

SALARY COMMISSION
 MINUTES
 KALANA O MAUI, 9th FLOOR MAYOR'S LOUNGE
 FRIDAY, JUNE 24, 2005

Present: Scott Matsuura, Chair Douglas Levin, Vice-Chair Frederick Rohlfing Andrew Herrera Michael Westfall	Absent: Janet Tomita Curtis Franks Jason Williams
Staff: Tracy Villarosa, Deputy Corporation Counsel Lynn Krieg, Director, Department of Personnel Services David Ching, Executive Assistant Momi DeMello, Secretary to the Boards and Commissions	Others: Brian Moto, Corporation Counsel

I. Call to Order

Chair Matsuura called the meeting to order at 8:45 a.m.

II. Public Testimony

Public testimony was given by Brian Moto, Corporation Counsel as follows regarding the salaries of the Corporation Counsel and the Deputy Corporation Counsel. Corporation Counsel stated for the record that on June 3, 2005 he wrote a letter to Chair Matsuura and members of the Salary Commission with the hope that the Commission would have read it before this meeting. However I would like to note for the record that it was never distributed to the Commission. I have to express a lot of disappointment about that. I did ask staff if copies could be circulated this morning and I specifically requested that this communication be forwarded to the members that are not here today. Corporation Counsel, Moto proceeded to summarize his main points. Corporation Counsel, Moto stated that recent events and additional facts help to support an adjustment in the salaries of Corporation Counsel and First Deputy, Corporation Counsel. The letter states that Council passed and the Mayor signed into law Ordinance 3283 (attached as Exhibit A) that changes the compensation of Deputies Corporation Counsel. Under that ordinance the attorneys who work in Corporation Counsel, Deputies, those with nine or more years of professional legal experience, get paid \$82,366 effective July 1, 2005. There are seven attorneys at my office with more than nine years of experience. Coming July 1, 2005 they will all be earning \$82,366 which means that they will be paid more than the First Deputy.

Another thing that I state is that in January 2005 the Council passed another Ordinance 3242 (attached as Exhibit B). The Council establishes the K ranges for its own staff and there are a lot of

different types of positions in the Office of Council Services. Among those positions is a position called Legislative Attorney which they describe as CR-6 in their compensation range. The table of pay ranges shows that the numbers assigned to CR-6, those at step J are being paid \$82,366 effective January 2, 2005. There are at least three people that I know of that are Legislative Attorneys in the office of Council Services. To the best of my knowledge all of them have at least nine years of legal experience which means that under this pay scale they would all be maxed out \$82,366 which means that as early as January of this year they have been earning more than the First Deputy of Corporation Counsel. Please note that the Excluded Managerial Personnel in the County are scheduled to receive very substantial pay increases both come next week July 1, 2005 and also one year later in 2006. My point is that very shortly attorneys will be getting paid less than or only as much as people like Police Captains and the Assistant Chiefs which cause me to question the equity of the pay scale especially considering the responsibilities and the professional credentials and the work hours that our attorneys have to face.

I just want to note that it has been almost exactly one year since I wrote my memo to the Salary Commission. On June 25, 2004 I wrote a fairly lengthy memo and I would like to reiterate the points I made in the letter, which is that the salary of Corporation Counsel is inadequate and should be adjusted, I still stand by that. It is still my belief that the current three-level salary structure with levels I, II and III that has been used to set salaries for the attorneys (both Council attorneys and Corporation Counsel) just does not work. My argument is that it should no longer be used to set the compensation of Corporation Counsel. I ask that you consider setting the salary of Corporation Counsel according to some reasonable and objective bench mark. And I further stated that a bench mark would be the salary of the State District Court Judge. Come July 1st State District Court Judges will get a 14% salary increase and as of next week they will get paid \$114,600. In my memo I asked that the Salary Commission consider setting the salary of Corporation Counsel at 90% of that salary. If you were to think that 90% was too much, than perhaps you could consider 85% or if 85% is too much how about 80% because even if the salary was set at 80% of a District Court Judge's salary, it would still resolve in a salary in the neighborhood of \$91,680 which is more than I am currently being paid. At present the salary of Corporation Counsel based upon the soon to be effective salary of the State District Court Judges is only three fourths of that amount. I think what this shows is that there is this huge disconnect and disparity between professional compensation of the Corporation Counsel and other relevant and similar bench marks for attorneys. Corporation Counsel, Moto thanked the Commission for listening to his testimony.

Commissioner Levin asked if ordinance #3283 has been changed recently because the Commissioner had learned previously that your pay scale for your subordinates was based and capped out at whatever your pay rate was. Does this ordinance change that now that they have their own pay structure?

Corporation Counsel, Moto explained that what Council did in passing both ordinances is that they looked at the current salary of the Corporation Counsel and Prosecuting Attorney. They don't really pay attention to the First Deputy's salary. I cannot speak for the Council but just having been part of their discussions, I know for a fact that they won't set these salaries at an amount higher than what Corporation Counsel gets paid.

Commissioner Levin asked so this is the process of setting the salaries that they do after you make the recommendations?

Corporation Counsel explained that this is correct because they do look at what the Salary Commission has done. They look at the Corporation Counsel's and the Prosecuting Attorney's salaries and then they come up with their own figures.

Chair Matsuura stated that he understands where Commissioner Levin is going with his line of questioning and explained that he remembers that the last time the Corporation Counsel and Prosecuting Attorney's salaries were discussed, the Commission was told that there is a 10% cap between what any of the attorneys can make based on the salaries that you were getting and I believe that this was set by state statute.

First Deputy, Villarosa stated that the Maui County Code does say that the salary of any deputy shall not exceed the salary of the Corporation Counsel, so that's the cap. It just says that any deputy cannot make more than the Corporation Counsel.

Commissioner asked, if we were to give you a salary increase now, when would the Council revisit this again. Corporation Counsel Moto and First Deputy Villarosa determined that it would probably not be revisited until next year. The Commission was also informed that the Bill was passed with the fiscal year budget and that it was actually part of budget ordinance package.

Director Krieg addressed Corporation Counsel Moto and stated that he can adjust the amount, can't you.

Corporation Counsel Moto stated that yes he can adjust it by there are some constraints on that, first of all I don't have the budget to pay more than what I pay. I could pay less but that would be extremely stupid. The problem is retention and recruitment besides which, especially the senior attorneys are under paid already. These employees are knowledgeable about this ordinance, if I were to pay them less than the ordinance provides they would immediately ask why am I not getting paid what the ordinance states?

Chair Matsuura stated that the Commission understands what Corporation Counsel Moto is saying, but Director Krieg's comment is that you do have some discretion.

Corporation Counsel Moto said that is true but why would I pay them less than the pay scale especially when attorneys on the legislative side can get paid that amount and there's not discretion there.

Director Krieg asked what latitude Corporation Counsel Moto will have if his salary was increased and would he have the ability to adjust his employees pay compensation. Corporation Counsel stated that he could probably not adjust the employees pay because of the budget. The Mayor and Council base the department's budget on the existing pay scale.

Commissioner Rohlfing asked is Corporation Counsel Moto if he had discretion to give a larger salary to somebody on another criteria besides the number of years of service. For instance you

might want to hire a litigator to protect the County and pay that person more than say someone that advises a Commission.

Corporation Counsel Moto responded by saying yes and as a matter of fact, in order to recruit someone in charge of litigation pay that person a little more than other people of their level. That differential will disappear on July 1st.

Chair Matsuura asked as a matter of clarification, Bill 39 was introduced by whom?

Corporation Counsel Moto explained that he introduced that Bill because the Maui County Code requires me and the Prosecuting Attorney to submit a Bill when the Salary Commission adjusts the salary of the Corporation Counsel and the Prosecuting Attorney.

First Deputy Corporation Villarosa explained that this also happens at the new term of the Council.

Chair asked the Commission if there were any other questions for Corporation Counsel Moto. The Commission had no further questions.

III Approval of Minutes

The minutes of the May 13, 2005 meeting was reviewed prior the meeting. Vice Chair Levin moved to approve the minutes seconded the motion. The approval was unanimously.

IV. Unfinished Business

1. Discussion of Salary Report – take any action

V. Set Agenda for Next Meeting

- Discussion of the salary report and to take any action necessary.

The next meeting is scheduled for June 24th, 8:30 a.m. in the Mayor's Lounge.

VI. Announcements

VII. Adjournment: 9:50 a.m.

Respectfully submitted,

C. Momi DeMello
Boards and Commissions Secretary