

POLICY COMMITTEE
Council of the County of Maui

MINUTES

June 13, 2012

Council Chamber, 8th Floor

CONVENE: 9:04 a.m.

PRESENT: VOTING MEMBERS:

Councilmember G. Riki Hokama, Chair
Councilmember Robert Carroll, Vice-Chair
Councilmember Gladys C. Baisa, Member
Councilmember Elle Cochran, Member
Councilmember Donald G. Couch, Jr., Member (Out 11:43 a.m.)
Councilmember Danny A. Mateo, Member
Councilmember Joseph Pontanilla, Member (In 9:05 a.m.)
Councilmember Mike White, Member (In 9:07 a.m.)

EXCUSED: Councilmember Michael P. Victorino, Member

STAFF: Carla Nakata, Legislative Attorney
Tammy M. Frias, Committee Secretary

ADMIN.: Michael J. Molina, Executive Assistant, Office of the Mayor (Items POL-2(35) and 2(33))
Scott K. Teruya, Administrator, Real Property Tax Division, Department of Finance (Item POL-1(24))
Marcy L. Martin, Technical Officer, Real Property Tax Division, Department of Finance (Item POL-1(24))
Richard B. Rost, Deputy Corporation Counsel, Department of the Corporation Counsel (Item POL-1(24))
Edward S. Kushi Jr., First Deputy Corporation Counsel, Department of the Corporation Counsel

OTHERS: Jim Smith (Items POL-10(4), 10(5), 10(11) and 10(12))
Cyrus Kodani (Item POL-2(35))

PRESS: *Akaku--Maui County Community Television, Inc.*

CHAIR HOKAMA: . . .(*gavel*). . . The Policy Committee shall come to order. This is the regular meeting of 13 June, 2012. This morning, attending on behalf of the Committee is our Vice-Chairman, Mr. Carroll; along with Members Baisa, Cochran, Couch and Mateo. The Chair

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excuses Mr. Victorino, Mr. White and Mr. Pontanilla. We do have a rather ambitious agenda, Members. We fighting time on some of the requirements, but I believe we can work through it this morning. We will take testimony at this time. Those wishing to provide testimony, please make yourself known. We'll give you your opportunity to share your thoughts on any item that has been agendized. I will give you three minutes to speak on a specific point of the agenda. If you have additional comments on others, the Chair will give you additional time. And beyond that, we would ask that all of your cell phones and noise-making devices be thrown away and out the door, nah, just kidding . . .(laughter) . . .

ALL: . . .(laughter) . . .

CHAIR HOKAMA: You know, only 'cause I forgot mine today so I can say that, yeah . . .(laughter) . . .

ALL: . . .(laughter) . . .

CHAIR HOKAMA: No, but I would ask for us to maintain our decorum in these Chambers. Thank you. The Chair recognizes Mr. Pontanilla also joining us. This morning, we have Mr. Smith. Mr. Jim Smith, if you'd please come forward, share your thoughts. I believe you have at least three items, you may have more.

. . .BEGIN PUBLIC TESTIMONY. . .

MR. SMITH: I'll be brief.

CHAIR HOKAMA: That's okay, Mr. Smith.

MR. SMITH: Chair Hokama, Members of the Policy Committee, this is so important. Let me put into context...I don't know if you got a letter. I don't know if you transmitted...it may not. It was a...it was kind of a draft, but I had faxed it. It doesn't...what I wanna do is...we have to understand our Charter as a vehicle to keep popular control of government, okay. And in two thousand and...I mean in February 6, '67, in the Committee Report, it says that, control of the County by the government. It references Initiation [*sic*], Referment [*sic*], Recall and impeachment of officers and that's how it controls. In the second Charter [*sic*], and that would be 2/19/76, we're talking about keeping the Planning Director. And what does that mean? And it says on Page 6, if the Planning Director is not performing in keeping with the desires of the voters of Maui, the latter can direct its displeasure to elected appointed officials. So throughout this process, the focus has been on popular control. That means the accountability is the Mayor and the accountability is the representative and the connection is my vote. And that's the way our Charter was fashioned, and that's what it means and that's what we should have, is that connection. We move to...and the Charter, at that point, did not have a Council amendment of the Charter, okay. It just had the Commission. And there were three commissions: '63, then it went to '76, and then it went to '82. That changed in '82 for some reason that the Council...and then we have like ten amendments by Council in a ten-year period or a twenty-year period. And still, we have just three Commission meetings. So we have this twist happening, okay. And

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now, today, you're confronted with this. You're confronted with this notion of appointing directors. But, really, it's the responsibility and accountability of the Mayor that you're interfering with when you do that. So I would ask you, please, reconsider that in the notion that we have to have popular control. And the only way that can happen is if there is accountability. And the only way we can do that is to hold the elected officials responsible; not language in a law, not a Council, not a vagary, but performance, okay. And that, to me, is what is interfered with, with the notion of a finance director, a planning director and a managing director is, you are keeping us out. If you wanna make a amendment, amend the provision regarding the Council and give yourselves the ability to impeach for nonfeasance. Propose that to the people, let them transfer the power for you to take action through them. I would...the others are confusing. Why? You know, these types of things...and one of the things...I would like to shift a little, now, into the response you got from the Charter Commission. And I spent a little time at the Charter Commission. And at that particular meeting, there was an immaturity, there was a confrontational attitude of some members, not all members. One member hadn't even read your response, didn't even know it. But others were eager to engage and maneuver your ideas as to insulting the voter. Out of nowhere come this idea. So that's immaturity, okay, that was immaturity. And you cannot be immature and respond in that way. And so I would say...and it's reflected in that letter, Page 11, where they said, you're definitely wrong. Well you don't...you're not definitely wrong. That's disrespectful, okay. But that's the Mayor's appointment of Chair who's an experienced...that's those people who have an agenda, who are against all forms of government that's not their own so that we have to recognize. And in this Chamber, you have to leap it up, I think, to make sure we hold on to the popular control of government; and that seems to be at issue and at risk. Given this buffoonery some have experienced in the Executive Branch which I have never experienced. But this is nonfeasance, nonperformance. And if you can't respond to nonperformance, don't think you can short cut it. I don't believe that that's...today, is a good way of doing it. You gotta nail it as being. Impeach...the Senate has impeachment power of the President. It's not unknown for legislative branches to take that action. I have an impeachment power with a court, the Second Court, in 5 percent; but you don't. And you're our Council and that's one amendment. I served, and have served, for too many years for some, at Haiku Community Center as a precinct official. And the issue is not ignorance, it's time. How much time do I have to vote and get back to work? And what thinking can I do in that time on significant issues? And are you putting me in a position that cannot be solved by imposing a time limit on me on significant, sophisticated thinking in a voting booth? Please. So that's why when you came forward with recommendations of reducing the number of amendments, I said, whew, I hope they listen. I went and testified and said, two—one self-serving, perhaps—but two, okay. But that is the issue: two, popular control; two, respect of the voter. And respect is by not confusing 'em or taking up their time and then blame them. The first Charter Commission said, if the government screwed up, it's the voters' fault. That's what they said. They were gonna put it in the hands of the people. That's what popular control is; and if they screw up, they screw up. They didn't use those words, but that's what they said, okay. Well if you cut my legs off and I screw up, it's not because I'm not committed, it's because I have no legs. So I would ask you, please, refrain from any...any amendments. The one on...look to the last Charter, 2002, when they brought the voter, to the voter whether there should be more autonomy in the Department of Water Supply or whether there should be, okay,

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administrative control. And you had 17,500 say, “autonomy”; and then you had 17,700 say, “no”. And then the next question, you had 21 say, “administration”; and then 17 say, “no”, okay. But suppose you had 700 say...17,700 say, “autonomy”; and 2,100 say, “administration”. Suppose you would had that? Two amendments: one supporting autonomy by 200 votes, the other supporting administration by 3,000 votes. And that can happen. And that’s why I don’t think this Charter should be subject to a ballgame, subject to...there should be respect. There was a provision before the Charter Commission that said that the Council should not be making Charter amendments during the time that they do. Well they’re right. It was a joke, people laughed, “oh, hey yeah, I like that.” And it never came up. But, really, that’s the way it started. The Council shouldn’t be making amendments unless absolutely necessary. If you wanted to propose the amendment that once during the time prior to the Commission the Council could make an amendment, well that would healthy. But, gee, 1992 to 2000, there were four amendments from the Council before the voters.

CHAIR HOKAMA: You need to wrap up, Mr. Smith.

MR. SMITH: I’m gone . . . *(laughter)*. . . Thank you for your patience.

CHAIR HOKAMA: Okay. Members, any questions for the gentleman on his testimony provided today? Okay. Having none, Mr. Smith, thank you very much for sharing your thoughts on what was important. Is there anyone else wishing to give testimony? Having none, we shall close testimony for today’s meeting with no objections from the Members.

COUNCIL MEMBERS: No objections.

CHAIR HOKAMA: Thank you, Members. We shall move forward.

...END OF PUBLIC TESTIMONY...

**ITEM POL-2(35): NOMINATIONS TO BOARDS, COMMITTEES, AND COMMISSIONS
(BOARD OF WATER SUPPLY) (CC 11-31)**

CHAIR HOKAMA: The first item of business for the Committee is Item POL-2(35). This is regarding an appointment to the Board of Water Supply. Present, this morning, we have Mr. Cyrus Kodani who is the nominee to this appointment that would be for a term expiring March 31st, 2013 due to a vacancy by the resignation of former member, Mr. Ted Yamamura. So, this morning, since Mr. Kodani’s here, we’ll ask Mr. Kodani to come join us, come forward. And we would ask if you have anything to share, you’d like to say to the Committee? Now would be a good time, and you can introduce yourself.

MR. KODANI: Hi, good morning, Council Chair and Council members. My name is Cyrus Kodani. I’m before you here, today, as a appointee for the Water Commission Board. And I just wanted say that it’s an honor for me to do so. I am a lifelong resident of Maui County. The last 40 years

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has been on the West side in Lahaina. So, you know, I have my...I'm, you know, I've seen and remember, you know, growing up into my years and hearing about water issues. And just, you know, a couple years ago, there was a big one...big issue about water, also. So, you know, I just wanted to, you know, again, say that, you know, I'm honored; and I'll be, you know, honored to and humbled to serve on the Board.

CHAIR HOKAMA: Okay. Thank you very much. Mr. Victorino's not here so who's his Vice-Chair? Mr. Pontanilla, you have questions?

COUNCILMEMBER PONTANILLA: Just a fast one. Mr. Kodani, thank you for your volunteering to serve on the Board of Water Supply. The first question that I have is that, you know, I understand that you're presently employed at the Hyatt Regency.

MR. KODANI: Yes.

COUNCILMEMBER PONTANILLA: And are you able to make the Water meetings, you know, whenever they have it scheduled --

MR. KODANI: Yes.

COUNCILMEMBER PONTANILLA: -- or is your employer willing to let you go?

MR. KODANI: Yes, I am, yeah. That wouldn't be a problem.

COUNCILMEMBER PONTANILLA: Okay. Any comments on...regarding what you can do to help the, well, issues that the County of Maui have in regards to water?

MR. KODANI: You know, I think that, for me, I believe that, you know, if I've...like I said, I've been a lifelong resident of Maui County, and I think I have, the perspective maybe I can bring is from the layman's side. You know, I do believe in, I guess, balance. You try...you wanna balance everything out, you wanna balance growth with, you know, environment, you know. So I'm kind like, I think I can bring that little maybe a different perspective, not from the business side, not from, you know, any environmental side; but from the layman's standpoint of view.

COUNCILMEMBER PONTANILLA: Thank you for that comment. You know, when I look for members, you know, I look for someone that would listen to both sides and make a decision, you know, not being biased. But, you know, a decision that is right for the people of this County. So I thank you, again, for your volunteering to participate with the Water Commission. Thank you.

MR. KODANI: You're welcome.

CHAIR HOKAMA: Mr. White, any questions for the nominee?

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COUNCILMEMBER WHITE: No, I've known him for a number of years. I'm very comfortable with the nomination. Thank you, Chair.

CHAIR HOKAMA: Mr. Mateo?

COUNCILMEMBER MATEO: No questions.

CHAIR HOKAMA: Mr. Couch?

COUNCILMEMBER COUCH: No questions.

CHAIR HOKAMA: Ms. Cochran?

COUNCILMEMBER COCHRAN: Yeah, thank you, Chair. And, aloha, good morning, Mr. Kodani. Is it Kodani Taxi?

MR. KODANI: No, actually that was Kidani Taxi.

COUNCILMEMBER COCHRAN: Oh, okay. I think I asked you that before. Anyways, thank you for, you know, your willingness to serve. So my question is, how does a Hyatt Regency banquet porter be interested in water? I mean where is it in your life, you know, that is drawing you to be a volunteer on this particular board and why?

MR. KODANI: Well, you know, it's...I think what I...what basically I like to...I feel that, you know, the standpoint I take is that I wanna...instead of—how you say—it's like, you know, I want to be able to . . . *(laughter)*. . . how do you put it into words? The...that, you know, I like to serve. Basically, I wanna be a part of something that could maybe move the County forward. Also be a part of, you know, instead of, you know, being in the back grumbling about things, I wanna, you know, just try to help see if I can make a difference. I like to be involved, I like to...I think I'm taking more of an interest. The older I'm getting, I kinda feel that, you know, that maybe it's time for me to get involved and basically it. That...I don't mind, I like to volunteer. You know, I volunteer for things at my church and so forth. So, you know, and that's basically it. That's, you know, I'm...not that I'm an expert in water, but, you know, I can...there's a lot of things I can learn, I'm sure. So, you know, that's basically from that standpoint is that, you know, that's basically what I can bring, just the fact that I wanna get involved. I think it's time. You know, I'm older, my kids are grown; and I think it's time for me that where I can get more involved in the community or government activities.

COUNCILMEMBER COCHRAN: Okay. Thank you. And a follow up, Chair? So, also, it states that community and professional organization, it's ILWU Local 142.

MR. KODANI: Yes.

COUNCILMEMBER COCHRAN: Are you...in what capacity are you with ILWU?

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MR. KODANI: I'm...at this current time, as a matter of fact, I am on a leave of absence from the Hyatt for this year. I'm serving as a temporary business agent till the end of this year.

COUNCILMEMBER COCHRAN: Oh, okay. Thank you, Mr. Kodani. Thank you, Chair.

CHAIR HOKAMA: Thank you. Ms. Baisa?

COUNCILMEMBER BAISA: Yes, thank you very much, Chair. You know, water of course, is the big deal in my area. Thank you very much for being here. I, you know, I'm excited about your volunteering. It's important. I...it's interesting, like you say, you bring a fresh face. You know, somebody who really apparently has not been connected to this whole water business very closely --

MR. KODANI: Yeah.

COUNCILMEMBER BAISA: --other than as a resident and a citizen. It appears to me, after listening to months and months and years of water issues, that it...our new Water Director has made it pretty clear that one of the biggest issues we have in regards to solving the water problem is money. And, you know, we come with...he comes with proposals, very good proposals, for costs that we have to incur in order to solve the water issues, particularly Upcountry which is really, really bad. What is your...do you have any feelings about, you know, we're going to have to charge people a little bit more for water if we're gonna solve the problem, any feelings about that? You know, I talked to this with my constituents and they all want the water problem solved, but get really concerned about, "you want me to pay 10 or 15 cents more a gallon" or, you know, "I might have to pay more money for a meter" or whatever, any thoughts on that? I'd really like to hear them.

MR. KODANI: You know, as far as...and I know I'm...I've been aware of the problems that...Upcountry, with the water. There's been a lot of times that we've been... I know that you've been under water shortages and rationing. But as far as the financial end, I think, you know, from my point of view, I really...you know, I need to sit down and get information, you know, hear the facts, hear both sides and before I can really make an educated decision on that. So I think right now, you know, I really, you know, like I said, just if I am part of the Board, then I think that's the time that I can really get as much information that I need.

COUNCILMEMBER BAISA: That's about the best answer I could've heard.

MR. KODANI: Okay.

COUNCILMEMBER BAISA: You know, once you have the opportunity to dig in and see what it's all about, then you can make a decision.

MR. KODANI: Yes.

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COUNCILMEMBER BAISA: And I really appreciate that, thank you.

MR. KODANI: You're welcome.

CHAIR HOKAMA: Thank you. Mr. Carroll, questions?

VICE-CHAIR CARROLL: No questions. Just that I would like to say that I think this a good applicant, and I think he will be a great asset to the Committee. Thank you.

CHAIR HOKAMA: Thank you, Mr. Carroll. Just maybe, just so the Committee can maybe get a sense of how you think, Mr. Kodani. There are components in this County community that would like us to view water as a regional thing: Upcountry water is Upcountry, West Maui water is West Maui's, Central is Central. Versus maybe a more myopic, more broad and general approach that water belongs to the County; and anyone within the County should have equal access at the same fair pricing of rate structures. So do you have a...leaning toward regional mentality versus a Countywide system?

MR. KODANI: No. Again, like you know, I think that again it's...you know, if I'm allowed to serve on the Chair [*sic*], and I think that's when I can get the information. You know, as of right now, I have really no direct thoughts on that. But, like I said, until then, if I am allowed to sit on that Board, then I will, you know --

CHAIR HOKAMA: Yeah.

MR. KODANI: --make a decision then.

CHAIR HOKAMA: I bring that up because for Molokai, it's an important issue.

MR. KODANI: Uh-huh.

CHAIR HOKAMA: Water's an important issue, just like Lanai. And Molokai makes sure that the various people who are making decisions understand their unique situation, the unique factors that are impacting that issue on that island. And so, you know, they have their unique ways of communicating --

MR. KODANI: Yeah.

CHAIR HOKAMA: --to let them...so that decision-makers know. So I bring that up because that is a regional water issue, although they get impacted by Countywide policies, they get impacted. I bring that up because, Upcountry, it is a major issue --

MR. KODANI: Uh-huh.

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CHAIR HOKAMA: --especially if we ask them to share water.

MR. KODANI: Yes.

CHAIR HOKAMA: But the other hand is, we're asking other districts to share money to pay for the water on the mountain. So you see, there is a balance between what we asking people like you...and I hope it was clear, Mr. Kodani, we're asking you to be a part of a Board of Water Supply that advises the County and the Administration; and that by itself, it is not a policy-making or legislating board in this County.

MR. KODANI: Yes.

CHAIR HOKAMA: So is that...that's what...pretty much...

MR. KODANI: Yes, I'm aware of that, yes.

CHAIR HOKAMA: Okay, thank you. Is there any other additional questions for Mr. Kodani? I think Mr. Kodani's a...

COUNCILMEMBER COCHRAN: Oh...sorry.

CHAIR HOKAMA: Ms. Cochran?

COUNCILMEMBER COCHRAN: Actually, I had a question for Mr. Molina.

CHAIR HOKAMA: We'll let...you'll have opportunity.

COUNCILMEMBER COCHRAN: Okay. Thank you.

CHAIR HOKAMA: Is...you...

COUNCILMEMBER COCHRAN: No more questions.

CHAIR HOKAMA: Anyone that needs Mr. Kodani?

COUNCILMEMBER COCHRAN: No more.

CHAIR HOKAMA: Okay. Thank you very much for coming this morning, Mr. Kodani. We appreciate your volunteering and your willingness to serve the greater community. Thank you so much.

MR. KODANI: Thank you.

CHAIR HOKAMA: Mr. Molina, you have any opening thoughts you might like to share or would you like to just entertain Ms. Cochran's question?

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MR. MOLINA: I could just give a quick brief overview --

CHAIR HOKAMA: Sure.

MR. MOLINA: --and then I'll be ready to respond to Councilmember Cochran's questions. First of all, thank you very much, Mr. Chairman and Members, for considering Mr. Kodani. Mr. Kodani, basically in his response back to you, sort of hit it on the head as to why we were asking you to consider him. He brings a layperson's perspective to the Board, someone who is looking at things in a balanced way and someone who's willing to put in the time and do the research first before making decisions or making advisory decisions to both the Administration and to the Council. So we certainly appreciate him. I guess the most important factor was his availability; and, yes, he is...he does work on the West side and he does have the time. And, of course, this term ends on March 31st, 2013 so which is basically less than a year. So I guess you could look at it as a, I guess, a trial period for him to perform. And at that point, you know, when his term does end, you know, the Administration may consider him for a full term down the road or possibly someone else. And, of course, it will be up to him as well, if he would like to continue should he be confirmed by you. So with that being said, Mr. Chairman, I'm ready to respond to Ms. Cochran's question.

CHAIR HOKAMA: Okay. Thank you. Ms. Cochran?

COUNCILMEMBER COCHRAN: Thank you, Chair. And good morning --

MR. MOLINA: Good morning.

COUNCILMEMBER COCHRAN: --nice to see you, Mr. Molina.

MR. MOLINA: Thank you.

COUNCILMEMBER COCHRAN: I'm just curious, when you look at the prospective nominees, are you trying to grab people from different districts, try and balance that part of this out?

MR. MOLINA: That is a good question; and, yes, we do try to take that into consideration. Of course, we have, I guess, a limited pool of applicants as well. So you may have more people that are applying who come from the Central Maui district versus other areas. So as much as possible, we try to give some consideration to geographical areas. And, also, we try to look at expertise. So there's a lot of factors or criteria we're looking at. But, of course, it's ultimately up to the applicant. They may submit an application to us, say, three months prior to the consideration. And at times when we do call when there is an opening, they sometimes change their minds. And so there's a lot of factors that go into the nomination process when we do submit an applicant to you. So people have, at times, changed their minds with regards to the particular board of commission that they had on their application or other things pop up with their personal life where they cannot serve. So it can be a difficult balancing act to follow and try to make sure

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we have people available that can serve on our boards and commissions who have the combination of knowledge as well as time. And, of course, we like to look at people with...come from the layperson's perspective as well to sort of lend balance to all of our boards and commissions. 'Cause you have, for example, you have, you know, seven or eight, nine people who might have a different mindset or a different view of things. So we try to get as much balance on our boards and commissions. So, you know, it can be challenging at times.

COUNCILMEMBER COCHRAN: Thank you. And a follow up, Chair, if you don't mind? Thank you. So, Mr. Molina, do you know offhand how many are from West Maui, currently, sitting on this Board?

MR. MOLINA: I could, you know, find out...

COUNCILMEMBER COCHRAN: I know Don Gerbig is already.

MR. MOLINA: Yeah, there is one...

COUNCILMEMBER COCHRAN: Don Gerbig?

MR. MOLINA: Right.

COUNCILMEMBER COCHRAN: Yeah, he's Lahaina.

MR. MOLINA: I think he's the only one I think from West Maui, but I have to go back and verify that for you.

COUNCILMEMBER COCHRAN: Okay.

MR. MOLINA: And...

COUNCILMEMBER COCHRAN: Alright, I was just wondering, you know, if it was lopsided at all. Anyways...

MR. MOLINA: And if I could just follow up on that? I know on some of our other boards and commissions, we do sometimes have more than one person from a particular district. But, again, it sometimes it's related to...you have more applicants that come from a certain area.

COUNCILMEMBER COCHRAN: Right.

MR. MOLINA: And, of course, their commitment to wanting to serve may change over time. So...

COUNCILMEMBER COCHRAN: Thank you. Thank you, Mr. Molina. Thank you, Chair.

MR. MOLINA: Thank you, Council member.

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CHAIR HOKAMA: Thank you. Any other questions for Mr. Molina or Mr. Kushi? If not, then the Chair would be entertaining a motion to place the name of Cyrus Kodani on Exhibit B to approve the nomination to the Board of Water Supply for a term expiring March 31st, 2013. Mr. Carroll?

VICE-CHAIR CARROLL: So moved.

COUNCILMEMBER BAISA: Second.

COUNCILMEMBER COUCH: Second.

CHAIR HOKAMA: Okay. I have a motion made by Mr. Carroll, seconded by Ms. Baisa. Is there further discussion, Members? Having none, all in favor of the motion, please say, "aye".

COUNCIL MEMBERS: Aye.

CHAIR HOKAMA: Opposed, say "no". Motion is carried with eight "ayes"; one "excused", Mr. Victorino.

VOTE: AYES: Chair Hokama, Vice-Chair Carroll, and Councilmembers Baisa, Cochran, Couch, Mateo, Pontanilla, and White.

NOES: None.

EXC.: Councilmember Victorino.

ABSENT: None.

ABSTAIN: None.

MOTION CARRIED

ACTION: Recommending ADOPTION of revised resolution approving the nomination.

CHAIR HOKAMA: Thank you very much, Mr. Kodani, for volunteering, and we'll be forwarding your nomination to the Council for final adoption. Thank you. And we'd also like to thank Ted Yamamura for serving on the Board of Water Supply, and good luck to his new endeavor in the State Water Commission.

ITEM POL-2(33): NOMINATIONS TO BOARDS, COMMITTEES, AND COMMISSIONS (MAUI REDEVELOPMENT AGENCY) (CC 11-31)

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CHAIR HOKAMA: Now we have the Policy Item 2(33). Members, this is a nomination to the Maui Redevelopment Agency which is a creature of the Council through its enactment that is allowed by State Statute. So let me give you just some background on this. You have attached, Members, two communications; both is from myself. The first is April 24th, where I had indicated to you that it was our understanding at that time that the period for the Mayor to nominate a person to this board, the Maui Redevelopment Agency, had expired. Your Chair is in error, and so I'm gonna...like to say, my apologies to Mayor Arakawa for creating a confusion in having an incorrect position that it was the Council's time to nominate. This is, as we were told by Mr. Kushi, this is a agency that is not subject to provisions of Section 13-2 of the Revised Charter of the County of Maui (1983), as amended. And, therefore, it is still within the Mayor's purview to nominate a individual to fill such vacancy. And on May 16th, 2012, the Mayor did nominate Mr. Don Fujimoto to fill such vacancy. So, this morning, with no one asking for his presence, we'll be taking up the nomination of Mr. Don Fujimoto to the Maui Redevelopment Agency. The Chair will say that I know this individual, he grew up in Happy Valley, he understands the area very well, he's a Baldwin High School graduate, he worked in a private entity corporation in many...he spent many years in Wailuku town. And I believe that the Mayor has proposed to you a individual that is highly qualified, someone that grew up in the area, knows the history, I'm sure has...is willing to give his input on how to make it better for the future and deal with the own unique challenges that the redevelopment area has regarding the lifeline and revitalization of Wailuku town. So stating that, the Chair is open to any further questions or comments regarding the nomination of Mr. Don Fujimoto to the Maui Redevelopment Agency. Miss...before I ask Ms. Baisa, I'm sorry, Mr. Molina, my apologies, sir.

MR. MOLINA: No problem, Mr. Chair.

CHAIR HOKAMA: Do you have any comments you like to wish, to share with the Committee regarding Mr. Fujimoto?

MR. MOLINA: Chairman, no, pretty much you've said it all. And first of all, you know, on behalf of the Mayor, we certainly thank you for your guidance in, you know, recommending Mr. Fujimoto. And he is certainly very familiar with the area, Wailuku area. And I'm sure many of you have already heard from Mr. Fujimoto in prior issues here in the County of Maui, and he is someone who's very committed, timewise. And I believe he works on the West side, now, but he had assured us that he can attend all of the MRA meetings. So, again, on behalf of the Mayor, we would like to ask you for your consideration to support Mr. Fujimoto to serve on this Commission. And thank you, Mr. Chairman, for your guidance on this as well. Thank you, Members.

CHAIR HOKAMA: Okay. Thank you. Members, questions, comments? Ms. Baisa?

COUNCILMEMBER BAISA: Thank you very much, Chair. I just would also like to speak in support of the nomination. I know Mr. Fujimoto very well, and I also know his training experience, skills. And I think he is being appointed to a place where he will serve well and that we're lucky to get him as a volunteer. Thank you.

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CHAIR HOKAMA: Thank you. So therefore, Members, the Chair would be open to entertaining a motion to have the name of Don Fujimoto be placed on Exhibit B, attached to a resolution entitled, Appointment of a Member to the Maui Redevelopment Agency, for a term expiring March 31st, 2017. Mr. Carroll?

VICE-CHAIR CARROLL: So moved.

COUNCILMEMBER BAISA: Second.

CHAIR HOKAMA: I have a motion made by Mr. Carroll, seconded by Ms. Baisa. Is there further discussion on the motion before you? Having none, all in favor of the motion, please say, "aye".

COUNCIL MEMBERS: Aye.

CHAIR HOKAMA: Opposed, say, "no". Motion passes with eight "ayes"; one "excused", Mr. Victorino. Thank you, Members.

VOTE: AYES: Chair Hokama, Vice-Chair Carroll, and Councilmembers Baisa, Cochran, Couch, Mateo, Pontanilla, and White.

NOES: None.

EXC.: Councilmember Victorino.

ABSENT: None.

ABSTAIN: None.

MOTION CARRIED

ACTION: Recommending ADOPTION of revised resolution approving the nomination.

ITEM POL-3(4): HAWAII STATE ASSOCIATION OF COUNTIES ("HSAC") (HSAC EXECUTIVE COMMITTEE, HSAC NOMINEES TO NATIONAL ASSOCIATION OF COUNTIES BOARD, AND HSAC NOMINEES TO WESTERN INTERSTATE REGION BOARD FOR FISCAL YEAR 2013) (CC 11-32)

CHAIR HOKAMA: Now on to Policy Item 3(4) under the heading of the Hawaii State Association of Counties. This is the slate regarding the Association's Executive Committee nominees to National Association of Counties Board of Directors as well as the Association nominees to the Western Interstate Region Board for Fiscal Year 2013. Currently, we have Mr. Pontanilla who is a executive officer for us as our Treasurer, and so I'll ask Mr. Pontanilla if he has any thoughts he'd like to share with the other Members.

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COUNCILMEMBER PONTANILLA: Thank you, Chairman. At our last HSAC Executive Committee meeting, we had provided to each of the County, a slate of officers for Fiscal Year 2013, serving on that Executive Committee. As you can see in the resolution, Mel Rapozo is from the County of Kauai. He's presently the President, and will serve again as President for the Association. His Alternate is Jay Furfaro. From the Big Island, County of Hawaii, K. Angel Pilago will serve again as Vice-President, with Councilmember Brittany Smart as his Alternate. For the City and County of Honolulu, Councilmember Stanley Chang will be, again, the Secretary for the Association, with Councilmember Ikaika Anderson as his Alternate; and myself, for County of Maui, as Treasurer and with you, Chairman Hokama, as the Alternate. So this is the slate that is presented to this body here this morning. And if it's approved, then it will be taken up at our HSAC conference next week. Thank you.

CHAIR HOKAMA: Okay. Thank you. Members, just for your additional information, the Chair is having this, today's meeting so there's...you can have the discussion. The Chair has requested a discharge on Friday to allow the Council to make a determination--to try and meet the HSAC deadline for a decision by the general assembly there--to make its final determination on the proposal before you today.

COUNCILMEMBER PONTANILLA: And, Chairman?

CHAIR HOKAMA: Yes?

COUNCILMEMBER PONTANILLA: May I add that at the meeting, also, Councilmember KipuKai of County of Kauai and myself will continue to serve as NACo Directors until such time that I'm...hit my tenure here in this Council. Then it would give this body, or the new body, an opportunity to select a Council member from, hopefully it's Maui County, to serve on the NACo Board. And also for WIR, Councilmember Tim Bynum of County of Kauai as well as Councilmember Angel Pilago, County of Hawaii, has been nominated for WIR Directors for the ensuing year. Thank you.

CHAIR HOKAMA: Okay. Thank you very much for that, Mr. Pontanilla. Questions, comments to Mr. Pontanilla or myself regarding the proposal before you, Members? Pretty much it's a status quo till the end of the term. The new Council will have their opportunity to select someone that they would like to continue in these positions come January 2nd. So anything else? This is, again, for us to be able to take action in about week and a half in Kona when the...all the Counties get together for our annual conference. Okay. Having no further discussion, the Chair would be open to a...that's right, we would be discharging this, right? No action is...okay, Members, with no objection, we'll defer this item.

COUNCIL MEMBERS: No objections.

COUNCIL MEMBERS VOICED NO OBJECTIONS (excused: MPV).

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CHAIR HOKAMA: Thank you very much.

ACTION: DEFER pending further discussion.

ITEM POL-10(4): PROPOSED CHARTER AMENDMENTS (COUNCIL APPROVAL OF THE MAYOR'S APPOINTMENT OF THE PLANNING DIRECTOR) (CC 09-229; CC-11-165)

CHAIR HOKAMA: We shall, now, go to Item 10(4). We had this on the previous meeting, Members. And we had just five Members so the Committee agreed to defer it till today's meeting and to see if we can make a decision, one way or the other, what we would like to do with the consideration before us. Item 10(4), Members, is a consideration to ask the people of the County of Maui whether or not the Council should have a review and confirmation powers over the appointment of the Planning Director. And we do have Mr. Kushi to assist us this morning, as well as eight of the Members are here. And I'll ask Mr. Mateo if he'd like to share any additional comments on this consideration?

COUNCILMEMBER MATEO: Mr. Chairman, initially, when we started the discussion on this particular item, it came as a package with the other directors also being considered. Based on the prior discussion we had in April, you know, my own personal feeling from this particular item which is approval of the Planning Director, I think it just seemed obvious at that meeting that there really wasn't ample support from the body in moving this particular item forward. So I will, likewise, still stand on that particular position, Mr. Chairman. I think this is Planning...the Planning Director's position is one of vital importance to the County. And I see, personally I see, nothing wrong with an approval process. I think we've seen it done through Corporation Counsel, through the Water Director's position. And that, in fact, has really helped us in being able to get a better handle on the individual's capabilities, their skills and understanding of their responsibilities, not only to the Department but to the people of the County as well. So it has been a beneficial process for us. This planning director's position, when it's compared to the other, I...I'm fine the way it is at this point, Mr. Chairman.

CHAIR HOKAMA: Okay.

COUNCILMEMBER MATEO: So thank you for the opportunity.

CHAIR HOKAMA: Thank you. Mr. Pontanilla?

COUNCILMEMBER PONTANILLA: Thank you, Chairman. You know, I feel the same way as, you know, Chairman Mateo; but I've heard through public testimony, a provision that maybe we should be considering. But I'd like to ask Corporation Counsel in regards to, is there any procedure in impeaching a director for a department for inability of performing his or her duties?

CHAIR HOKAMA: Mr. Kushi, I don't know if you are able...would...are you willing to give a stab at it, to Mr. Pontanilla's question?

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MR. KUSHI: I'll give it a try. I don't know the exact section, but there were...there is a Charter provision for impeachment for malfeasance or misfeasance in office. It takes a petition and it has to go to court. I can get back to you as far as the exact provisions.

COUNCILMEMBER PONTANILLA: And maybe you can answer this. Why did we include, in the Charter, the approval of Corporation Counsel, approval of the Prosecuting Attorney and the approval of the Water Director for Maui County and not the rest of the other directors for this County?

MR. KUSHI: Mr. Chair and Member Pontanilla, I don't know. It was done a long time ago. I mean I can tell you from the other jurisdictions. Corporation counsel as well as prosecutors may...some of 'em are elected.

COUNCILMEMBER PONTANILLA: Elected, yeah.

MR. KUSHI: Board of Water Supply's a total different animal. Prior to becoming a regular department, the Board appointed the director. So really, basically, I don't know. It was a Charter provision.

COUNCILMEMBER PONTANILLA: Yeah, and thank you for your response. And, Chairman, you know, coming from the private sector, you know, you do select your managers that work for you that can help you run an organization. And sometimes we feel that people that are being selected for department heads, you know, we feel are incapable of doing the work. But I like the idea if that particular person doesn't perform, then the ability of the legislative body to impeach or to start the process of impeachment of a department head. But I can, you know, I like the idea in regards to the proposal that is before us in not only the Planning Director but several of the other directors that are being appointed by the Mayor to come to this body for at least a review. Thank you.

CHAIR HOKAMA: Okay. Thank you, Mr. Pontanilla. Further...Ms. Cochran, yes?

COUNCILMEMBER COCHRAN: Yes, thank you. I found the Section 13-13, Impeachment of Officers. And so, right now, it's a verified petition of not less than 5 percent of registered voters from the last general election. And, also, a petition may be signed by the majority of the Board of Ethics in order to initiate. So it looks like we are left out of the process in this aspect. And so I hear the concerns, and I support what Mr. Mateo and Mr. Pontanilla are saying here so I just wanted to throw in those comments.

CHAIR HOKAMA: Uh-huh.

COUNCILMEMBER COCHRAN: Thank you, Chair.

CHAIR HOKAMA: Okay. Thank you. Further discussion, Members? Ms. Baisa?

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COUNCILMEMBER BAISA: Yes, thank you very much, Chair. And this has been a real interesting discussion. And, you know, you could go either way.

CHAIR HOKAMA: Uh-huh.

COUNCILMEMBER BAISA: I mean there's strong points for looking at it either way. However, I still maintain that I like the idea and I agree with my colleagues that that opportunity to meet with these folks was very productive and it was very, very interesting and we got to know them and develop a comfort level. And I think that could still be done; however, I do not support us having the final approval. I still believe that the Mayor should have the opportunity to choose his team, and then we hold him accountable for their good performance or bad performance. Thank you.

CHAIR HOKAMA: Thank you, Ms. Baisa. Mr. White?

COUNCILMEMBER WHITE: Thank you, Chair. I agree with the sentiment that we should have some ability to impeach. But at the same time, I feel that if it gets to that point and the Mayor doesn't respond by moving that person on to other pastures--

COUNCIL MEMBERS: . . .*(laughter)*. . .

COUNCILMEMBER WHITE: --that he's really the one . . .*(laughter)*. . . that needs to be held accountable. So, you know, I'm...I agree that we want to have each of the directors come before us; but as I've stated before, I think from a recruitment standpoint, that putting them up for, you know, for confirmation from this body, really puts the individuals in a difficult position whether to accept a new job or not. And I would like to think that by focusing on us having the opportunity to discuss issues with them but not in a confirmation type setting, that we're able to allow the Mayor the flexibility to hire the best person. And that person have the comfort knowing that if he accepts the job, that he is gonna be able to tie up the loose ends in his previous positions and get right into the work of the County. And I'm comfortable that that process is gonna likely provide us with better candidates because the best candidates out there, I think, are gonna be thinking, I'm not sure that I wanna put myself through that process. That, you know, and this Council might be a very common and easy process; but if the Council makeup is in, well, in opposition to where the Mayor would like to go, it could be a very difficult process. And I'm not sure that that's healthy for us going forward. Thank you.

CHAIR HOKAMA: Thank you, Mr. White. Mr. Couch, any thoughts you wanna share on this one?

COUNCILMEMBER COUCH: You know my position, and --

CHAIR HOKAMA: But, that's fine.

COUNCILMEMBER COUCH: --it echoes the rest so I'll just --

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CHAIR HOKAMA: Okay.

COUNCILMEMBER COUCH: --go with that. Thank you.

CHAIR HOKAMA: Mr. Carroll, you...will you share any comments on this item?

VICE-CHAIR CARROLL: Since we don't have a motion on the floor, I guess I can speak that I concur with the rest. Thank you.

CHAIR HOKAMA: Okay. I know we had pretty much...it's, I would say, down the middle. I can appreciate the Members. Again, I can see both sides very clearly. Both sides have good positions. But I will tell you that, you know, as your Policy Chair, preparing for confirmation hearings, going through the process with Mr. Wong, Mr. Kim, and Mr. Taylor, I did...I felt that it was more than just good for the Committee. I thought it was really good for the community to see who is being asked to lead major departments of the County that represents not only us but also represents them. And, for me, that is the key component that I would ask us to keep in mind--is that this is their one shot for the community to see who is being asked to serve them in the highest capacity in County government. I think that is very important. And, again, I share that because, you know, there's many things I think we should take into...why is there such a...at times for many of us, a sense of nonparticipation? You know, I can tell you, in the '60s, I couldn't wait to have the ability to vote. I was so excited, I wanted to vote. You know, I couldn't wait to get to the age of majority and cast my first ballot, you know. But people nowadays don't wanna vote because they have a disconnect. Their attitude is, why waste my time? And maybe it's because we don't give them chance to participate in civics, that maybe we should offer more opportunities--which is part of weighing in on who leads their government. Yeah, they can pick a Mayor, but they may have their ideas of who makes a good public works director, parks director, planning director, and for people like me, finance director. So I just share that 'cause I think that it's not as simple as we try to make it at times. There's a lot more subtle complexities. I think one of it is how we approach these things is how the people choose to whether or not to show up at the polls or not. And that's just my little perspective on this. Regarding this particular, on Planning, I agree, it's a major department. We give them plenty authority, but that's my fault. I chose to give my one vote to have the Planning Director have more authority than basically the Charter gives. You know, Council gave away authority so that's part of my responsibility...I take into account. But I am willing to let this one go at this time and find another way to address it. And one is, of course, to have good Planning Commissions to help direct the Director instead of, you know, 'cause one thing that I'm learning through my experience with—and I appreciate how...what Ms. Baisa is doing—there are times when things gotta come from the bottom up. Cannot always be top going downwards; and, you know, I think maybe we gotta remember that elections is about the bottom, the voters, and then it goes back up. Not from the top down to the voters. So I just share that, Members. Mr. Pontanilla?

COUNCILMEMBER PONTANILLA: Yeah, thank you. I just wanna make, you know, several comments. You know, at times, we come so frustrated as Council members that during

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Budget...and we've done it many times, in regards to our frustration in regards to department heads. And, you know, through the Budget process, we try to, you know, show our frustration. And the other thing is that, you know, as Council members, we, you know, throughout the years, we provide more powers to the department heads and through a voting process. And when we start doing that, giving more responsibilities—and it's good to give 'em more responsibilities to the department heads—but, you know, we gotta make sure that they're accountable. And one of the better ways to make sure that they are accountable is through this approval process. You know, I share the same sentiments as you, Chairman, as well as Ms. Baisa coming from the private sector. But throughout the years, you know, just from experience that, you know, sometimes we get frustrated. And people get frustrated, too. So, you know, I can see both sides. And this is one difficult one in regards to, you know, putting this on the Charter Amendment as an item. But I just wanted to provide you that comment in regards to what we've done previously as a Council during Budget; and not only during Budget, but the powers that we give or we relinquish to the department heads. We need to find out about accountability. Thank you.

CHAIR HOKAMA: Thank you. Members, any further discussion on Policy 10(4) which is regarding the Planning Director and whether or not a...the Council should have a review and approval requirement? Okay. If not, the Chair recommendation for this one is to file County Communication 11-165, which means, yeah, Members...well, I'll take the motion first. Mr. Carroll?

VICE-CHAIR CARROLL: So moved.

CHAIR HOKAMA: Thank you.

COUNCILMEMBER BAISA: Second.

CHAIR HOKAMA: A motion made by Mr. Carroll, seconded by Ms. Baisa. So, Members, if you choose to support the motion, it means that we gonna just file the communication and not support, at this time, the amendment to confirm the Planning Director. If--by voting against, means you wanna keep the item alive. And I just wanna make it clear 'cause normally the Chair doesn't just recommend filing. Okay. Are we clear? Any further discussion on the motion? All in favor of the motion, please say, "aye".

COUNCIL MEMBERS: Aye.

CHAIR HOKAMA: Opposed, say, "no".

COUNCILMEMBER COCHRAN: No.

CHAIR HOKAMA: Okay. Thank you. The Chair will mark it as seven "ayes"; one "no", Ms. Cochran; and one "excused", Mr. Victorino. Thank you.

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VOTE: **AYES:** **Chair Hokama, Vice-Chair Carroll, and Councilmembers Baisa, Couch, Mateo, Pontanilla, and White.**

NOES: **Councilmember Cochran.**

EXC.: **Councilmember Victorino.**

ABSENT: **None.**

ABSTAIN: **None.**

MOTION CARRIED

ACTION: **Recommending FILING of County Communication 11-165.**

ITEM POL-10(5): PROPOSED CHARTER AMENDMENTS (COUNCIL APPROVAL OF THE MAYOR'S APPOINTMENT OF THE DIRECTOR OF FINANCE) (CC 09-229; CC-11-166)

CHAIR HOKAMA: Members, 10(4) [*sic*], very similar consideration. This is now the...as it regards to the Department of Finance and its Director.

COUNCILMEMBER COCHRAN: We just did four.

COUNCILMEMBER COUCH: 10(5)?

CHAIR HOKAMA: Excuse me, yeah, 10(5). This would a...propose a Charter Amendment to the people of the County of Maui to consider whether or not the Council should have a review and confirmation of the Director of Finance. I'll ask Chairman Mateo if he has any additional comments he'd like to share on this one.

COUNCILMEMBER MATEO: Thank you, Mr. Chairman. Unlike the prior item we just completed, this one, I think I have a little more passion with this one. I think the Director of Finance, the role this individual plays, is just so critical to this County. The need to assure ourselves that our fiscal stability and our fiscal health of the County is in fact intact. The fact that, you know, we just heard the other day, you know, this County has millions of dollars that we invest. There is the whole gamut of fiscal responsibility that is very important to us to be able to provide the services and needs to our people of this County. I think, just because of the intense responsibilities that this particular director's position, the Director of Finance, I really feel should be one that we should be interviewing and gaining the assurance that this individual's capabilities is in fact comparable with the position the individual is filling. So this one, I do not have a problem with in looking at an approval process for the Director of Finance, Mr. Chairman. Thank you for the opportunity.

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CHAIR HOKAMA: Okay. Thank you. Mr. Carroll?

VICE-CHAIR CARROLL: Thank you, Chair. I agree with Mr. Mateo that this is one of the most important positions we have, but that's all I agree with. We have our duties as Council members, the Mayor has his duties as a Mayor of Maui County. The way it is structured now, the Mayor is responsible for these positions. What we're saying is, cutting right to the chase, is we want our man over there. I don't think that's right. We don't want somebody that we agree with all the time. We don't send somebody that we approve of. We need to have the division, it's important. That might give us ulcers at times, we might not like the idea at times, it might be very frustrating at times; it is for me. But I think the division is more important than anything. The Mayor needs to make the choices and Mayor needs to be responsible. And the Mayor is the one that needs to bring somebody in line or get rid of them. We've had managing directors that were fired since I've been on the Council; it happens, if they're not responsible. But we need to have that difference. I'm afraid what happens when the Council starts taking on too much responsibility of all of these positions. We need to keep it up there. And then we need to go over there and do our oversight on what their job performance is. We can make it well known to the Mayor and to the public if there are serious deficiencies that somebody needs to be pulled back in line or replaced. And I think the Mayor would be very responsive to that, too. I can't imagine him not being. I would hope that we can keep it the way it is. It's a good system. We might not like it; again, it might be frustrating; again, we might wish that we could put somebody else there but we shouldn't. Thank you, Chair.

CHAIR HOKAMA: Thank you. Further discussion? Mr. Pontanilla?

COUNCILMEMBER PONTANILLA: Thank you. You know, I appreciate the comments made by Chairman Mateo and Member Carroll in this regard. You know, I view this just as important as Corporation Counsel, Prosecuting Attorney as well as the Water Department. Being fiscal-responsible for this County is a great task. And I still believe in a process that we could have the ability to approve and interview a potential selection by the Mayor. And the Mayor makes good selections. I've seen the selections for two Administrations now, and we haven't even denied, we haven't denied, not one; and that's how good they are. And I believe that this particular position is so highly visible for not only, you know, the Members of this Council but for the public itself. It deals with great responsibilities. So I believe that an interview and approval process is necessary for this one particular position. Thank you.

CHAIR HOKAMA: Thank you. Further discussion? Mr. Couch?

COUNCILMEMBER COUCH: Thank you, Mr. Chair. And, you know, to answer a previously posed question, I know the Board of Water Supply was semiautonomous so, therefore, we definitely needed to approve that position. But when it moved over, that section was either neglected or purposely left out. I'm not sure how that Council...I wasn't privy to the meeting minutes for that. As far as Corporation Counsel, we...they're our Corporation Counsel as well as the Mayor's, the Administration's, so I can see why we need to approve his nomination. As far as Prosecuting Attorney, don't know why; to me, it doesn't make that much sense. What makes

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sense is that the people vote for the Mayor of Maui, County of Maui, they vote for all of us. In order for anybody to effectively run--and again from the private sector--a business or an entity, an organization, they need to be able to work with the people that they're comfortable with. If they choose somebody who's, you know, if we can go as far as incompetent, then the voters can take care of that. Or, as Mr. Pontanilla said, we can take care of that via the Budget. Apparently, that was done last term or two terms ago. Or, you know, we have the ability to take care of the issue if it's that bad. So I think it should be left to the administrative officer that the people vote, to let him select him or her, select their own team and then live with that choice. I realize the Department of Finance is extremely important, and I agree it would be great to get 'em here and interview 'em just to see where they...their philosophy is so we can work with that. But there are gonna be times when we don't agree with the philosophy, then we have to deal with it through our legislative actions. But the voters choose the person on the ninth floor so that person has to live or die by how the Administration is run for their term. And if we start interfering with that, then there's always gonna be the finger pointing: well, you know, they didn't select my guy or my person. So I think it should be left to the Chief Executive of the County, in my opinion. Thank you.

CHAIR HOKAMA: Thank you. Anyone else? Ms. Baisa?

COUNCILMEMBER BAISA: Mr. Chair, this is a very important decision. You know, handling our money is of prime importance. And I know I'm speaking to the choir 'cause I know your interest in protecting the money of the people of this County, and so I look at this very, very carefully. However, I do still feel that, you know, while I would enjoy having an interview with the Mayor's nominee, I still think that that final approval should rest with the Mayor. And, you know, it's kinda interesting because I'm looking in the Charter where it talks about the Director of Finance. And I think it's interesting that it is rather general, the qualifications that we ask for, shall have a minimum of five years of experience in a public or private financial position, at least three of which shall have been in an administrative capacity. You know, that is very broad, and it does give a lot of leeway. So, you know, if anything, and we wanted to tighten that up, that might be a place to do it. But as far as the final selection, I really feel that we have to leave that with the Mayor just to, you know, maintain the separation of powers and also to hold the Mayor accountable. You know, I really believe that it's the Mayor's prerogative to hire his team, or her team—and we could have a her, we have in the past—you know, hire the team and then be held accountable. Because that tells me that, you know, the Mayor selects people and it...to me, you hire, you fire, you take care of it. And then we judge the Mayor on the performance of the department heads that he puts in place. And the voters have that final say. You know, when the Mayor comes up for reelection, and people are unhappy with the department directors, then we hold the Mayor accountable. I just feel that that is his prerogative. He should build his team and then, again, be held accountable for their performance. Thank you.

CHAIR HOKAMA: Thank you. Any further comments, Members? I'm pretty sure you guys know where I stand on this. And I appreciate all of you being very clear on your positions, also. And while I can appreciate...and the Mayor did a good job in explaining, you know, why he wanted his team per se. I cannot wait and have the County lose money, lose a lot of money, lose

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integrity in the financial market, lose integrity in the financial sector--whether it be investment or banking 'cause I deal with these people a lot. To have to wait till the situation arises that we need to have the person removed, to me, that is unacceptable because we'll never make up the loss of revenues or the fines or missing of a certain dates to do certain smart, financial decisions. So for me it's, again—being a taxpayer also—that is not something I'm willing to gamble on. Competency is competency. You don't know your stuff, hey, don't expect to be in the job. But the person needs to know the job descriptions of the employees, what a Treasurer does, what the Deputy does, what the Accounts Administrator does. We should be knowing all of those things, all the side accounts, all the hidden accounts, those account for annual reviews though they're considered trust accounts, how we paying, what is our investment portfolio philosophy, why are we not making what we are targeting for and what are those people who supposed to be doing their job doing? Because one thing about this process, the current way too is, you can hide a lot of stuff from this body that is given the responsibility of oversight and accountability. You know, I've been through it too often from Makawao Highlands on down. I can name projects of administrating hiding facts and information from Council so that we'd made a...not the best decision on the people's behalf. No, I'm not willing to gamble on this position. This is too much for me, it's gonna cost more money than I wanna spend. And the bottom line is, I'm gonna have to pay, too; and I'm not willing. So that's my position, Members. The Chair is gonna ask for a motion to move this forward, and we'll see how it goes. If it doesn't go forward, that's...then it doesn't go forward. So the Chair is gonna ask for a motion to recommend to Council passage on first reading of a revised proposed resolution transmitted by correspondence dating June 5th, 2012 entitled, Proposing an Amendment to the Revised Charter of the County of Maui (1983), as Amended, to Require Council Approval of the Mayor's Appointment of the Director of Finance. Mr. Mateo?

COUNCILMEMBER MATEO: So moved, Mr. Chair.

COUNCILMEMBER COCHRAN: Second.

CHAIR HOKAMA: I have a motion made by Mr. Mateo, seconded by Ms. Cochran. We are under discussion. Members, anyone wishes to further clarify or restate their position? Mr. Pontanilla?

COUNCILMEMBER PONTANILLA: Thank you, Chairman. You know, I'll be supporting the motion because of the importance of this particular position for the County of Maui. You know, again, the fiscal responsibility, you know, really lies in the Finance Department. Thank you.

CHAIR HOKAMA: Thank you. Ms. Cochran?

COUNCILMEMBER COCHRAN: Thank you, Chair. And thank you for the willingness to move this one forward, and I'm happy to support it. You know, yesterday's discussion on our short-term investment was extremely depressing and eye-opening at the same time. That, you know, we really should be getting a whole lot more bang for our bucks here. So I think it's definitely, warrants more scrutiny and more of our eyes to follow what's going on. So I believe this will help assist with that. And I like your comments in regards to the interview process here on the

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floor to not just educate us and gain a little rapport, but also for the viewing public, too, and the community to learn a little bit more, hopefully giving them the willingness to wanna engage in our process and step up to wanna be involved in civic duties. So thank you for that, and those are my reasons for supporting. Thank you, Chair.

CHAIR HOKAMA: Okay. Thank you. Mr. Carroll?

VICE-CHAIR CARROLL: At the risk of spoiling my record in talking twice --

CHAIR HOKAMA: That's okay. You talk as many times as you want, by the rules.

ALL: . . . *(laughter)* . . .

VICE-CHAIR CARROLL: --I won't repeat everything I said the first time, but I think this is a mistake. I think it's...I think this is something that we shouldn't be doing. We are taking over, literally, the Administration's responsibilities because we are making the choices. I think this is a wrong way to go. I think it sets a very bad precedent. Again, even though it might be frustrating at times, we need to hold the Administration and the Mayor responsible for their choices. And we need to hold who he chooses responsible to take the proper actions for whatever it is, Finance Director or anything else. And I will not be supporting the motion on the floor. Thank you.

CHAIR HOKAMA: Thank you for your thoughts, Mr. Carroll. Further discussion, Members? Okay. Having none, all in favor of the motion, please say, "aye".

COUNCIL MEMBERS: Aye.

CHAIR HOKAMA: Opposed, say, "no".

COUNCIL MEMBERS: No.

CHAIR HOKAMA: Okay. Kinda split so we'll ask the Members. Mr. Carroll?

VICE-CHAIR CARROLL: No.

CHAIR HOKAMA: Thank you. Ms. Baisa?

COUNCILMEMBER BAISA: No.

CHAIR HOKAMA: Thank you. Ms. Cochran?

COUNCILMEMBER COCHRAN: Aye.

CHAIR HOKAMA: Thank you. Mr. Couch?

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COUNCILMEMBER COUCH: No.

CHAIR HOKAMA: Thank you. Mr. Mateo?

COUNCILMEMBER MATEO: Aye.

CHAIR HOKAMA: Thank you. Mr. White?

COUNCILMEMBER WHITE: No.

CHAIR HOKAMA: Thank you. Mr. Pontanilla?

COUNCILMEMBER PONTANILLA: Aye.

CHAIR HOKAMA: Thank you. And the Chair votes “aye”. So we have four “ayes”, four “noes”. The motion does not pass.

VOTE: AYES: Chair Hokama and Councilmembers Cochran, Mateo, and Pontanilla.

NOES: Vice-Chair Carroll and Councilmembers Baisa, Couch, and White.

EXC.: Councilmember Victorino.

ABSENT: None.

ABSTAIN: None.

MOTION FAILED

CHAIR HOKAMA: Therefore, at this time then, we’ll just defer this item with no objections, Members.

COUNCIL MEMBERS: No objections.

COUNCIL MEMBERS VOICED NO OBJECTIONS (excused: MPV).

CHAIR HOKAMA: Okay. Thank you very much.

ACTION: DEFER pending further discussion.

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ITEM POL-10(11): PROPOSED CHARTER AMENDMENTS (COUNCIL APPROVAL OF THE MAYOR'S APPOINTMENT OF THE MANAGING DIRECTOR) (CC 09-229)

CHAIR HOKAMA: Next is Policy Item 10(11), the Council approval of the Managing Director. Upon seeing the proposals, Members, your Chair did present this. It's hard for me to see...ask us to consider approving the Planning Director and then the Director of Finance, the third in line for to be the Mayor, and not have us even consider the second in line for the Mayor which is the Managing Director. I'm pretty sure we're gonna have the same lively discussion as the first two, but the Chair will ask if there's comments regarding this item before the Committee. Any item comments, Mr. Mateo?

COUNCILMEMBER MATEO: Chairman, thank you very much. This one, I am not able to support. For me, the Managing Director and the Mayor should really be in synch, both, philosophically and in the direction that they see the County...that we should be going towards. I think it'll be so difficult to have two very different individuals with different ideologies and practices. So I think this should really be in a position that it is totally the Mayor's choice --

CHAIR HOKAMA: Uh-huh.

COUNCILMEMBER MATEO: --because this individual steps in a lot of the times when the Mayor is not here. He does have his specific role to carry out based on the Mayor's directions and, I guess, changes the Mayor would like to initiate. So I think it would be really difficult for us to kinda like not look at the Mayor and the MD as a package. So I would have a hard time to support this particular item moving forward, Mr. Chairman. Thank you.

CHAIR HOKAMA: Okay. Thank you. Any further comments? Ms. Baisa, first.

COUNCILMEMBER BAISA: Thank you very much, Chair. I guess you know where I'm going with this. I definitely agree with Member Mateo that I think, you know, the Managing Director is kinda the alter ego of the Mayor. And they definitely have to have the same kind of philosophies and values and because they are interchangeable at any moment. And, you know, just yesterday—it's serendipitous we're talking about this today—but just yesterday, I had a concern on behalf of a constituent. And I had...I could have called the Mayor but I thought, why bother the Mayor, he's got all kinds of things going and he was extremely busy yesterday. I said, I'll just call the Managing Director. And he was very accommodating and I had a nice sit-down with him and things were taken care of. So I'm very comfortable, and I certainly believe that the Mayor should have the prerogative to select his managing director. Thank you.

CHAIR HOKAMA: Thank you. Mr. Carroll?

VICE-CHAIR CARROLL: Thank you, Chair. To me, it would be like if this Council went and appointed my EA, Morris Haole, and they took him away and put somebody else over there that I would have to work with. And that wouldn't work for me and I don't think it'll work for this. Thank you.

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CHAIR HOKAMA: Thank you. Any further discussion, Members?

COUNCILMEMBER COCHRAN: Chair?

CHAIR HOKAMA: Ms. Cochran? I'm sorry.

COUNCILMEMBER COCHRAN: Thank you. No problem. Yeah, this...I concur with all my fellow Members on this particular one. It's like someone telling me who I have to marry or something and --

CHAIR HOKAMA: They used to do that in the past, yeah.

COUNCILMEMBER COCHRAN: --this body telling me who I need to marry and I wouldn't like that. But anyways so it's true that Mayor and Managing Director must, you know, be...have rapport and work with one another. So but I understand they're third in line, also. But for...or second, second in line, sorry. And so with that, I just wanna say I will support having Mayor being the final approver of who he or she would like as managing director. Thank you, Chair.

CHAIR HOKAMA: Okay. Thank you. Anything else? Just like Batman and Robin, and Tom and Jerry--

ALL: ...*(laughter)*...

CHAIR HOKAMA: --cannot do one without the other.

ALL: ...*(laughter)*...

CHAIR HOKAMA: So, okay, the Chair has a good sense from you folks that shared comments this time and at the previous meeting. So the Chair would then recommend—let's see, which is this one? Why don't we...the Chair is open to a motion to...file the communication relating to Policy 10(11) and all attachments thereto. Mr. Carroll?

VICE-CHAIR CARROLL: So moved.

COUNCILMEMBER BAISA: Second.

CHAIR HOKAMA: We have a motion by Mr. Carroll, seconded by Ms. Baisa to file all communications and attachments regarding Policy 10(11) regarding the Council approval of the Managing Director. Any further discussion? All in favor, please say, "aye".

COUNCIL MEMBERS: Aye.

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CHAIR HOKAMA: Opposed, say, “no”. Motion passes with eight “ayes”; one “excused”, Mr. Victorino.

VOTE: AYES: Chair Hokama, Vice-Chair Carroll, and Councilmembers Baisa, Cochran, Couch, Mateo, Pontanilla, and White.

NOES: None.

EXC.: Councilmember Victorino.

ABSENT: None.

ABSTAIN: None.

MOTION CARRIED

ACTION: Recommending FILING of correspondence.

ITEM POL-10(8): PROPOSED CHARTER AMENDMENTS (PLANNING COMMISSION REVIEW OF LAND USE ORDINANCES) (CC 09-229)

CHAIR HOKAMA: 10(8), we have another consideration. This is the Planning Commission review of land use ordinances. This is being proposed by Mr. Couch. And so, Mr. Couch, any comments you wanna give?

COUNCILMEMBER COUCH: Thank you, Mr. Chair. And, again, this one just kinda lines up the times...timing between several different sections of the Charter to make it more timely and give the Planning Commission and the Planning Department --

CHAIR HOKAMA: Uh-huh.

COUNCILMEMBER COUCH: --stricter deadlines and the same deadlines as opposed to, well, is that a hundred eighty days, is it a hundred twenty days? This one can wait till next term --

CHAIR HOKAMA: Uh-huh.

COUNCILMEMBER COUCH: --which is why we couldn't have the Planning Department in here in discussing it, it's nothing that has to go right away, it...but the sooner the better, obviously, if we get things lined up. I just...we've run across a couple of instances in my Committee that we weren't sure whether they have the hundred twenty days or the hundred eighty days; and so wanted to, at the request of the Planning Department, wanted to kinda tighten that up.

CHAIR HOKAMA: Okay.

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COUNCILMEMBER COUCH: But I think it warrants more discussion with the Planning Department here to discuss that.

CHAIR HOKAMA: All right. Thank you for, you know, sharing that, Mr. Couch. I will ask Mr. Kushi, though, if he does have any additional comments he wishes to share this morning. I believe we did ask Mr. Kushi and Corporation Counsel to review whether or not the question posed earlier--that this may be also addressed through an ordinance process--was a viable option for the Committee to consider. So, Mr. Kushi, are you able to give us a comment this morning regarding that component, please?

MR. KUSHI: Yes. In speaking to my colleague, Michael Hopper of our office, we feel that it should go...a change should be done by Charter Amendment because the problem is created by the language in the Charter. Our office did...in your binders, I noticed you don't have a copy of it, but our office did send down through, Mr. Chair, your staff, a revised resolution for this item in the proper Ramseyer format --

CHAIR HOKAMA: Okay.

MR. KUSHI: --as well as the amended Paragraph No. 7 which is just basically a non-substantive change.

CHAIR HOKAMA: Okay.

MR. KUSHI: But we did correct the resolution itself. But if you feel that you need more time to discuss this with the Department which would administer this, that's fine.

CHAIR HOKAMA: Okay. Thank you, Mr. Kushi. So is that the May 30th communication --

MS. NAKATA: Yes, Mr. Chair.

CHAIR HOKAMA: --that Mr. Kushi was referring to? Okay. So we do have it, Mr. Kushi. Thank you for that information. Hearing the comments from Mr. Couch, I would be inclined to have this deferred. And we can have this, again, be positioned so that this can be referred to the next Council if additional time needs be and we cannot do additional work this term on this specific matter. So that would be the Chair's approach to this item. Mr. Couch, any concerns?

COUNCILMEMBER COUCH: No, I'm fine, thank you.

CHAIR HOKAMA: Okay. So, Members, if there are no objections, the Chair will defer this item.

COUNCIL MEMBERS: No objections.

COUNCIL MEMBERS VOICED NO OBJECTIONS (excused: EC, MPV).

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CHAIR HOKAMA: Okay. Thank you.

ACTION: DEFER pending further discussion.

CHAIR HOKAMA: Two more and we done; 10:12, Members. You wanna take a short break, five minutes?

COUNCILMEMBER COUCH: Sure.

CHAIR HOKAMA: Okay. Why don't we take a short, mid-morning break, Members. You can refresh yourselves, get additional caffeine. We'll be in recess till 10:30. . . .(gavel). . .

RECESS: 10:26 a.m.

RECONVENE: 10:38 a.m.

CHAIR HOKAMA: . . .(gavel). . . Policy Committee shall return to order. We have two items left on today's agenda, Members. With no objection, the Chair is gonna switch it up. We're gonna take the litigation matters at this time which is the last item, and then return back to the 10(12) which is the final Charter Amendment considerations for today.

COUNCIL MEMBERS: No objections.

CHAIR HOKAMA: Okay. Thank you so much.

ITEM POL-1(24): LITIGATION MATTERS (SETTLEMENT AUTHORIZATION: IN THE MATTER OF THE TAX APPEALS OF KAHEAWA WIND POWER, LLC; TAX APPEAL 10-1-1246) (CC 11-30)

CHAIR HOKAMA: Members, if you'd please be guided to Policy Item 1(24) under Litigation Matters. We have a request for a settlement authorization in the matter of the tax appeals of Kaheawa Wind Power, LLC, Tax Appeal No. 10-1-1246. Members, you do have a proposed resolution entitling...entitled, Authorizing Settlement of the Matter of Tax Appeal of Kaheawa Wind Power, LLC, Tax Appeal No. 10-1-1246, as well as the notices of appeal for tax years 2007, 2008, 2009, 2010, and 2011 and the order consolidating the five tax appeals under Tax Appeal 10-1-1246. Now, this morning, we have Corporation Counsel Rost that will give us some information at this time. The Chair has also requested, and we do have present, Mr. Teruya and Ms. Martin from Real Property Tax to assist us. And the Chair also has posted the ability for us to enter into executive session. Mr. Rost, at this time, anything in open session you can share with us, please?

MR. ROST: Yes, Mr. Chair, thank you. This tax appeal is based upon the windmills in the West Maui Mountains. Essentially, the primary issue was the question of whether or not those windmills are real property and whether or not we can tax them as real property. The Tax Appeal Court ruled they were not real property; and, thus, we were not allowed to tax them. This is significant

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because the 2007 assessment of the windmills was over \$100 million. So the tax paid on those windmills was substantial. It also involves a number of years, going back from 2011 all the way to 2007. Both the County and the Appellant filed motions with the Tax Appeal Court requesting the Court rule in our favor on that issue. Unfortunately, the Court ruled for the Appellants. Now, we can appeal that ruling, but the Appellants may have made an offer to settle the case. So that's being presented to the Council's, for your consideration. Being that the case is still in active litigation, there are still issues before the Tax Appeal Court that have not been decided. We would request executive session before getting into further details.

CHAIR HOKAMA: Okay. Thank you. Members, you have any questions for Corporation Counsel at this time regarding the litigation before you?

COUNCILMEMBER COCHRAN: Chair?

CHAIR HOKAMA: Yes, Ms. Cochran?

COUNCILMEMBER COCHRAN: So it's the State's claiming it's State land?

MR. ROST: It is State land, but it is leased to a private entity that's running the wind farm.

COUNCILMEMBER COCHRAN: And that type of use is not taxable, they're saying?

MR. ROST: We tax the Lessee in that situation as if they own the fee.

COUNCILMEMBER COCHRAN: Okay. Thank you, Chair.

CHAIR HOKAMA: Okay. We also have, again, Mr. Teruya and Ms. Martin to assist us with this item. Okay. The Chair would recommend that we go into executive session pursuant to Section 92-5(a)(4) of the Hawaii Revised Statutes, to consult with legal counsel on questions and issues pertaining to the powers, duties, privileges, immunities, and liabilities of the County, the Council, and this Committee. Mr. Carroll?

VICE-CHAIR CARROLL: So moved.

CHAIR HOKAMA: Thank you.

COUNCILMEMBER BAISA: Second, Chair.

CHAIR HOKAMA: I have a motion made by Mr. Carroll, seconded by Ms. Baisa to enter into executive session on Policy Item 1(24). Is there any further discussion? If not, all in favor of the motion, please say, "aye".

COUNCIL MEMBERS: Aye.

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CHAIR HOKAMA: Opposed, say, “no”. Motion passes with eight “ayes”; one “excused”, Mr. Victorino.

VOTE: AYES: Chair Hokama, Vice-Chair Carroll, and Councilmembers Baisa, Cochran, Couch, Mateo, Pontanilla, and White.

NOES: None.

EXC.: Councilmember Victorino.

ABSENT: None.

ABSTAIN: None.

MOTION CARRIED

ACTION: APPROVE; RECESS open meeting and CONVENE executive meeting.

CHAIR HOKAMA: We shall take our recess to secure the room for executive session. . . .(gavel). . .

RECESS: 10:41 a.m.

RECONVENE: 11:30 a.m.

CHAIR HOKAMA: . . .(gavel). . . Policy Committee shall reconvene in open session. We have just completed our executive session on Policy Item 1(24), Litigation Matters, on the Kaheawa tax appeals. Members, with no objection, we shall defer this item and allow Corporation Counsel to move forward to, under the direction as discussed in executive session. No objections?

COUNCIL MEMBERS: No objections.

COUNCIL MEMBERS VOICED NO OBJECTIONS (excused: MPV).

CHAIR HOKAMA: Okay. Thank you so much.

ACTION: DEFER pending further discussion.

MS. NAKATA: Mr. Chair?

CHAIR HOKAMA: Yes?

MS. NAKATA: Could Staff request a short recess?

CHAIR HOKAMA: Short recess. . . .(gavel). . .

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RECESS: 11:30 a.m.

RECONVENE: 11:31 a.m.

CHAIR HOKAMA: . . .(gavel). . . Thank you. We shall return to open session once more, Members. Again, so it's clear, the Chair's intent is to defer any action on the proposed settlement request, the resolution, and the Corporation Counsel with Real Property Tax Division shall continue to work with the Plaintiffs to come . . .see if we can come up to a more mutual acceptable resolution.

ITEM POL-10(12): PROPOSED CHARTER AMENDMENTS (CHARTER COMMISSION'S PROPOSALS AND RECALLED COUNCIL ALTERNATIVES) (CC 09-229, CC 12-75, CC 12-104, MISC, MISC)

CHAIR HOKAMA: Okay. With that, we are going to move to the final item of the day which is 10(12), the Proposed Charter Amendments. This is regarding the proposals that Council recalled under its opportunity of alternatives. We have just two items, Members, that the Chair has posted for your consideration today. One is the terms of office, and the second one is whether or not the people want the County to have a county auditor. So regarding the first one, Members, which is the . . .relates to the Council term limits, this new proposal also contains a ballot question. It's on the second page, Paragraph 6 of the resolution. And the ballot question reads: quote, shall the Charter be amended to lengthen the terms of Council members from four . . .from two to four years, with term limits of three consecutive full, or four-year terms, beginning on January 2nd, 2015, with terms to be staggered? And that is the key question. If the people say "no" to that, then everything else is pretty moot and irrelevant. If the people say "yes", they would like to move to a four-year term, then the additional components of this item would move forward. So, Members, any discussion on this one? Mr. Mateo, any comments?

COUNCILMEMBER MATEO: No, thank you.

CHAIR HOKAMA: Mr. Couch?

COUNCILMEMBER COUCH: So you still have the . . .in No. 2, that's the language that's gonna be in the Charter, but the question is in No. 6, yeah?

CHAIR HOKAMA: Correct.

COUNCILMEMBER COUCH: Okay. Thank you.

CHAIR HOKAMA: Okay. Ms. Cochran?

COUNCILMEMBER COCHRAN: No, Chair.

CHAIR HOKAMA: Ms. Baisa?

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COUNCILMEMBER BAISA: No.

CHAIR HOKAMA: Mr. Carroll? Mr. Pontanilla? Mr. White?

COUNCILMEMBER WHITE: So this would be a second version on the ballot, is that right?

CHAIR HOKAMA: That is my understanding. Is that correct, Mr. Kushi? The Commission has their own vehicle?

MR. KUSHI: Yes.

COUNCILMEMBER WHITE: And so could...if the Chair could share with us what the main differences are between our...this version and the Charter Commission's version?

CHAIR HOKAMA: The Charter Commission's, I believe their...if I recall correctly, is that they had three full terms. The first term would be just two years, but that would be considered part of your three full consecutive terms--as I understand it correctly. And then we have Mr. Kushi and Ms. Nakata who were present at those Commission meetings to also give us additional comments. Mr. Kushi, is that...that's the Chair's understanding of the key difference between the Commission and the Council proposal.

MR. KUSHI: Yes. The Commission's...Charter Commission's proposed ballot question is as follows: should the terms of Council members be lengthened from two to four years, comma, with term limits of three consecutive terms, comma, whether such terms are two or four years, comma, beginning on January 2nd, 2015 with terms to be staggered. That would be the two questions. The main difference is in terms of maximum term limits. Under the Charter Commission's proposal, the maximum would be twelve years.

CHAIR HOKAMA: Twelve years.

MR. KUSHI: Under the Council's proposal, the maximum may be fourteen years.

CHAIR HOKAMA: Mr. White?

COUNCILMEMBER WHITE: Okay. Now, and that's the only difference?

CHAIR HOKAMA: That's the main thing.

COUNCILMEMBER WHITE: Okay.

CHAIR HOKAMA: And that was part of what we dealt with, you know, the situation in the past of what was a full term --

COUNCILMEMBER WHITE: Right.

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CHAIR HOKAMA: --what was not a full term and then, of course, it got into litigation and cost --

COUNCILMEMBER WHITE: Right.

CHAIR HOKAMA: --regarding one of our Members. So, again, it was how we would avoid to get into that litigious situation by being clear on how full terms are to be viewed and what is a full term.

COUNCILMEMBER WHITE: Okay. Thank you.

CHAIR HOKAMA: Mr. Couch, sir?

COUNCILMEMBER COUCH: Just wanna make sure that--I'm looking at Section 3-2(5).

CHAIR HOKAMA: Uh-huh.

COUNCILMEMBER COUCH: That in effect says, the clock starts over for any potential incumbents, is that what that is there for?

CHAIR HOKAMA: Yeah. That's correct.

COUNCILMEMBER COUCH: So that nobody gets cut off at six all of a sudden --

CHAIR HOKAMA: No.

COUNCILMEMBER COUCH: --if this were...okay. Thank you.

CHAIR HOKAMA: No, you would start at zero again. And I believe that in previous Committee meetings, Mr. Kushi has opined consistently on that.

COUNCILMEMBER COUCH: Yeah.

CHAIR HOKAMA: Ms. Cochran?

COUNCILMEMBER COCHRAN: No, that's kind of shocking 'cause people can end up with a lot of terms, but...

CHAIR HOKAMA: True.

COUNCILMEMBER COCHRAN: So let me understand, Mr. Kushi, your comment about it can be twelve years versus --

CHAIR HOKAMA: Fourteen.

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COUNCILMEMBER COCHRAN: --no, fourteen years because the upcoming term would be a two, and then if it passes to the four-year terms, that's the additional twelve?

CHAIR HOKAMA: That's the, yeah, that's the ten...no ten. The Charter Commission version is, half of us will have, potentially, half of those sitting will have --

COUNCILMEMBER COCHRAN: Four.

CHAIR HOKAMA: --two-year terms and the other half will have four-year terms. So that two-year term, the way the Commission is providing...shall be counted as a full term even if it's just two years.

COUNCILMEMBER COCHRAN: Okay. So it is two.

CHAIR HOKAMA: So you will have two, four and four which is your ten.

COUNCILMEMBER COCHRAN: Okay.

CHAIR HOKAMA: Yeah.

COUNCILMEMBER COCHRAN: Got it. That's...okay I'll...that's confusing.

CHAIR HOKAMA: I'm proposing you only count four-year terms as the full term.

COUNCILMEMBER COCHRAN: Okay. Thank you, Chair. Thank you, Mr. Kushi.

CHAIR HOKAMA: Ms. Baisa?

COUNCILMEMBER BAISA: No, I'm fine.

CHAIR HOKAMA: Mr. Carroll? Mr. Pontanilla?

COUNCILMEMBER PONTANILLA: No.

CHAIR HOKAMA: Anything else, Mr. White?

COUNCILMEMBER WHITE: No.

CHAIR HOKAMA: If not, then I'm gonna ask for a motion to pass on first reading, a revised proposed resolution transmitted by correspondence dated June 7, 2012 from the Chair of the Policy Committee entitled, Proposing an Amendment to the Revised Charter of the County of Maui (1983), as Amended, Relating to County Council Terms. Mr. Carroll?

VICE-CHAIR CARROLL: So moved.

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COUNCILMEMBER BAISA: Second.

CHAIR HOKAMA: I have a motion made by Mr. Carroll, seconded by Ms. Baisa. Any additional comments, Members? Mr. White?

COUNCILMEMBER WHITE: Thank you, Chair. You know, I...I'm having hard time getting excited about doing this one. And I won't support the motion. And my reason for that is that while I realize that our focus is on full terms, it's because there's another version being put forth by the Charter Commission. If the Council puts this one forth, it's gonna look as though we're just simply taking care of ourselves. And there's nothing that blocks people from people coming back after a hiatus. So I'm just a little uncomfortable with this looking like we're trying to one-up the Charter Commission for our own benefit.

CHAIR HOKAMA: Uh-huh.

COUNCILMEMBER WHITE: So I'm comfortable with the Charter Commission's version because after that one two-year period, everybody else is four, you know, four terms of three each. And the reason I'm a little bit concerned about it is that this measure has not passed before. It's been placed before the people a number of times and has been defeated. And I believe that the Charter Commission has taken the right direction by increasing it to a four-year term. Because I think that gives us the ability to focus on the business at hand rather than having to deal with election cycles which, you know, as we all know for the next six months, we're all, you know, focused on a somewhat reduced work schedule because of the campaigning that needs to be...the campaigning time that needs to be made available. So I think the Charter Commission is moving in the right direction. And I think that rather than by putting what looks to me like somewhat of a self-serving amendment to their proposal, I would rather...I would feel more comfortable just putting all of the support behind the proposal that they came up with and work to get that passed. So that's my thoughts. Thanks.

CHAIR HOKAMA: Okay. Any further discussion, Members? Mr. Couch?

COUNCILMEMBER COUCH: Thank you. And I tend to concur with what Mr. White says. My only concern is in the Charter Commission's proposal. Mr. Kushi, does it handle the situation that we've had before when somebody comes in in the middle of a term due to a vacancy in office, does that count as a full term? I think that's one of the other reasons why Mr. Hokama's version is important.

CHAIR HOKAMA: Mr. Kushi, any comments?

MR. KUSHI: I believe the...this body's considering a separate Charter Amendment to clarify that on a vacancy and an appointment. And I'm not sure where that is right now. But it's a separate Charter Amendment to say that if you're filling a vacancy, that term shall not count as a full term.

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EXC.: **Councilmember Victorino.**

ABSENT: **None.**

ABSTAIN: **None.**

MOTION CARRIED

ACTION: **Recommending FIRST READING of proposed resolution relating to County Council Term Limits.**

CHAIR HOKAMA: Okay. Thank you, Members. The last item for us under this is the Office of the Auditor. We have two proposals that I have listed for your consideration. One was the original version that the Committee supported which was taking into account more the language and format that we used in 1978 to revise the State Constitution and creating that county audit...not, excuse me, legislative auditor's position is what we have. The Charter Commission did make an adjustment to their proposal, as I understand it, as regards to whether or not the Cost of Government Commission which is an administrative panel would be placed under the county auditor which is, in a sense, attached to the legislative branch to assist with oversight review and accountability of expenditures from the public coffers. So again, Members, substance of the first version that you have before you is the same as what the Council recalled. The proposed resolution as revised does now contain a ballot question on Page 4, Paragraph 8. And that ballot question reads: shall the Charter be amended to establish an independent Office of the County Government [*sic*], remove the Cost of Government Commission, and make other clarifying, conforming, transitional, and related amendments? And, again, this is based on the State constitutional provision in the State Constitution regarding the State Auditor. The second version that your Chair has posted for your consideration and review also was part of this Committee's review in April. The second version is very similar to the Charter Commission's proposal. But like the first version you've had, it declines to make the Cost of Government Commission advisory to the county auditor. And we've had our discussions why the Cost of Government was in place of the auditor in prior charters and in prior practices of the Charter Governance form of local government instead of the old Board of Supervisors' approach. I'll ask Mr. White, any comments? You provided us with one option to address this issue, Mr. White.

COUNCILMEMBER WHITE: Thank you, Chair. Again, with this issue, I think it's...it is better for us to have one item on the ballot. And if the Cost of Government had not removed the section where the county auditor answered to and was hired by the Cost of Government Commission; that, to me, was a significant flaw in the rationale. Had they not taken that out, I would feel it was very important for this body to provide an alternative option on the ballot. But in reading through their version, I think it does what we need to have done by setting up the Office of the Auditor. It is leaving the hiring of the auditor and the oversight of the auditor with the Council. And so I think it does the job. It may not be crafted exactly the way we would like it; but I think there's, in my mind—and others may have different feelings—but in my mind, there's

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insufficient reason to post a second version. I think the main thing for us is to move forward and get the county auditor position established. And I think the Charter Commission version provides that option to us without...and I'm...again, I'm just...I'm not sure that it's necessary for us to post a second alternative.

CHAIR HOKAMA: Okay. Thank you for your thoughts. Mr. Pontanilla?

COUNCILMEMBER PONTANILLA: No.

CHAIR HOKAMA: Mr. Carroll, any comments? Ms. Baisa?

COUNCILMEMBER BAISA: I agree with Member White. I have the same feelings. I think we're already causing a lot of confusion so maybe less is better. Thank you.

CHAIR HOKAMA: Okay. Ms. Cochran?

COUNCILMEMBER COCHRAN: No comments.

CHAIR HOKAMA: Mr. Mateo?

COUNCILMEMBER MATEO: No.

CHAIR HOKAMA: Again, I would be in basic agreement. I think having the county auditor be ratified is priority for this Chair, also. And I would just say that it's gonna have its growing pains so maybe, again, we'll see how it goes and make the appropriate adjustments through some time and see how it moves forward to implementation and actually functioning. So I would say, why don't we...the Chair would recommend that we file this component, the attachments and the proposals as it regards to the county auditor at this time. Alright, I'm gonna just do it with no objections by the Committee. Any objections, Members?

COUNCIL MEMBERS: No objections.

COUNCIL MEMBERS VOICED NO OBJECTIONS (excused: DGC, MPV).

CHAIR HOKAMA: Okay. Thank you for that.

ACTION: Recommending FILING of proposed resolutions relating to Office of the County Auditor (versions 1 and 2).

CHAIR HOKAMA: I do wanna thank, though, Ms. Frias and Ms. Nakata who worked very hard to develop and assist the Committee with making proposals for you to consider. And so I wanna thank them for their hard work, and also the hard work of Mr. Kushi because he had to review a lot of the legalities and constitutionalities [*sic*] of the proposals being considered. So I wanna thank the three of them for a job well done to assist this Committee. Members, there is no

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further business for this Committee. So at this time, thank you for being here this morning, and the Policy Committee of June 13, 2012 is adjourned. . . .(gavel). . .

ADJOURN: 11:50 a.m.

APPROVED:



G. RIKI HOKAMA, Chair
Policy Committee

pol:min:120613

Transcribed by: Raynette Yap

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CERTIFICATE

I, Raynette Yap, hereby certify that the foregoing represents to the best of my ability, a true and correct transcript of the proceedings. I further certify that I am not in any way concerned with the cause.

DATED the 5th day of July, 2012, in Kihei, Hawaii



Raynette Yap