

**COUNCIL OF THE COUNTY OF MAUI**  
**POLICY COMMITTEE**

May 24, 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 and May 12, 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 4, 2011 (received April 5, 2011), the Mayor transmitted a draft resolution 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 resolution is to approve or disapprove the appointment of the Mayor's nominees to the Board of Code Appeals, Board of Ethics, Board of Water Supply, Commission on Culture and the Arts, Liquor Control Adjudication Board, and Molokai Planning Commission.

Your Committee notes that it previously recommended the adoption of a proposed resolution approving all of the Mayor's nominees except the nominee for the Molokai Planning Commission, Oliver DeGray Vanderbilt. Your Committee deferred a recommendation on the nomination of Mr. Vanderbilt to the Molokai Planning Commission. At its meeting of May 10, 2011, the Council adopted your Committee's recommendation in Policy Committee Report No. 11-41 (Resolution No. 11-45).

Your Committee notes that it had received written testimony questioning whether Mr. Vanderbilt is a resident of Molokai. Your Committee, therefore, requested that the Office of the Mayor research and verify the status of Mr. Vanderbilt's residency. Section 8-8.4 of the Revised Charter of the County of Maui (1983), as amended ("Charter") requires the members of each planning commission to be residents of the island of the planning commission on which the member serves. Your Committee notes that Section 2.41.030, Maui County Code ("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.

In response to your Committee's inquiry, the Mayor transmitted a copy of Mr. Vanderbilt's redacted voter registration file, which he received from the County Clerk, with Mr. Vanderbilt's permission. The accompanying correspondence from the

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County Clerk states that Mr. Vanderbilt's file shows he has been a Molokai registered voter since August 1984.

The Department of the Corporation Counsel transmitted a revised draft resolution entitled "APPOINTMENT OF MEMBER TO THE MOLOKAI PLANNING COMMISSION". The purpose of the revised draft resolution is to approve or disapprove the appointment of Mr. Vanderbilt to the Molokai Planning Commission, for a term expiring on March 31, 2014, to fill a vacancy created by the resignation of Napua Leong.

Your Committee notes that general appointment procedures for the above-referenced commission are outlined in Section 13-2 of the Charter, and Chapter 2.41, MCC. Your Committee further notes that the following general appointment procedures apply to the commission for which the Mayor submitted the nomination.

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 vacancy that was created by Ms. Leong's resignation on December 6, 2010, it is currently the Mayor's opportunity to nominate an individual to fill the vacancy.

Your Committee further notes that specific provisions for the Molokai Planning Commission are contained at Section 2.28.020, MCC, and Section 8-8.4 of the Charter.

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The Council must approve or disapprove Mr. Vanderbilt's nomination by June 4, 2011, or the nomination will be deemed approved.

Mr. Vanderbilt attended your Committee's meeting of May 12, 2011, and stated that he is a 30-year resident of Molokai, pays for a rental on Molokai, maintains a post office box and bank account there, and has his social security checks mailed there. He explained personal circumstances that have led to his being away from the island for periods of time.

Your Committee received several pieces of written testimony opposing Mr. Vanderbilt's nomination on both philosophical and behavioral grounds. Your Committee also received testimony in favor of Mr. Vanderbilt's nomination, citing his active community involvement, and his willingness to work hard and commit the time necessary. Your Committee questioned Mr. Vanderbilt about his ability to work with, and appreciate input from, various segments of the Molokai community. Your Committee also noted Mr. Vanderbilt's dedication to the Molokai community and his passion for dissecting issues.

Your Committee recommended that the appointment of Mr. Vanderbilt to the Molokai Planning Commission be approved. In doing so, your Committee urged Mr. Vanderbilt to seriously consider the concerns that had been voiced about his nomination. Your Committee voted to amend the draft resolution by adding Mr. Vanderbilt's name (and accompanying term) to Exhibit "B" for approval.

Your Committee voted 5-2 to recommend adoption of the draft resolution incorporating your Committee's revisions. Committee Chair Hokama and members Baisa, Cochran, Pontanilla, and Victorino voted "aye". Vice-Chair Carroll and member White voted "no". Committee members Couch and Mateo were excused.

Your Committee is in receipt of a proposed resolution, approved as to form and legality by the Department of the Corporation Counsel, incorporating your Committee's recommended revisions.

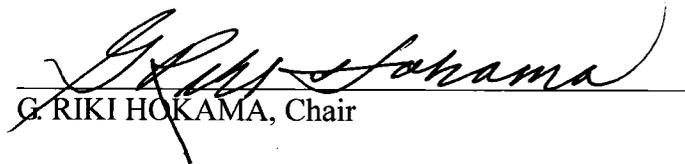
Your Policy Committee **RECOMMENDS** that Resolution No. \_\_\_\_\_, attached hereto, entitled "APPOINTMENT OF MEMBER TO THE MOLOKAI PLANNING COMMISSION", be **ADOPTED**.

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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 MEMBER TO THE MOLOKAI PLANNING COMMISSION

WHEREAS, by letter dated April 4, 2011, Mayor Alan M. Arakawa notified the Council that he nominated the person listed in Exhibit "A", attached hereto, as a member to the Molokai Planning Commission 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 nominee to be approved by the Council; and

WHEREAS, Section 13-2(17) of the Charter requires the Council to approve or disapprove the nominee within sixty (60) days after the Mayor submits the nominee to the Council; now, therefore,

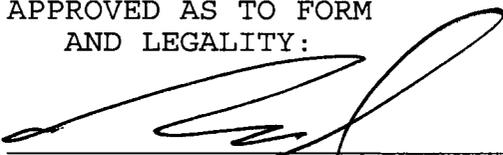
BE IT RESOLVED by the Council of the County of Maui:

1. That it hereby approves the appointment of the person listed in Exhibit "B", attached hereto, as a member to the Molokai Planning Commission for the term as specified therein; and

2. That it hereby disapproves the appointment of the person listed in Exhibit "C" as a member to the Molokai Planning Commission 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 COMMISSION MEMBER AND TERM**

**MOLOKAI PLANNING COMMISSION**

Oliver DeGray Vanderbilt (replacing Napua Leong)

Exp. 3/31/14

EXHIBIT " A "

**APPROVED COMMISSION MEMBER AND TERM**

**MOLOKAI PLANNING COMMISSION**

Oliver DeGray Vanderbilt (replacing Napua Leong)

Exp. 3/31/14

EXHIBIT " B "

**DISAPPROVED COMMISSION MEMBER**

EXHIBIT "C"