council; and

WHEREAS, Sections 13-2(16) and 13-2(17) of the Charter require the Council to approve or disapprove the nominees within sixty (60) days after the Mayor submits the nominees to the Council; now, therefore,

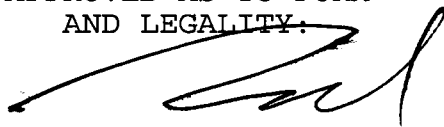
BE IT RESOLVED by the Council of the County of Maui:

1. That it hereby approves the appointment of the persons listed in Exhibit "B", attached hereto, as members to the various boards and commissions for terms as specified therein; and

2. That it hereby disapproves the appointment of the persons listed in Exhibit "C" as members to the various boards and commissions as nominated by the Mayor; and

3. That certified copies of this Resolution be transmitted to the Mayor, the Managing Director, and the Corporation Counsel.

APPROVED AS TO FORM
AND LEGALITY:



EDWARD S. KUSHI, JR.
First Deputy Corporation Counsel
County of Maui

NOMINATED BOARDS AND COMMISSIONS MEMBERS AND TERMS

BOARD OF CODE APPEALS

Thomas Godfrey (replacing Gary Marshall)

Exp. 3/31/15

BOARD OF ETHICS

Gene Viglione

Exp. 3/31/16

BOARD OF WATER SUPPLY

James Rust

Exp. 3/31/16

COMMISSION ON CULTURE AND THE ARTS

Evalina "Nani" Watanabe

Exp. 3/31/16

LIQUOR CONTROL ADJUDICATION BOARD

Dana Souza

Exp. 3/31/16

MOLOKAI PLANNING COMMISSION

Oliver DeGray Vanderbilt (replacing Napua Leong)

Exp. 3/31/14

APPROVED BOARDS AND COMMISSIONS MEMBERS

BOARD OF CODE APPEALS

Thomas Godfrey (replacing Gary Marshall)

Exp. 3/31/15

BOARD OF ETHICS

Gene Viglione

Exp. 3/31/16

BOARD OF WATER SUPPLY

James Rust

Exp. 3/31/16

COMMISSION ON CULTURE AND THE ARTS

Evalina "Nani" Watanabe

Exp. 3/31/15

LIQUOR CONTROL ADJUDICATION BOARD

Dana Souza

Exp. 3/31/16

DISAPPROVED BOARDS AND COMMISSIONS MEMBERS

EXHIBIT " C "