

SALARY COMMISSION  
MINUTES  
KALANA O MAUI, 9<sup>th</sup> FLOOR MAYOR'S LOUNGE  
FRIDAY, AUGUST 5, 2005  
Revised

<p>Present:</p> <p>Scott Matsuura, Chair Douglas Levin, Vice-Chair Andrew Herrera Janet Tomita Michael Westfall Jason Williams Frederick Rohlfing</p>	<p>Absent:</p> <p>Anthony Lemmo Curtis Franks</p>
<p>Staff: Tracy Villarosa, Deputy Corporation Counsel Lynn Krieg, Director, Department of Personnel Services David DeLeon, <b>Senior Executive Assistant</b> Momi DeMello, Secretary to the Boards and Commissions</p>	<p>Others:</p> <p>Davelynn Tengan, Prosecutor</p>

**I. Call to Order**

Chair Matsuura called the meeting to order at 8:35 a.m. The Chair acknowledged that the only Commission members not present were Anthony Lemmo and Curtis Franks. All other Commissioners were present as well as Senior Executive Assistant David DeLeon, First Deputy Corporation Counsel Traci Villarosa; Director of Personnel Services Lynn Krieg arrived after the meeting started.

**II. Public Testimony**

Testimony was presented by Prosecuting Attorney Davelynn Tengan. She addressed the issue of Executive Compensation and asked the Commission to consider a raise in salaries for her and her Deputy. She had addressed three issues that she based her recommendation on and they are as follows:

1. Danger of Occupation
2. Public Safety
3. Recruitment and Retention

Prosecuting Attorney Tengan went on to explain that within the past few months her department has been trying to fill all vacant positions and in doing so she has discovered how important the money issue is in recruitment. She further stated that all of the above three issues are all tied together.

Prosecuting Attorney Tengan further clarified to the Commission the level of danger her department is facing being that they deal with sex assault cases and high profile murder and attempted murder cases. She further stated that these cases involve defendants who are maladjusted, no amount of treatment or incarceration is going to address the antisocial problems that they have. Many of them are locked up for periods of time but eventually they come out and the department does not have any kind of security. She informed the Commission that some the employees have been the subject of threats both at the office and at home. They have had cases involving organized crime. And yet the employees of the Prosecuting Attorney's office continue to strive for the public's safety. The community has become more complex as the issue of drugs, in particular methamphetamine, has grown in society. With the higher incidents of methamphetamine use have come increasingly violent crimes.

Prosecuting Attorney Tengan explained to the Commission that the issue of public safety means that you have to have an attorney who is experienced, skilled, motivated and compensated. She cannot get good attorneys with salaries that do not address their skill levels.

She further stated that her current salary is at \$89,000; Chief Deputy is at \$85,000. The highest level attorneys in this department, she feels should be getting paid in the \$85,000 and \$90,000 area. There are attorneys that have been there for 13 and 14 years who are getting paid \$76,000. Based on the new allocation of pay depending on the numbers of years of service, they will go up to \$82,000.

She closed by asking the Commission to please consider raising her salary as well as that of Corporation Counsel. She then stated that Corporation Counsel's present salary is \$86,400.00 and it seems an inadequate evaluation of Brian Moto's talent and service that he provides. There should not be a difference between her salary and that of Corporation Counsel's. She also asked the Commission to consider raising Corporation Counsel's salary because Prosecuting Attorney's First Deputy's salary cannot be more than 95% of the Prosecuting Attorney's salary and the Director's salary cannot go higher than Corporation Counsel's salary.

Vice Chair Levin asked Prosecuting Attorney Tengan what would be the required salary to affectively recruit. What would you need to pay to bring in recruits at different levels? Prosecuting Attorney Tengan's response was that in order for her to effectively recruit she would need to place salaries between \$53,000 and \$54,000 to start off with. Vice Chair Levin then asked Prosecuting Attorney Tengan what levels of pay would be appropriate for both herself and her First Deputy. She responded by saying that she feels that it would be fair if her salary would be raised to \$99,000 and her First Deputy's salary be raised to \$94,000 and then the other top people would be in the area of \$85,000.00 to \$93,000 or so. Vice Chair Levin asked if the Commission would raise her pay to \$99,000, would it allow her to pay her deputies \$50,000 and she said that it would. She further informed the Commission that the Ordinance provides that after salary adjustments we have a certain amount of time where the Prosecuting Attorney and Corporation Counsel's offices would have to make recommendation to the County Council about salary increases. Vice Chair Levin then asked if the Commission did make a change in salaries, would she recommend raises before the next budget session or will she wait until the next budget session. Prosecuting Attorney Tengan informed the Commission that the Ordinance provides a time period which states that within nine months after the beginning of each term of the County Council or when the Salary Commission adjusts the salary of the Corporation Counsel or the Prosecuting Attorney, Corporation Counsel and Prosecuting Attorney shall transmit to the County Council their recommendations regarding salary plans for Deputies in their

respective departments. She further stated that as soon as a pay increase is implemented that she and Corporation Counsel will send recommendations for a new pay scale to Council.

Chair Matsuura asked Prosecuting Attorney if she could provide for the Commission a written statement. Prosecuting Attorney Tengan thanked the Commission for hearing her concerns.

## **I. Approval of Minutes**

Vice Chair Levin said that he had a chance to read through the minutes and stated that he was very happy with them and had thought that the Secretary had done an excellent job of paraphrasing and getting to the gist of the conversations and he thanked her for her efforts.

### June 24<sup>th</sup> Minutes:

Director Krieg noted that she had asked Secretary DeMello to make a change in the June 24<sup>th</sup> minutes regarding page 2, paragraph 3, line 5 and 6. Where it states levels I, II and III that has been used to set salaries for the attorneys (both Council attorneys and Corporation Counsel) should read **(both Prosecuting Attorney and Corporation Counsel)**. Director Krieg further noted that the following changes were needed:

Page 3, paragraph 6 where it reads: and stated that he can adjust the First Deputy's amount, should read **can he adjust the amount during the year**.

Commissioner Rohlfing made a change as follows: Page 5, paragraph 3: because we can't fix someone getting paid too much all we can do is establish inequity should read **equity**.

Commissioner Herrera made a motion to approve the minutes with changes. Motion was seconded by Vice Chair Levin. The minutes were approved unanimously, motion was carried.

### July 8, 2005 minutes:

Commissioner Westfall asked for the following change: Page 2, second paragraph: the judicial study accepted that this study did a comparison to other counties. Comparison was done in the **State** study.

Page 5, paragraph 6 Mr. Moto has obviously done the research on the internet... should be **Commissioner Westfall** did the research.

Commissioner Williams made a motion to approve the minutes with changes. Vice Chair Levin seconded the motion. The minutes were approved unanimously, motion was carried.

## **IV. Unfinished Business**

### 1. Review Draft of the "Welcome Packet"

Commissioner Levin circulated a draft of the Welcome Packet, but did not feel that it would be appropriate to spend a lot of time discussing it at this point. He informed the Commission that Chair Matsuura is in the process of doing his suggested revisions. He then asked the Commission to review the handout and let him know if they think that there should be any additions, deletions, corrections or concerns. He hopes to have a completed draft by the next meeting. Vice Chair Levin informed the Commission that one of the things he would like to add is that the Deputy's salaries need to be 5% less than the Directors and asked First Deputy Corporation Counsel Villarosa to find out which departments this will apply to.

## 2. Review “Timeline” Report

Commissioner Westfall informed the Commission that a “Timeline” report was distributed (attached). He further informed the Commission that the subcommittee narrowed the focus of what they were discussing and talked primarily about process issues. They identified a premise to how the Commission has been working with the Tier System and making adjustments as departments come forward with requests. He then proceeded to review the report briefly for clarification. He further informed the Commission that he is currently working on a spreadsheet that will clarify a lot of the issues; because of this the subcommittee was not ready to release that just yet. The subcommittee would like to file this and work with First Deputy Corporation Counsel Villarosa and come back to the Commission with a recommendation or something in writing regarding the “process” part of it.

Commissioner Williams informed the Commission that for the subcommittee to prepare a “timeline” they first need to figure out what they are looking at. The subcommittee was hoping to get away from looking at each individual department because that would take too much time. They would like to look at all the departments as a whole as to what changes need to take affect. He then stated that the subcommittee has figured out that they need to first look at what the scope of this subcommittee is; what are they looking at and how do they change these things, what are the factors that determine if there is going to be a salary increase. Once this is established the Commission may be able to meet once every year or once every other year. In the subcommittee doing their research they have found that Maui County is the only county that meets on a monthly basis. The other Commissions decisions are based less on emotion and more on structure.

Vice Chair Levin asked the subcommittee if when the other Commissions meet, do they meet once for several hours or do they meet in a hearing for a week or two. Commissioner Williams informed the Commission that Washington State meets every other year for a week with meetings and hearings being conducted. These meetings and hearings are very structured based on the agenda items that allowed specific times for public speaking etc.

Director Krieg asked what kind of salary structure Washington State had. Commissioner Williams informed the Commission that their ordinance was a lot different from Maui County’s in that theirs had a lot more details to what the role and intent of the Commission is. They would also state what reports they were looking at, whether or not it affected COLA, they figured out what they are looking at prior to their meeting. Director Krieg expressed that this is probably why this Commission is meeting every month when the others are meeting once a year for a week, because they have their structure. Commissioner Westfall informed the Commission that Washington State’s ordinance was three pages long as opposed to Maui County’s which is a paragraph long.

Chair Matsuura asked First Deputy Corporation Counsel Villarosa in reference to page 2 item #1 under Considerations on the Timeline Report, is this an ordinance change or a Charter change? She responded that in the County Code (2.40.210) there is one line that speaks of the establishment of the Commission and that could be amended to add more specifics. The more detailed information like the factors and the structure that was discussed would probably be done in a Rule.

Vice Chair Levin expressed his opinion regarding the change of the ordinance. He felt that it would be very difficult to have to go through Council and have them change an ordinance and thought that it might be best to let that lie. He also expressed that he is not opposed to Rule changes and feels that it would be effective but he would like to see the Commission utilize this at the end of the process. He felt that the Commission could take the time to establish what they think are appropriate structures and then the information can be set in the Rules.

### 3. Commission Will Consider a Salary Adjustment for the Executive Branch

Commissioner Rohlfing distributed a memo to all Commission members and made a motion that the Corporation Counsel and the First Deputy Corporation Counsel be classified as Level III Director and First Deputy hereafter in the County of Maui tier structure effectively retroactive to July 1, 2005. Vice Chair Levin seconded the motion.

Commissioner Rohlfing proceeded to highlight his report and clarify the basis for his motion. He stated that his research took him back to 1991 and 1992 when the tier system was originally established. He had found that extensive interviews were done with the County Directors and in particular the only firm information on the establishment on the tier system appeared to be in the subcommittee report dated May 8, 1991 (Exhibit A). This document set forth the six points under both Corporation Counsel and Prosecuting Attorney. In speaking with past members of the Salary Commission he had been informed that they could not recall any rationale for the difference in pay scale between the two departments. He then argued that there are really no significant differences in professional qualifications for the two departments. He also stated that he feels that the responsibilities of Corporation Counsel is broader in terms of liability and risk prevention and advice to many of the Commissions and Departments than that of the Prosecuting Attorney. The Prosecuting Attorney however assumes certain personal risks and other problems that perhaps Corporation Counsel does not incur but whether these justify a separate salary designation is the question he presented. He further stated that the City and County of both Honolulu and Kauai both pay their two legal department heads the same and deputies under both departments are compensated under the same schedule. He further stated that although a number of level changes have been suggested before for other departments, he feels that this particular discrimination needs to be cured first.

Vice Chair Levin stated that the complex mathematical analysis that he had distributed to the Commission members earlier includes as one of its propositions in the second part an increase for Corporation Counsel from Level II to Level III. He didn't think that it would damage the proposal that he will later make if the Commission voted on, discussed and approved the Level change for Corporation Counsel now. He in fact thought that his report is concurrent with the Level change for Corporation Counsel.

Chair Matsuura asked First Deputy Corporation Counsel Villarosa if in making the motion moving tiers will automatically mean an increase in salary. First Deputy Corporation Counsel Villarosa responded by saying that we should be clear in stating the amount of the salary. Commissioner Rohlfing then asked if the motion should be amended to say specifically the dollar amount. First Deputy Corporation Counsel Villarosa thought that would be a safer way of doing it considering that there are departments that are in the same tier as other departments yet they can have a different salary.

Commissioner Rohlfing amended his original motion to say that he hereby move that the Corporation Counsel and the First Deputy Corporation Counsel be classified as Level III Director and First Deputy Director in the County of Maui tier structure effective retroactively to July 1, 2005: the salaries of the Corporation Counsel and First Deputy Corporation Counsel shall accordingly be \$89,640 and \$85,320 respectively. Commissioner Rohlfing then moved to amend the motion accordingly. Vice Chair Levin seconded the amendment. The Commission voted unanimously. The motion on the amendment was carried. Chair Matsuura took a vote on the original motion. The Commission voted unanimously. The motion was carried.

Vice Chair Levin then proceeded to explain in detail his report "Analysis of Salary Inversions". He explained that the report is sorted by the highest subordinates' salary by 6/30/07. He then listed the Directors and Deputy Directors current salary, the difference in dollars and the difference by percentage for Directors and Deputy Directors. He further reported that he worked on this report under three presumptions. The first presumption was that salary inversion was a problem and that we wanted to correct it. The second presumption was that whenever possible the Commission wanted to minimize salary increases. Because of the large scale of the HGEA raises and EMCP raises the Commission wanted to minimize the overall dollar amount that would have to be spent in order to accomplish this. The third presumption was that the Commission has talked about and considered other level changes before and he had adopted a couple of them and added a couple of them in order to accomplish this with a minimum cost to the County.

Vice Chair Levin then proceeded to explain that page two is an analysis of how much of a raise the Commission would have to give the departments for the next two years in order to accomplish this without any changes in levels. He further stated that based on page two of this report it would require the Commission to make total salary increases of nearly 20%. Some will get smaller raises and some would get higher raises. He then explained that with page three of his report he made some proposed changes with the anticipation of trying to bring down the total amount of increase the Commission would have to give. This allowed him to bring the total rate increase from an almost 20% over two years increase to just under 15%. He then stated that he had to make a few proposed changes like adding a Level IV because there were three or four departments in the group that had employees that were driving this. There were other departments in Level III that didn't necessarily have employees that required the Commission to push them that much higher to get to that dollar amount. He then proceeded to review the other proposed changes as found listed on page four of the report. He then explained that on the last page of the report he realized that we are talking about two periods, one ending 6/30/06 and one that ends on 6/30/07. With that in mind the report shows that we could do a 9.57% increase effective 7/1/05 and another increase for 7/1/06 and the Commission would resolve salary inversion for the next two years. Vice Chair Levin then explained and went over the changes in salaries, taking into consideration the fact that a Deputy Director needs to be 5% under the Director's salary.

Commissioner Williams asked Vice Chair Levin if his proposal included any overtime. He responded by saying that he didn't think that these positions gets paid overtime but he deferred the question to Director Krieg. Director Krieg stated that all of the employees are eligible for overtime.

Commissioner Herrera asked that if his report states 15.31% over two years. The first year would be 10.49% and second year percentage will be the difference. Vice Chair Levin explained that he would propose to make the changes and the raises to the dollar amounts on page four of the report and that

would be effective 7/1/05. As of July 1, 2006 he would propose that the Commission make the changes on the third page.

Director Krieg stated that she has concerns when fixes are done purely on inversion. Her major concern is that she feels that salary inversions occur constantly and continuously, they are here and they will always be here. They occur because of seniority. The Department heads are here for four years, maybe eight. The people that end up being paid more than the department heads are here for twenty five to thirty years and that's why they end up getting paid so much. If the Commission attempts to make these pay changes and changes to the levels, she stated that what she foresees happening in the long run is that the department heads will see that if they get higher paid employees, they can affect their level of pay. Within this plan you may be moving people on levels but there is still no rationale aside from inversion. There is still no real justification as to why people are on level IV as opposed to the people that are on level III or level II. Although you moved Personnel to level II, in the grand scheme of things you still have not addressed the Civil Service Commission's concern as to why they felt Personnel should be moved to level II. You may have moved Personnel to level II but you have basically kept Personnel at the same level by some of the other moves you propose to make. She also stated some concerns regarding some of the inequities in the level differences and the salary differences. She stated that between level I and level II Directors there is an \$11,000 difference in salary and between level II and level III there is a \$3,000 difference between level III and level IV there is a \$10,000 difference and before level IV and level V there is a \$3,000 difference. Is this on purpose or what is the explanation for the difference?

Vice Chair Levin addressed some of the issues that Director Krieg brought up. He proceeded to explain that although he is not calling it a patch, this is in effect a form of a patch. It's a much more complex patch than was before but we still intend to visit this issue in much more complexity in the next few years. If we do this then other than Council's salaries we are not going to be actually raising salaries for two years. If the department heads makes presumptions as to what decision making the Commission will be using in two years from now by raising the salaries of their employees to affect their salaries, they could be mistaken because this is just something the Commission is doing now. Although salary inversion is the immediate driver, it's more of a symptom and not the underlying cause. Salary inversion may not be the cause of the issue but it's a really good tool for being able to spot inequity.

First Deputy Corporation Counsel Villarosa stated that from a perspective of working as a Deputy and with the various different departments she sees the value in not thinking about department heads as people that are only here for a short term. There are a lot of good department heads and deputies that remain with the County longer than one administration. She has found that recruitment for these department head positions is very difficult because in a lot of cases the most qualified people are the people right under the department heads now. Right now there is no incentive for these people to move to that level, like Public Works, none of the division chiefs took the Deputy position and they got someone from below that level. These division chiefs choose to remain in their positions with less responsibilities and better pay because they get paid overtime.

Chair Matsuura then asked if this is the situation then what would be the appropriate salary for these positions to provide the incentive. First Deputy Corporation Counsel Villarosa could not determine

that, all she was doing was sharing her observation.

Commissioner Herrera stated that in most businesses overtime does not apply to retirement, only straight pay does. Chair Matsuura and Commissioner Williams stated that the County's retirement is based on the highest pay in the last 10 years or 3 years, so overtime is used to base the retirement amount.

Vice Chair Levin stated that there is a lot of information to digest and that he would like to wait for a decision. Commissioner Herrera stated that he would like to wait to see Vice Chair Levin's report compressed from thousandths to hundredths and narrow it down. Chair Matsuura also asked if Vice Chair Levin could group all of the Level I Directors together and the Level II Directors together etc. Vice Chair Levin will re-sort the report by Level and calculate it by hundreds.

Commissioner Rohlfing stated that if you're basing your entire structure on removing the inversions and weeding out the bad ones in the Fire Department and the Planning Department his reaction is that it has been a historic event that these people in civil service and excluded managerial positions are getting paid at high levels. He suggested that the Commission do "red circle" rates where personnel who were in a special category or were being affected by something that was not predictable ahead of time were handled on an individual basis. Meanwhile the Commission will have a chance to look at the rest of departments with a more rationality. Is there some way that we could "red circle" these really bad inversions and then deal with the situation?

Vice Chair Levin replied by examining the worst case which is the Fire Department. In this situation the Chief has more experience than the Deputies and the Deputies have no more specialized training than the Chief, they are just being given a union raise that gets them to a certain level. This is not a "red circle issue". There might be one in Planning and Public Works, but not in Fire.

Chair Matsuura asked Director Krieg if she could explain what happened within the Fire Department and why there is such a large inversion due to the change in the EM level. Director Krieg explained that there were a couple of things that happened; there was a pay increase, then they reorganized and created a new class, then they promoted the senior employee into that position. Director Krieg stated that the Department of Personnel's felt that based on the Fire Department's existing organization, with the existence of a Deputy Fire Chief that they really did not need an EM07 position. Vice Chair Levin asked who made the final decision that this position would be at an EM07 level. Chair Matsuura asked so they create the EM07 position and somebody must approve it, who is it? Director Krieg stated that the Managing Director is who approved it. Chair Matsuura then asked if this reorganization process is only at County level and not all of SHOPO or State wide. Director Krieg stated that it is only at County level.

Chair Matsuura asked if this item could be deferred until the next meeting. Vice Chair Levin stated that he would recommend that. Chair Matsuura then asked Vice Chair Levin to bring the subject back to the Commission at the next meeting; including: an outline of the assumptions he is using in putting this report together; explain the front page of your report in writing, explain the assumption that you are going to resolved the inversion issue and assumptions that were used in creating the schedule. He then asked if he could also put the report in order of Levels just for clarity. He believed if this could be done, the discussion could go a little quicker.

Vice Chair Levin stated that there are a couple of things that he needs some feed back as to what other

adjustments need to be made to his report. The first one is would the Commission like him to do the report in increments of a thousand or hundreds. The Commission agreed that it would be easier if the report was done in increments of hundreds. He then asked if anyone had any problems with the proposed changes. Chair Matsuura explained that based on the assumptions on how Vice Chair Levin set these proposed changes, if he stuck to his assumption, he would come to certain conclusions. “I just need clarification so I can understand it.” Vice Chair Levin then asked Director Krieg if she sees any “red line” employees, she could inform the Commission so they are aware of it. This may enable the Commission to lower the overall raise. He verified that Director Krieg would only identify ones she thought the Commission would have to establish criteria for. Director Krieg stated that she would have to tell the Commission why she thought they should be red lined and the Commission can make the final decision. Chair Matsuura stated that Director Krieg will make the decision if she is comfortable with this or not. First Deputy Corporation Counsel Villarosa asked if the red lining applies to the Directors and Deputies only or if it applies to all employees. Commissioner Rohlffing proceeded to explain that they will be targeting the inversion problem and that could consist of non Directors and Deputies that are getting higher pay.

Commissioner Rohlffing stated his position on the tier levels. He stated that he will go along with the proposed changes as a part of Vice Chair Levin’s proposal but he has some severe reservations with the whole tier system. He feels that the Commission is playing “Russian roulette” with the tier system. He advocated a change in the level system today because he felt it was unfair. He wondered if eventually the Commission would go back to a single schedule.

Vice Chair Levin recapped the things that he needs to change and listed them as follows:

- Resorting of the upper portion of the schedule by the level he is proposing them to go to.
- Listing his assumptions more carefully so the Commission can see what’s going on.
- List the Deputies at 5% less than the Directors.
- Increment the Directors in hundreds instead of thousands to have an incremental decrease in the net amount that the Commission will have to pay to resolve the salary inversion.

Chair Matsuura asked that this revised report be added to the agenda for the next meeting.

## **V. Setting the Agenda for Next Meeting**

- Vice Chair Levin’s revised “Analysis of Salary Inversion Report”.
- Welcome Packet update.
- Timeline Report update.
- The next meeting is scheduled for September 9<sup>th</sup> 8:30 in the Mayor’s Lounge.

## **VI. Announcements**

Director Krieg informed the Secretary that a letter needs to be done from the Commission regarding the action taken increasing the salary for the Corporation Counsel.

## **VII. Adjournment was at approximately 11:00 a.m.**

Respectfully submitted,

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C. Momi Medeiros  
Boards and Commissions Secretary