

MINUTES

of the

COUNCIL OF THE COUNTY OF MAUI

March 29, 2011

THE SPECIAL MEETING OF THE COUNCIL OF THE COUNTY OF MAUI, STATE OF HAWAII, WAS HELD IN THE COUNCIL CHAMBER, KALANA O MAUI BUILDING, WAILUKU, HAWAII, ON TUESDAY, MARCH 29, 2011, BEGINNING AT 9:06 A.M., WITH CHAIR DENNIS A. MATEO PRESIDING.

CHAIR MATEO: Council of the County of Maui special meeting of March 29, 2011, will come to order.

Mr. Clerk, may I have the roll call, please.

ROLL CALL

PRESENT: COUNCILMEMBERS GLADYS C. BAISA, ROBERT CARROLL, ELEANORA COCHRAN, DONALD G. COUCH JR., G. RIKI HOKAMA, MICHAEL P. VICTORINO, MICHAEL B. WHITE, VICE-CHAIR JOSEPH PONTANILLA, AND CHAIR DENNIS A. MATEO.

COUNTY CLERK JEFFREY KUWADA: Mr. Chairman, all nine Members of the Council are present.

CHAIR MATEO: Thank you.

Will everyone please rise and join us in reciting the Pledge of Allegiance.

PLEDGE OF ALLEGIANCE

The Members of the Council, and others in attendance, rose and recited the Pledge of Allegiance.

CHAIR MATEO: Mr. Clerk, do we have anyone signed up for testimony this morning.

COUNTY CLERK: Mr. Chairman, we have received one request from an individual wishing to offer testimony on Committee Report No. 11-24.

CHAIR MATEO: Before the Clerk calls up the individual to provide testimony to the Council this morning, the Chair would like to set the parameters for those wishing to share your comments with the Council.

You're allowed to speak for three minutes on any of the items posted on the agenda for today. When your name is called, please advance to the podium, state your name for the record, and if you represent a group or organization please so state the name of that group or organization.

A lighting system on the podium is there to assist you with your testimony. At the start of your comments the green light will be lit. At the two minute thirty second mark the yellow light will be lit letting you know you have thirty seconds to conclude. And at the three minute mark the red light will be lit, letting you know that you will need to stop. If more time is needed, an additional minute will be provided to you to conclude your comments.

For those of us with cell phones, pagers, or other noise making devices, this would be a good time to either turn them off or set them on the, the vibrate mode at this time.

Mr. Clerk, please call up our first testifier.

COUNTY CLERK: Calling Suki Halevi.

PRESENTATION OF WRITTEN OR ORAL TESTIMONY

MS. SUKI HALEVI (testifying on Committee Report No. 11-24):

Aloha, Mr. Chairman.

CHAIR MATEO: Good morning.

MS. HALEVI: Councilmembers, good morning. My name is Suki Halevi, I'm an, one of the attorneys representing Molokai Veterans Caring for Veterans and the other plaintiffs in this case.

My clients aren't here today because they are losing faith in this process. They were told by Mayor Arakawa that this case would be settled quickly after he took office. The Mayor and his staff have been in contact with my clients and they were hopeful that a resolution was coming.

It's beginning to feel like another betrayal. Like when the Planning Department said that all that was needed was an SMX and a year later told the Vets they needed a zoning change. And after they went through the complex and costly zoning process, the Council amended the code so the change wasn't needed.

But when the Molokai Health Center didn't fit into the zoning code, the Planning Department simply told them that a health center is a philanthropic institution and they were okay. They were okay but the Vets had to go through a needless zoning change.

All along Kaunakakai Place there are buildings that have received building permits on waterlines that are the same size as the Vets four inch line or smaller. The Yacht Club owned by the County of Maui adjacent, on the street adjacent to Kaunakakai Place got building permits on a two inch waterline. The tank farm, multiple tanks of flammable material, received a building permit on the same four inch waterline that serves the Veteran's property.

The Fire Department said there was more than enough water for fire protection for the Veteran's Center, but when the Water Department tested fire flow, they did the test in a way that would produce the worst possible results. Then the Director talked about how backflow could send toilet water into the system but didn't mention that all properties have backflow preventers.

Mayor Tavares and her staff promised that she'd work this all out, but then she threatened the Vets that if they came to Maui to exercise their First Amendment Right to Demonstrate and Protest, they would never get their permit.

To stop the demonstration Mayor Tavares and her staff told the Vets that the Water Resources Committee would shift fire flow oversight from the DWS to the Fire Department alone and that no Councilmember would vote against it. You know what happened. The Mayor and her staff did not tell the Vets that the proposal had already been defeated six times, and it was defeated again last August.

At that point the Vets brought this lawsuit. Mayor Arakawa promised a speedy resolution. The Vets believed him, I believed him, we calculated the cost of losing the contractor and the suppliers who were going to provide labor and materials at

discounted rates, the cost of all the expense and delay of this lengthy and unnecessary process and the cost of the Vets suffering.

CHAIR MATEO: One minute to conclude.

MS. HALEVI: I don't know if you understand that what you are doing is rubbing salt in the wounds of the people who have already suffered so much. Look at the choices and the consequences, the cost of this continued suffering, the cost of litigation, the cost of a possible jury award against the County. Nobody wants this, we do not want this, we want ho`oponopono. This is Maui, we don't need to go to Honolulu. Please settle this. Aloha.

CHAIR MATEO: Thank you. Members, is there a need to have any part of the testimony rephrased. Thank you.

Mr. Clerk.

COUNTY CLERK: Mr. Chairman, there are no other requests to offer testimony on agenda items.

CHAIR MATEO: The Chair will offer the opportunity for anyone in the gallery wanting to provide testimony to the Council this morning, to please advance to the podium.

Members, no one approach, with no objections, the Chair will close public testimony for the day. Any objections?

MEMBERS VOICED NO OBJECTION.

CHAIR MATEO: Thank you, so ordered.

Mr. Clerk.

COUNTY CLERK: Mr. Chairman, I'd just like to note for the record we have received no written testimony.

CHAIR MATEO: Thank you.

COUNTY CLERK: Mr. Chairman, proceeding with committee reports.

The following Committee Reports were presented.

COMMITTEE REPORTS

COMMITTEE REPORT

NO. 11-23 - POLICY COMMITTEE:

Recommending that RESOLUTION NO. 11-27 entitled "NOMINATING AND APPROVING THE APPOINTMENT OF MEMBERS TO THE BOARDS AND COMMISSIONS FOR THE COUNTY OF MAUI" be ADOPTED.

Nominating and approving the appointment of the following members to the boards, committees, and commissions for the County of Maui (for terms expiring on March 31, 2016, unless otherwise indicated):

AFFIRMATIVE ACTION ADVISORY COUNCIL

1. Lilah Inaba.

BOARD OF CODE APPEALS

1. Thomas Behnke.

BOARD OF ETHICS

1. Sydney Kikuchi.

BOARD OF VARIANCES AND APPEALS

1. Jacqueline Haraguchi; and
2. Patrick De Ponte.

BOARD OF WATER SUPPLY

1. William Kamai.

CIVIL SERVICE COMMISSION

1. Arnold Wunder (Reappointment).

COMMISSION ON CHILDREN AND YOUTH

1. Lei Fagan; and
2. Kalimaya Herrera.

COMMISSION ON CULTURE AND THE ARTS

1. Caroline Belsom; and
2. Henry Allen.

COMMISSION ON NAMING STREETS, PARKS, AND FACILITIES

1. June Davis; and
2. Chad Beitler.

COST OF GOVERNMENT COMMISSION

1. Joseph Kanahuna, for a term expiring on March 31, 2013;
2. Fred Rohlfing, for a term expiring on March 31, 2013;
3. Walter Baloaloo, for a term expiring on March 31, 2013; and
4. Gregory Evans, for a term expiring on March 31, 2013.

COUNCIL ON AGING

1. Candice Carter (Reappointment);
2. James Jackson;
3. Iris Peelua; and
4. Robert Santry.

FIRE AND PUBLIC SAFETY COMMISSION

1. Allen Souza; and
2. William Soares.

HANA ADVISORY COMMITTEE

1. John Blumer-Buell; and
2. Anjoleen Hoopai-Waikoloa.

LANAI PLANNING COMMISSION

1. Roberto Hera.

LIQUOR CONTROL ADJUDICATION BOARD

1. Edward Zwick.

LIQUOR CONTROL COMMISSION

1. Zachary Paz; and
2. Frank Sylva.

MAUI COUNTY CULTURAL RESOURCES COMMISSION

1. Irene Kaahanui.

MAUI COUNTY GRANTS REVIEW COMMITTEE

1. Yarrow Flower; and
2. Kathryn Ghean.

MAUI PLANNING COMMISSION

1. Ivan Lay; and
2. John "Keone" Ball.

MOLOKAI PLANNING COMMISSION

1. Zhantell Dudoit.

POLICE COMMISSION

1. Pancho Alcon; and
2. Kelly Ruidas.

REAL PROPERTY TAX REVIEW BOARD

1. Bernice Lu.

SALARY COMMISSION

1. Maxwell Tsai (replacing Jeremiah Savage), for a term expiring on March 31, 2013;
2. May Fujiwara; and
3. Ralph Masuda.

CHAIR MATEO: Thank you very much.

Mr. Hokama.

COUNCILMEMBER HOKAMA:

CHAIRMAN, I WOULD MOVE THAT COMMITTEE REPORT NO. 11-23, WITH ITS RECOMMENDATIONS BE ADOPTED.

COUNCILMEMBER CARROLL:

SECOND.

CHAIR MATEO: It's been moved by Mr. Hokama and second by Mr. Carroll to adopt the recommendations in Committee Report No. 11-23.

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, thank you very much.

Very quickly, this is a unique situation for the Council this morning. Chairman and Members, as you have been made aware of in the Policy Committee meeting, we are in the process of, whereby the Council has been given the authority through the Charter at this point in time to make its appointments and confirmations of various members to boards and commissions for the County of Maui.

Unfortunately, due to the transitioning of different Administrations, we were unable to get on a timely basis by Charter deadline the Mayor's recommendations. Therefore, this morning the Council is happy, your Committee is happy to recommend these individuals to serve on various boards and commissions for the County and I would thank them in advance for their willingness to volunteer to serve their community as well as to all the others that have been interested in continuing to serve their community to various appointments.

You would notice, Mr. Chairman, that we have, your Committee has left certain appointments blank in order to allow the Mayor, upon April 1, arriving for his ability to re-nominate individuals he feels worthy to send to the Council for future consideration.

So therefore, at this time, Mr. Chairman, I ask the Members to support the motion on the floor. Thank you.

CHAIR MATEO: Thank, thank you very much, Mr. Hokama. Members, further discussion? Hearing none, all those in favor of the motion to adopt the recommendations in Committee Report No. 11-23, signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL, COCHRAN,
COUCH, HOKAMA, VICTORINO, WHITE,
VICE-CHAIR PONTANILLA, AND CHAIR MATEO.

CHAIR MATEO: Those opposed say "no".

NOES: NONE.

CHAIR MATEO: Motion is carried with nine "ayes".

Mr. Clerk.

COUNTY CLERK: Mr. Chairman, for the record, RESOLUTION NO. 11-27.

COMMITTEE REPORT

NO. 11-24 - POLICY COMMITTEE:

Recommending that RESOLUTION NO. 11-28 entitled "AUTHORIZING SETTLEMENT OF MOLOKAI VETERANS CARING FOR VETERANS, ET AL. V. COUNTY OF MAUI, ET AL., CIVIL NO. CV 10-00538 LEK" be ADOPTED.

CHAIR MATEO: Thank you. Before the Chair calls for the motion, the Chair will take a very brief recess for about two minutes. Thank you. We'll stand in recess.

(THE MEETING WAS RECESSED BY THE CHAIR AT 9:19 A.M., AND WAS RECONVENED AT 9:21 A.M., WITH ALL MEMBERS PRESENT.)

CHAIR MATEO: Council of the County of Maui, special meeting of March 29, 2011 will reconvene.

Chair recognizes, Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, thank you very much.

AT THIS TIME, MR. CHAIRMAN, I MOVE TO ADOPT COMMITTEE REPORT 11-24, AND ITS RECOMMENDATION ATTACHED THERETO.

COUNCILMEMBER CARROLL:

SECOND.

CHAIR MATEO: It's been moved by Mr. Hokama and second by Mr. Carroll to adopt the recommendations in Committee Report No. 11-24.

Mr. Hokama.

COUNCILMEMBER HOKAMA: Thank you, Chairman.

Chairman, this is regarding a case Molokai Veterans Caring for Veterans, et al. v. County of Maui, et al., Civil No. 10-00538 LEK. Your Committee is recommending that the Council supports the resolution under the terms of the, that were proposed in executive session regarding this issue at this time.

Thank you, Chairman.

CHAIR MATEO: Thank you, Mr. Hokama. Members, further discussion? Hearing none, all those in favor of the motion to adopt the recommendations in Committee Report No. 11-24, signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL, COCHRAN,
COUCH, HOKAMA, VICTORINO, WHITE,
VICE-CHAIR PONTANILLA, AND CHAIR MATEO.

CHAIR MATEO: Those opposed say "no".

NOES: NONE.

CHAIR MATEO: Motion is carried with nine "ayes".

Mr. Clerk.

COUNTY CLERK: Mr. Chairman, for the record, RESOLUTION NO. 11-28.

Mr. Chairman, proceeding with county communications.

The following County Communications were presented.

COUNTY COMMUNICATIONS

NO. 11-93 - DANNY A. MATEO, COUNCIL CHAIR,
(dated March 23, 2011)

Transmitting a draft resolution entitled "NOMINATING AND APPROVING THE APPOINTMENT OF RONALD DAVIS TO THE MOLOKAI PLANNING COMMISSION" and informing of his intention to offer the following motions:

1. A motion to WAIVE the requirement of committee referral and report as provided for in Rule 7(E) of the Rules of the Council;
2. A motion to ADOPT the proposed resolution; and
3. A motion to FILE this communication.

COUNTY CLERK: Mr. Chairman, we have received a resolution approved as to form and legality.

CHAIR MATEO: Thank you, Mr. Clerk.

Mr. Pontanilla.

VICE-CHAIR PONTANILLA: Thank you, Chairman.

MR. CHAIR, I MOVE FOR THE WAIVING OF THE REQUIREMENT OF COMMITTEE REFERRAL AND RECOMMENDATION FOR THE RESOLUTION ENTITLED "NOMINATING AND APPROVING THE APPOINTMENT OF RONALD DAVIS TO THE MOLOKAI PLANNING COMMISSION" AS PROVIDED FOR IN SECTION 7(E) OF THE RULES OF THE COUNCIL.

COUNCILMEMBER HOKAMA:

SECOND.

CHAIR MATEO: It's been moved by Mr. Pontanilla and second by Mr. Hokama to waive the requirement of committee referral and report as provide for in Rule 7(E) of the Rules of the Council.

Mr. Pontanilla.

VICE-CHAIR PONTANILLA: Thank you, Chairman.

The Council is currently within its 60 day period to nominate and approve the appointment of an individual to fill a vacancy on the Molokai Planning Commission which will occur due to the expiration of a member's term on March 31, 2011. The Council's deadline to nominate and approve such an appointment will expire on March 31, 2011 as well. For that reason the Council does not have sufficient time to refer the matter to the appropriate committee for consideration. As a result I'm requesting the waiving of Council Rules to facilitate timely appointment of an individual to fill a vacancy and assist the Molokai Planning Commission in meeting its quorum requirements.

CHAIR MATEO: Thank you, Mr. Pontanilla. Members, further discussion? All those in favor of the motion to waive the requirement of committee referral and report as provided for in Rule 7(E) of the Rules of the Council signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL, COCHRAN,
COUCH, HOKAMA, VICTORINO, WHITE,
VICE-CHAIR PONTANILLA, AND CHAIR MATEO.

CHAIR MATEO: Those opposed say "no".

NOES: NONE.

CHAIR MATEO: Motion is carried with nine "ayes".

Mr. Pontanilla.

VICE-CHAIR PONTANILLA:

MR. CHAIRMAN, ON YOUR BEHALF, I MOVE THAT THE RESOLUTION ENTITLED "NOMINATING AND APPROVING THE APPOINTMENT OF RONALD DAVIS TO THE MOLOKAI PLANNING COMMISSION" BE ADOPTED.

COUNCILMEMBER HOKAMA:

SECOND.

CHAIR MATEO: It's been moved by Mr. Pontanilla and second by Mr. Hokama to adopt the proposed resolution include, including the filing of the communication.

Mr. Pontanilla, thank you.

VICE-CHAIR PONTANILLA: Thank you.

CHAIR MATEO: Go ahead.

VICE-CHAIR PONTANILLA: Mr. Chairman, I'm pleased to bring forward on your behalf the nomination of Ron Davis to serve on the Molokai Planning Commission. I am grateful of former Fire Chief Davis indicated desire to serve the community in this capacity. And Members can refer to the application form attached to the communication which outlines numerous positions of public service he has formerly provided in benefiting our community. I ask the Members support for this appointment.

CHAIR MATEO: Thank you, Mr. Pontanilla.

Ms., Ms. Baisa.

COUNCILMEMBER BAISA: Thank you very much, Chair.

And I will be very proud to support the nomination of Mr. Davis. I had the opportunity to know him personally and to know all the great work he's done and he was always a wonderful person to work with. He brings a lot of skills, a lot of background that is very relevant to being a planning commissioner. And I'm just really delighted to support this. Thank you.

CHAIR MATEO: Thank you, Ms. Baisa.

Mr. Victorino.

COUNCILMEMBER VICTORINO: Thank you, Chair, and I also will wholeheartedly support this appointment of Mr. Davis. We, I've known Ron for some thirty plus years and like you and many in this room we've seen him working in, in the community in many areas, not only in the Fire Department, but within the community itself. He's also served as a legislator, so he brings a real diverse background to this planning commission.

And I think his heart is Molokai's heart, you know, he cares, wants to see nothing but good for the island of Molokai so I think it's a really an appropriate appointment and I wish him nothing but success and thank him for being willing to serve when he's having, having a great time in retirement. So, thank you, Mr. Chair, for that opportunity.

CHAIR MATEO: Thank you, Mr. Victorino. Members, further discussion?

The Chair would just like to provide my comments. Currently at the end of this month, the Molokai Planning Commission will have four vacancies. We have two individuals leaving because of term, and there, there is addi, two additional people who have left or will be leaving very shortly because of employment opportunities off of the island. So it's important for us to start to fill these positions as soon as we possibly can.

As mentioned earlier, Mr. Davis was not only the Fire Chief for Maui County, he also served in the State Legislature representing our community as well. And Mr. Davis as you also know, is a businessman, he understands our community and he has been actually giving so much of his time and energies to the community overall with his participation in the Lions Club and Habilitat for Humanities.

So this is an individual that is very fitting to serve in, in this capacity so I ask the Members for your support for Mr. Davis, this morning.

Members, further discussion? All those in favor of the motion to adopt the proposed resolution entitled "NOMINATING AND APPROVING THE APPOINTMENT OF RONALD DAVIS TO THE MOLOKAI PLANNING COMMISSION" including the filing of County Communication No. 11-93, signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL, COCHRAN,
COUCH, HOKAMA, VICTORINO, WHITE,
VICE-CHAIR PONTANILLA, AND CHAIR MATEO.

CHAIR MATEO: Those opposed say "no".

NOES: NONE.

CHAIR MATEO: Motion is carried with nine "ayes". Thank you, Members.

Mr. Clerk.

COUNTY CLERK: Mr. Chairman, for the record RESOLUTION NO. 11-29.

Mr. Chairman, the following county communications are recommended for referral to the following committees as noted.

NO. 11-94 - DANNY A. MATEO, COUNCIL CHAIR,
(dated March 17, 2011)

In accordance with Section 9-13, Revised Charter of the County of Maui (1983), as amended, transmitting a document entitled "COUNTY OF MAUI, STATE OF HAWAII, COMPREHENSIVE ANNUAL FINANCIAL REPORT FOR THE FISCAL YEAR ENDED JUNE 30,2010".

The County Clerk stated that the recommended action is that County Communication No. 11-94 be referred to the Budget and Finance Committee.

NO. 11-95 - DANNY A. MATEO, COUNCIL CHAIR,
(dated March 17, 2011)

Transmitting a document entitled "COUNTY OF MAUI, STATE OF HAWAII, SINGLE AUDIT REPORTS FOR THE FISCAL YEAR ENDED JUNE 30, 2010".

The County Clerk stated that the recommended action is that County Communication No. 11-95 be referred to the Budget and Finance Committee.

NO. 11-96 - DANNY A. MATEO, COUNCIL CHAIR,
(dated March 17, 2011)

Transmitting a document entitled "DEPARTMENT OF WATER SUPPLY, COUNTY OF MAUI (A Proprietary Fund of the County of Maui) Financial Statements and Supplemental Schedules for the years ended June 30, 2010 and 2009", and the Independent Auditors' Reports.

The County Clerk stated that the recommended action is that County Communication No. 11-96 be referred to the Budget and Finance Committee.

CHAIR MATEO: Thank you. Members, is there a request for consideration at this time? With no objections, Members, each of these communications will be referred to the respective committees as recognized by the Clerk. Any objections?

MEMBERS VOICED NO OBJECTION.

CHAIR MATEO: Thank you.

Mr. Clerk.

COUNTY CLERK: Mr. Chairman, nothing further is scheduled to come before the Council.

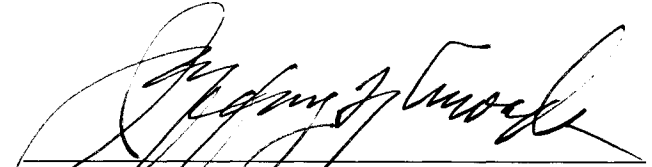
CHAIR MATEO: Members, we've concluded our business for the day.

The Chair would like to recognize those individuals that provide support to the Council. This morning First Deputy from the Corporation Counsel, Mr. Ed Kushi; the County Clerk, Mr. Kuwada; our support staff, Joyce Murashige as well as Theresa Valdez; and our ever present Director of Council Services, Mr. Ken Fukuoka.

Members, thank you very much for participating this morning. Council of the County of Maui, regular meeting, excuse me, special meeting of March 29, 2011 is adjourned.

ADJOURNMENT

The special meeting of March 29, 2011, was adjourned by the Chair at 9:31 a.m.



JEFFREY T. KUWADA, COUNTY CLERK
COUNTY OF MAUI, STATE OF HAWAII