

POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE

Council of the County of Maui

MINUTES

August 14, 2013

Council Chamber, 8th Floor

RECONVENE: 10:04 a.m.

PRESENT: Councilmember G. Riki Hokama, Chair
Councilmember Donald G. Couch, Jr., Vice-Chair
Councilmember Gladys C. Baisa, Member (In 10:14 a.m.)
Councilmember Robert Carroll, Member
Councilmember Elle Cochran, Member (In 10:14 a.m.)
Councilmember Stacy Crivello, Member
Councilmember Don S. Guzman, Member
Councilmember Michael P. Victorino, Member
Councilmember Mike White, Member

STAFF: Kirstin Hamman, Legislative Attorney
Tammy M. Frias, Committee Secretary

Ella Alcon, Council Aide, Molokai Council Office (via telephone conference bridge)
Denise Fernandez, Council Aide, Lanai Council Office (via telephone conference bridge)
Dawn Lono, Council Aide, Hana Council Office (via telephone conference bridge)

ADMIN.: Michael J. Molina, Executive Assistant, Office of the Mayor (Item PIA-2(12))
Kyle K. Ginoza, Director, Department of Environmental Management (Item PIA-1(19))
Bradley M. Pierce, Superintendent, Parks Maintenance Division, Department of Parks
and Recreation (Item PIA-1(20))
Rowena M. Dagdag-Andaya, Deputy Director, Department of Public Works (Item
PIA-1(23))
Moana M. Lutey, Deputy Corporation Counsel, Department of the Corporation Counsel
(Item PIA-1(19))
Jeffrey T. Ueoka, Deputy Corporation Counsel, Department of the Corporation Counsel
(Item PIA-1(20))
Patrick K. Wong, Corporation Counsel, Department of the Corporation Counsel (Item
PIA-1(20))
Richard B. Rost, Deputy Corporation Counsel, Department of the Corporation Counsel
(Item PIA-1(23))
Edward S. Kushi, Jr., First Deputy Corporation Counsel, Department of the Corporation
Counsel (In 10:22 a.m.)

OTHERS: Rosemary Robbins
Additional attendees (2)

PRESS: Eileen Chao, *The Maui News*

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Akaku--Maui County Community Television, Inc.

CHAIR HOKAMA: . . .(gavel). . . The Council's Committee on Policy and Intergovernmental Affairs shall reconvene. This is the continuation of our regular meeting of August 12, 2013. We have some unfinished agenda business to conclude today, Members. So thank you.

Present at this meeting is our Vice-Chairman Mr. Couch. . .

VICE-CHAIR COUCH: Good morning, Mr. Chair.

CHAIR HOKAMA: Good morning. And we have Committee Members, Mr. Carroll. . .

COUNCILMEMBER CARROLL: Good morning.

CHAIR HOKAMA: Good morning. Ms. Crivello. . .

COUNCILMEMBER CRIVELLO: Good morning, Chair.

CHAIR HOKAMA: Good morning. Mr. White. . .

COUNCILMEMBER WHITE: Morning, Chair.

CHAIR HOKAMA: Mr. Guzman and. . .

COUNCILMEMBER GUZMAN: Good morning, Chair.

CHAIR HOKAMA: . . .Mr. Victorino.

COUNCILMEMBER VICTORINO: Aloha and good morning, Chair.

CHAIR HOKAMA: Excused is Mr. Baisa. Members, we're going to take some things in a different order, Members. So the Chair would ask for your indulgence so we can kind of move the business through.

**ITEM PIA-2(12): NOMINATIONS TO BOARDS, COMMITTEES, AND COMMISSIONS
(MAUI COUNTY CULTURAL RESOURCES COMMISSION) (CC 13-42)**

CHAIR HOKAMA: Let me direct you first, please, to Policy Item 2(12). This under our heading of nominations to Board, Committees, and Commissions, specifically the Maui County Cultural Resource Commission. We are in receipt of a correspondence dated July 2nd, 2013, from Mayor Arakawa, who transmitted a proposed resolution entitled APPOINTMENT OF A MEMBER TO THE MAUI COUNTY RE..., CULTURAL RESOURCES COMMISSION. We have

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Mr. Molina present from the Office of the Mayor to give us comments regarding the Mayor's nomination. Mr. Molina.

MR. MOLINA: Good morning, Mr. Chair, and thank you and...Committee Members. The Administration would like to ask for your consideration of Bridget Mowat as the nominee to the Cultural Resources Commission, replacing Irene Kaahanui. Ms. Mowat did assure us she has the time available made by her employer on Molokai, which is the State of Hawaii Department of House...Human Concerns, and she's certainly a very energetic and community-minded individual. If you look at her résumé, she's been involved with several community organizations on her, I guess, free time, which she does have some time, and she is certainly very, you know, happy to, to serve with your confirmation. With that, Mr. Chair, I'm available for questions. Thank you.

CHAIR HOKAMA: Thank you very much, Mr. Molina. Ms. Crivello?

COUNCILMEMBER CRIVELLO: Thank you. At this stage I recommend that we go ahead and approve the nomination of Bridge Mowat to the Maui County Cultural Resources Commission on the basis that she does come with some cultural background, and I think she will be contributory to Maui County as a whole.

CHAIR HOKAMA: Thank you, Ms. Crivello. Members, is there any further questions either for the Chair or Mr. Molina regarding the nominee or comments that you wish to provide at this time? Mr. Couch?

VICE-CHAIR COUCH: Thank you, Mr. Chair. And thank you, Member Crivello, for your good comments on the, on the...on behalf of Ms. Mowat. Mr. Molina, just in looking at the application form at the, the last statement under "Please indicate why you are interested", I'm just concerned if she's aware that it's a Maui County thing and not just Molokai?

MR. MOLINA: Yes, Mr. Chairman. Yes, Council Member, yes, she's very well aware of it...

VICE-CHAIR COUCH: Okay.

MR. MOLINA: ...and, you know, she...I, I like one of her statements where it says under "Educational Background"...

VICE-CHAIR COUCH: Yeah.

MR. MOLINA: ...learn through experience or self-taught.

VICE-CHAIR COUCH: Yeah.

MR. MOLINA: I, I think that speaks volumes about her commitment...

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VICE-CHAIR COUCH: Love it.

MR. MOLINA: . . .at whatever matter she undertakes.

VICE-CHAIR COUCH: Great. Thank you. I just wanted to make sure. Thanks.

MR. MOLINA: Thank you.

COUNCILMEMBER CRIVELLO: Chair.

CHAIR HOKAMA: Ms. Crivello?

COUNCILMEMBER CRIVELLO: I'd like to add also and. . .Mr. Couch's concern, she's actually born and raised on Maui. So she'll take that with her.

CHAIR HOKAMA: Okay. Thank you. Any further comments, Members? Any other comments, Mr. Molina, that you'd like to share with the Committee?

MR. MOLINA: No, not at this time, Mr. Chairman.

CHAIR HOKAMA: Okay. Thank you. It is the Chair's recommendation to move forward the name of Bridget--excuse me, this is what we're going to need to do. Because of the August 31st deadline, Members, you are already in receipt from a communication, from your Chair, indicating the intention for a discharge on this matter. So the Chair will recommend, with no objection, that we defer this item and the Council will deal with the final action of decision on the approval of the nomination at the next Council meeting prior to the August 31st deadline. That way the Council will have its ability to make a decision regarding the nomination. And so that is the, your Chair's recommendation to move. . .how, how to move this nomination forward by a deferral of this item at this time. Any objections to the deferral, Members?

COUNCIL MEMBERS: No objections.

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

CHAIR HOKAMA: Thank you. It'll be deferred and we'll take this up at the Council meeting as a discharge item. Thank you.

ACTION: DEFER pending further discussion.

CHAIR HOKAMA: Thank you, Mr. Molina, for your presence.

MR. MOLINA: Okay. Thank you, Mr. Chairman. Thank you, Committee Members.

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- ITEM PIA-1(19): LITIGATION MATTERS (SETTLEMENT AUTHORIZATION: CLAIM OF PIILANI GARDENS, LLC; CLAIM 2012-011) (CC 13-41)**
- ITEM PIA-1(20): LITIGATION MATTERS (SETTLEMENT AUTHORIZATION: CLAIM OF JAMES. J. STONE, ATTORNEY AT LAW, ON BEHALF OF WAIEHU GOLF SHOP, INC.; CLAIM 2012-1000-15) (CC 13-41)**
- ITEM PIA-1(23): LITIGATION MATTERS (SETTLEMENT AUTHORIZATION: KAY BURKE V. COUNTY OF MAUI; CIVIL 09-1-0127(1)) (CC 13-41)**

CHAIR HOKAMA: Okay. I believe. . .are we now on PIA-1(19)? I guess we are. We'll, we'll bring up under Litigation Matters a Settlement Authorization request. This is the Claim of Piilani Gardens, LLC; Claim No. 2012-011. I believe we have already decided, Members, by votes taken at the Monday meeting to enter into executive session. So that being said, the Chair will take a recess. We shall prepare for executive session and take all remaining items that was decided upon by Committee for executive session. This meeting is in recess. . . .(gavel). . .

RECESS: 10:10 a.m.

RECONVENE: 11:46 a.m.

CHAIR HOKAMA: . . .(gavel). . . The Policy Committee shall return to open session. Thank you, Members, for your work in executive session.

- ITEM PIA-3(3): HAWAII STATE ASSOCIATION OF COUNTIES (HSAC) (2014 HSAC LEGISLATIVE PACKAGE) (CC 13-43)**

CHAIR HOKAMA: At this time let me direct you, first, to Policy Item 3(3). . .3(3) is under the heading of the Hawaii State Association of Counties or also known as HSAC, and this is regarding the 2014 HSAC Legislative Package. The Chair will take up general decision making on the litigation matters later in the meeting. So I am not, have not forgotten our requirements on that, Members.

As you already are aware, the Chair is planning to ask for a discharge to make a deadline for transmittal to the State Association. Part of 3(3), Members, we have currently on this agenda under 3(3) two or, excuse me, three components. One is a resolution proposal to, let's see, support House Bill 2- . . .230, Authorizing County Liquor Commissions to provide funding for Alcohol Abuse Treatment and Prevention. Number two was a proposed resolution supporting a State bill to exempt the legislative bodies of the counties from the Sunshine Law. However, I am aware of. . .that we may have a, another draft proposal from Chair Baisa for consideration. And also the third one would be a consideration for a State bill to enable government agencies to maintain roads in limbo. And those are the three things that we can talk about under 3(3).

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Since I'm aware of Ms. Baisa's consideration, I'll ask her if she has some comments she'd like to share at this time.

COUNCILMEMBER BAISA: Thank you very much, Chair. I do have some comments. Mr. Chair, I support transparency and openness in government. Making government more accessible has been a hallmark of this Council term. But I believe the State Sunshine Law, as currently written and interpreted, is too restrictive and actually impedes Council Members from being more responsive to our constituents. As one important example, we are not able to freely attend community and educational meetings without fear of encountering Sunshine Law problems. I also believe the Council, as a Legislative Body, should have the same flexibility as the State Legislature to more efficiently do the work of the people. So because the Legislature exempts itself from the constraints of the Sunshine Law, it makes sense to provide the county councils similar flexibility. If the State Sunshine Law did not exist, we would probably enact a County Sunshine ordinance to establish parameters for openness and transparency to make government more accessible for our constituents. But for our immediate purposes, I think it would be more productive to ask the Legislature for a specific exemption rather than a blanket exemption, 'cause I think that would be very, very difficult to sell. But to get a smaller piece is probably doable.

So, I intend to propose at the August 20th Council meeting a proposal for the HSAC Legislative Package to provide an exemption for Council Members to freely attend community and educational meetings. Thank you, Mr. Chair.

CHAIR HOKAMA: Thank you, Ms. Baisa, for that consideration. Members, the Chair is supportive of the alcohol abuse treatment and prevention proposal as well as the bill to enable government agencies to maintain roads in limbo, as well as I'm very happy to support Chair Baisa's revised consideration. It is. . .the floor is now open for questions and discussion on those three items. I'll start with Mr. Victorino as our HSAC Representative.

COUNCILMEMBER VICTORINO: No, I would. . .I fully concur with Chair Baisa, and some of these we've had opportunities to bring 'em up in the past. And hopefully we have more resolve and more support unilaterally amongst all the councils. I think this one of the keys, is that once we get all of the councils together and we support it, then the unity is something I think the Legislat..., Legislature recognizes, Chair, and you know that. If we're divided or we're not all on the same page, they take advantage of that. So, I think we're, we're at the point where I think the HSAC in totality and all the councils can support this. So, I thank Ms. Baisa for bringing this forward. Thank you, Chair.

CHAIR HOKAMA: Thank you. Ms. Crivello, any comments, questions?

COUNCILMEMBER CRIVELLO: Thank you, Chair. I'd like to thank Chair Baisa, first of all, recognizing the need for us to have more funding for treatment and prevention of alcohol use, especially among our, our young people. My prior involvement with substance abuse and alcohol abuse, we find that our young people their first. . .their, their gateway or, or choice is

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alcohol and not. . .we don't always have funding especially in, in today's time to go out in the school and educate. So, I appreciate that this, this is included in the HSAC Legislative Package, as well as not. . .you know, being able to attend meetings is of importance I feel. . .or community meetings that in order for us to hear the pulse and heartbeat of our constituents, it's important for us to have that opportunity to participate and well, at least attend without having to say who's going to make the report after there's more than two of us in attendance. So, I can appreciate all of this and I concur with you, Chair, in, in supporting these three matters.

COUNCILMEMBER BAISA: Thank you.

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

COUNCILMEMBER CARROLL: Just a comment. . .that I'm very happy to see this this liq..., the liquor one inside here. I think that's something that I can't imagine people not supporting. As for the Sunshine Law one, it's obvious that something needs to be done, it needs to be tweaked in some way at the very least. . .a good law with unintended consequences that is obviously making government more inefficient, so something does need to be done. And as for the roads, we all saw the problems we had by Twin Falls and other places. That's something that's very necessary. So, I support all three. Thank you.

CHAIR HOKAMA: Okay. Thank you very much, Mr. Carroll. Ms. Cochran?

COUNCILMEMBER COCHRAN: Thank you, Chair. And I concur with the sentiments of my fellow Council Members' comments thus far, and I'm happy to see the roads in limbo here, which is an item in my Committee currently. So I'm definitely full, wholeheartedly support all three of these and I'm looking forward to seeing them pass and come to fruition.

CHAIR HOKAMA: Great.

COUNCILMEMBER COCHRAN: Thank you.

CHAIR HOKAMA: Mr. Couch?

VICE-CHAIR COUCH: Thank you, Mr. Chair. And I, too, concur with Chair Baisa and her comments on the Sunshine Law. So enough has been said about that one. And the, her alcohol abuse treatment and prevention funding is a long, you know, we've tried for this for a long time and we want to try and get this going, it's much needed. And having dealt with the roads in limbo myself in a further. . .prior, prior life, thank you for getting this on the bill as well. We need to get this resolved. So, I support all three. Thank you.

CHAIR HOKAMA: Thank you. Mr. White?

COUNCILMEMBER WHITE: I think everything has been covered. I, I share the sentiments of Ms. Baisa and, and the others that have spoken. I think the importance of us being able to attend

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public functions is, is something that would correct something that's the most stupid part of this law because we're out in public arenas, and the purpose of the Sunshine Law is to provide us or provide the public with the transparency. If we can't attend public meetings over which we have no control over on agenda items, discussion, or anything of the sort, that's the epitome of transparency. And if we can't do that and be trusted not to collude in public, then there's something wrong with all of us. I think we all address public meetings in a very forthright and honest way and we, we do the same here in the building. So, I think it's, it's very appropriate for us to ask for an exemption from something that makes absolutely no sense.

CHAIR HOKAMA: Good point. I've always wondered why they wanted to take "public" out of public official.

COUNCIL MEMBERS: . . .*(chuckle)*. . .

COUNCILMEMBER WHITE: Yeah.

CHAIR HOKAMA: . . .*(chuckle)*. . . I never understood that. Mr. Guzman?

COUNCILMEMBER GUZMAN: Thank you, Chair. I also support our Council Chair and her attempts to change things for our community. I always believe that the grassroots is prevention and education. But there is a problem with alcoholism in our, in our community. It starts with educating the people, especially the family. We have to stop this circle of violence or abuse, and I think this is one way of doing so. So, I applaud Council Chair for putting forth this measure. Also in regards to the Sunshine Laws that we are held to, if it were reversed, I believe this would be unconstitutional on behalf of us because it's vague, overbroad and, and it does not allow for, for movement or at least discussion that would be more effective in pursuing our goals and passing legal and legitimate legislation. So, I also support her attempts to address the issues in the Sunshine Law. Thank you.

CHAIR HOKAMA: Thank you. Further comments? It is your Chair's intention, again, because of timing and, and a clock ticking for submittal to the Executive Committee of HSAC, the Chair will be recommendation deferral of this item today--I'm happy to have more discussion, if the Members wish--and at the Council meeting there'll be a request for a discharge so the Council can make a, make its decision on the matter, including Chair Baisa's revised proposal which I fully support. Any questions to the Chair?

COUNCILMEMBER VICTORINO: No.

CHAIR HOKAMA: If not, this will be. . .this item will be deferred. No objection, Members?

COUNCIL MEMBERS: No objections.

COUNCIL MEMBERS VOICED NO OBJECTIONS.

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CHAIR HOKAMA: Thank you. Item 1(23). . .excuse me, 3(3) is deferred.

ACTION: DEFER pending further discussion.

CHAIR HOKAMA: We have one. . . before we take up one last item, let me tell you the Chair's intent. I would like us to go into decision making on all of the litigation matters. I'm going to propose a lunch recess and ask you when you would like to return. I know we had a general agreement of about 1:30 and at 1:30 we'll reconvene. And it's your Chair's intention to lay out a proposal of a format of how we want to move forward with the Council's investigation, some of the components that go into my three-phase proposal, which you will be able to review and question. We'll also have comments from Ms. Hamman regarding the powers and tools that are available to the Committee. . . that we may or may not want to use. And then potentially also in my discussions with Mr. Wong as head Corporation Counsel, I believe it is part of my job to also give you some other options that you may want to consider as we move forward with that, with Item 41. And the Chair is intent to do it after lunch so that we don't break our thought. We'll just go through it and we'll finish it up as soon as possible this afternoon. So that's how I intend to move with the rest of the agenda. Ms. Baisa?

COUNCILMEMBER BAISA: Thank you very much, Chair. Chair, could we possibly consider a shorter lunch?

CHAIR HOKAMA: Sure.

COUNCILMEMBER BAISA: I have a really important thing this afternoon. And so the sooner we can get through, the better. But, of course, I don't want to miss any of this.

CHAIR HOKAMA: Sure.

COUNCILMEMBER BAISA: But it's up to the group. I mean. . .

CHAIR HOKAMA: Yes, yes.

COUNCILMEMBER BAISA: . . . you know, I'm only one person.

COUNCILMEMBER COCHRAN: One hour lunch?

CHAIR HOKAMA: Yeah.

COUNCILMEMBER COCHRAN: One hour?

CHAIR HOKAMA: You guys willing to return at 1:00?

COUNCILMEMBER COCHRAN: One o'clock is fine, yes, Chair.

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COUNCIL MEMBERS: Yes.

CHAIR HOKAMA: Okay. . .you know what, I'm going to then defer even the decision making. . .

COUNCILMEMBER BAISA: Right.

CHAIR HOKAMA: . . .of the litigation matters till after lunch, till after the recess, okay, so you can maximize your time now.

COUNCILMEMBER BAISA: Thank you, Chair.

CHAIR HOKAMA: Okay? So we'll stand in recess till 1:00 p.m. . . .(*gavel*). . .

RECESS: 12:01 p.m.

RECONVENE: 1:06 p.m.

CHAIR HOKAMA: . . .(*gavel*). . . We shall reconvene the Policy's . . .Committee meeting of the agenda that was posted for Monday, August 12, 2013. We have some housekeeping requirements to take up at this time.

ITEM PIA-1(19): LITIGATION MATTERS (SETTLEMENT AUTHORIZATION: CLAIM OF PIILANI GARDENS, LLC; CLAIM 2012-011) (CC 13-41)

CHAIR HOKAMA: Members, the Chair will entertain a motion regarding Policy Item 1(19) under Litigation Matters (Settlement Authorization: Claim of Piilani Gardens, LLC; Claim No. 2012-011). The Chair will entertain a motion as discussed in executive session regarding this specific request. Mr. Couch?

VICE-CHAIR COUCH: Mr. Chair, I move to adopt the resolution entitled "AUTHORIZING SETTLEMENT OF CLAIM NO. 2012-011 OF PIILANI GARDENS, LLC" and its recommendations as discussed in executive session.

COUNCILMEMBER BAISA: Second.

CHAIR HOKAMA: We have a motion made by Mr. Couch, seconded by Ms. Baisa. We're under discussion. Any discussion or questions, Members? If not, all in--yes, Mr. Couch?

VICE-CHAIR COUCH: Do we need to file the communication on this one or is that later?

CHAIR HOKAMA: No, it's, it's an umbrella. . .

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VICE-CHAIR COUCH: Okay, okay.

CHAIR HOKAMA: . . .topic for referral. Thank you. Members, you have a motion before you. All in favor of the motion, please say “aye”.

COUNCIL MEMBERS: Aye.

CHAIR HOKAMA: Opposed, say “no”. Motion passes with 9 ayes.

VOTE: AYES: Chair Hokama, Vice-Chair Couch, and Councilmembers Baisa, Carroll, Cochran, Crivello, Guzman, Victorino, and White.

NOES: None.

EXC.: None.

ABSENT: None.

ABSTAIN: None.

MOTION CARRIED

ACTION: Recommending ADOPTION of resolution.

ITEM PIA-1(20): LITIGATION MATTERS (SETTLEMENT AUTHORIZATION: CLAIM OF JAMES. J. STONE, ATTORNEY AT LAW, ON BEHALF OF WAIEHU GOLF SHOP, INC.; CLAIM 2012-1000-15) (CC 13-41)

CHAIR HOKAMA: May I direct you to Policy Item 1(20) also under Litigation Matters (Settlement Authorization: Claim of James J. Stone, Attorney At Law, on behalf of Waiehu Golf Shop, Inc.; Claim No. 2012-1000-15). The Chair is recommending adoption of the proposed resolution entitled “AUTHORIZING SETTLEMENT OF CLAIM NO. 2012-1000-15, JAMES J. STONE, ATTORNEY AT LAW, ON BEHALF OF WAIEHU GOLF SHOP, INC.”. Mr. Couch?

VICE-CHAIR COUCH: Thank you, Mr. Chair. I move to adopt the resolution entitled “AUTHORIZING SETTLEMENT OF CLAIM NO. 2012-1000-15, JAMES J. STONE, ATTORNEY AT LAW, ON BEHALF OF WAIEHU GOLF SHOP, INC.” and based on the discussions in executive session.

COUNCILMEMBER BAISA: Second.

CHAIR HOKAMA: We have a motion by Mr. Couch, seconded by Ms. Baisa. Any further discussion, Members? Having none, all in favor of the motion, please say “aye”.

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COUNCIL MEMBERS: Aye.

CHAIR HOKAMA: Opposed, say “no”. Motion passes with 9 ayes.

VOTE: **AYES:** **Chair Hokama, Vice-Chair Couch, and Councilmembers Baisa, Carroll, Cochran, Crivello, Guzman, Victorino, and White.**

NOES: **None.**

EXC.: **None.**

ABSENT: **None.**

ABSTAIN: **None.**

MOTION CARRIED

ACTION: **Recommending ADOPTION of resolution.**

ITEM PIA-1(23): LITIGATION MATTERS (SETTLEMENT AUTHORIZATION: KAY BURKE V. COUNTY OF MAUI; CIVIL 09-1-0127(1)) (CC 13-41)

CHAIR HOKAMA: May I direct you to Policy Item 1(23), Litigation Matters (Settlement Authorization: Kay Burke v. the County of Maui; Civil No. 09-1-0127(1)). The Chair will entertain a motion to forward the proposed resolution authorizing settlement as discussed in executive session. Mr. Couch?

VICE-CHAIR COUCH: Thank you, Mr. Chair. I move to adopt the proposed resolution entitled AUTHORIZING SETTLEMENT OF KAY BURKE V. COUNTY OF MAUI, CIVIL NO. 1. . .09-1-0127(1), and the recommendations discussed in executive session.

COUNCILMEMBER BAISA: Second.

CHAIR HOKAMA: We have a motion by Mr. Couch, seconded by Ms. Baisa. We’re under discussion. Any further comments, Members? If not, all in favor of the motion, please say “aye”.

COUNCIL MEMBERS: Aye.

CHAIR HOKAMA: Opposed say no. Motion passes with--

COUNCILMEMBER GUZMAN: No.

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COUNCILMEMBER WHITE: No.

COUNCILMEMBER VICTORINO: No.

CHAIR HOKAMA: Oh, excuse me. Thank you.

COUNCILMEMBER VICTORINO: Three noes, actually.

CHAIR HOKAMA: Okay, thank you. The Chair will correct the vote. The vote is 6 ayes, 3 noes; Mr. White, Mr. Guzman, and Mr. Victorino. Thank you, Members.

VOTE: **AYES:** **Chair Hokama, Vice-Chair Couch, and Councilmembers Baisa, Carroll, Cochran, and Crivello.**

NOES: **Councilmembers Guzman, Victorino, and White.**

EXC.: **None.**

ABSENT: **None.**

ABSTAIN: **None.**

MOTION CARRIED

ACTION: **Recommending ADOPTION of resolution.**

CHAIR HOKAMA: As I mentioned, Policy Item 3(3), the Chair's intent was, is to defer that item. That will be taken up at the Council meeting.

ITEM PIA-41: COUNCIL INVESTIGATION OF OLD WAILUKU POST OFFICE (MISC)

CHAIR HOKAMA: May I direct you now to Policy Item 41, under the heading of Council investigation of Old Wailuku Post Office. The Chair has for your information, Members, two handouts. One is the General Scope, Process, and General Rules that I have prepared for your review and comment in how we would, the Chair would like to proceed with this. . .assignment of the Committee. Also we have, I have for you a handout. . .that describes the limits of, of subpoena powers that the Council does have and the authority that is given that provides this Committee and the Council to use this tool if it so chooses to do so. And I believe we have a request for some additional time. .if, Members, do you want more time to review this information? I'm happy to grant a short recess on this matter. Is that something you folks would like?

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COUNCIL MEMBERS: Yes.

CHAIR HOKAMA: Ten minutes okay? Is that sufficient? Okay, we'll take a ten minute recess.
...*(gavel)*...

RECESS: 1:12 p.m.

RECONVENE: 1:22 p.m.

CHAIR HOKAMA: ...*(gavel)*... Policy Committee shall return to order. Members, we are on Policy Item 41. So as I stated at the beginning of this item, I gave you two handouts. One was a proposal by your Chair regarding the Scope, Process, and the General Rules to proceed on this matter. So a couple of things that I wanted to share with the Committee. Generally, I was considering a phase, three-phase approach to this assignment of the Committee.

Phase I would be the introductory and general understanding of process, the par..., have a clear understanding of the parameters of the investigation review as well as questions from the Committee regarding the type of approach they would like the Chair to consider. The Chair is aware of the Committee's desire to be expeditious as possible, and so I am aware of that. However, there are some things that I believe would be critical to the review for the Committee to come up with a fair and...fair conclusion, findings of fact and, and the conclusion of recommendations of how we may want to proceed, whether it be considerations of an ordinance regarding procedures of process or other legislative remedies. In the meantime, though, it does not...stop the Administration from doing any internal adjustments that they feel appropriate at this time prior to, prior to us completing our review. So, I'm looking at maybe one or two for the initial review process and scope and understanding of the powers that are...are given to the Committee, and, and then one of it is the subpoena powers, which we gave you a handout and obviously you can see it's been many decades the Council has asked regarding subpoena and investigative authorities to have Administration respond to them.

The second phase would be, of course, the actual investigative process requesting specific individuals...I should say employees, not the individuals, but the employee in their specific job to come forward to give responses to the Committee.

And then the final phase, of course, would be for us to work on our findings and facts and a conclusion, which could also incorporate recommendations of...to the Administration of how to move forward, as well as to the Council on how it may want to review and adjust the Maui County Code.

So that's your Chair's opening comments at this time. Any questions for you, the Chair at this time. Mr. Carroll?

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COUNCILMEMBER CARROLL: Thank you, Chair. To expediate the process the documents that you have listed and other possible documents that the Committee could review. . .(*cleared throat*). . .excuse me, if we had those documents ahead of time and we had a chance to review 'em, I think that would greatly increase our ability to cut to the chase and see where we need to look and see who we would need to call. I mean. . .that would give us a, a strong foundation for looking if we did need to request certain people, we would have much clearer idea. . .who to call instead of the shotgun approach and, you know, just wondering well, who's responsible for what. I, myself, I would really like to be able to review those documents before the next meeting, if possible, or if not when the next meeting, if the documents were made available, maybe we could convene and then. . .

CHAIR HOKAMA: Uh-huh.

COUNCILMEMBER CARROLL: . . .recess for a while and have a chance to go over them.

CHAIR HOKAMA: Thank you for those comments, Mr. Carroll. The Chair will assist the Committee Members with securing as much information as possible. Also because this is all public information currently, it is easily accessible to anyone, including the public, from the County Clerk's Office regarding those contracts. But the Chair will assist the Committee's, Member's request for additional documents and information. That is not a problem, Mr. Carroll. The Chair in, in. . .you know, in, in a short while, if there's no further questions, will ask the Committee to consider executive session under 92-a-4 [*sic*] to consult with Corporation Counsel on couple of scenarios that the Chair. . .feels it's important that the Committee at least have an opportunity to consider regarding the strategy of how we move forward. And so if there's no questions for the Chair at this time. . .

COUNCILMEMBER GUZMAN: Chair.

CHAIR HOKAMA: Mr. Guzman?

COUNCILMEMBER GUZMAN: Thank you, Chair. Just a couple of comments and. . .

CHAIR HOKAMA: Sure.

COUNCILMEMBER GUZMAN: . . .what I probably most likely will do, I just want to give a heads-up, is I'm looking at the procedures here. It looks as though. . .I like the fact that it's, it's done in three phases. One of the issues that I would probably have, maybe make a motion for is more of a definite timeline. I, I see that you've indicated one or two meetings per phase. So that pretty much gives us eight meetings.

CHAIR HOKAMA: Uh-huh.

COUNCILMEMBER GUZMAN: I'm of a believer of that there always should be a timeline, considering the fact there's Rule 48 law, Rules in Court will always have a docketed calendar.

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Same is true with the Police, they've got six months to do investigation. Our permitting process got 30 days, 60 days. So we should have some type of calendar type. . . timeline built in here. . .

CHAIR HOKAMA: Uh-huh.

COUNCILMEMBER GUZMAN: . . . which, which I see that you've, you've done so generally, but maybe when we start getting into more specifics, we definitely need to have a timeline established so that human nature is deadlines, yeah--

CHAIR HOKAMA: Understood. Understood, Mr. Guzman.

COUNCILMEMBER GUZMAN: --Chair. Okay. And then the second one would be. . . probably I'd like to make a motion later down the road or maybe this afternoon, or if we can resolve this, is that I notice in the document itself is. . . we're, we're, we're referring to a performance audit. . .

CHAIR HOKAMA: Uh-huh.

COUNCILMEMBER GUZMAN: . . . and I. . . since we now have an Auditor, I would like to at least this first meeting if we could, you know, pass something that basically says that we're requesting our, our County Auditor to consider taking a look at it, I mean, right off the bat--

CHAIR HOKAMA: You, you--

COUNCILMEMBER GUZMAN: Right.

CHAIR HOKAMA: --you are thinking exactly one of, some of the things I was planning to share with the Committee, and that was one of the key points. And part of executive session will be to cons..., discuss the strategies and options of how the Committee may want to move forward, and I prefer to use the Statute at this point in time for executive session purposes regarding the privileges of the Committee in, in doing this for including the various options of the Auditor component, as well as other options as it regards to Corporation Counsel also.

COUNCILMEMBER GUZMAN: Yeah, very good.

CHAIR HOKAMA: And, and it is. . . and at the appropriate time it will all then also be brought up back in open session for the community and the public to be fully informed and aware of how we shall be proceeding. But I believe it's enough. . . of validity to, for us to consider executive session regarding the strategies, the privileges, especially the privileges of the Committee to perform its task as assigned by Council. And, you know, if Corporation Counsel, when our attorneys get uncomfortable that we may be straying from the parameters of proper executive session, then of course we'll adjourn and go back to open session. But I believe there's some things we need to discuss in executive session regarding how we're going to proceed, and I want the Members to be informed of the options so that we can then move forward in open session in an appropriate manner.

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COUNCILMEMBER GUZMAN: Very good. Thanks, Chair.

CHAIR HOKAMA: Mr. White?

COUNCILMEMBER WHITE: Thank you, Chair. And along some of the same line. . .and you're probably, you probably already considered this, but I was just wondering if your thought was to incorporate some special meetings as opposed to waiting for each, each of your meeting, scheduled meeting times. But I think that would. . .*(inaudible)*. . .

CHAIR HOKAMA: Yeah. That, I prefer, that we discuss as part of the strategy in executive session so that. . .you know, I think that's more, more. . .that would be the more appropriate place at this time.

COUNCILMEMBER WHITE: Okay, that's fine. Thank you.

CHAIR HOKAMA: But, yeah, that's, that's on the list of what I would like the Members to consider. Okay. Anything else for the Chair in open session regarding what we've discussed and what I've handed out to you folks?

Okay. If not, the Chair will entertain a motion for executive session regarding Policy Item 49 [*sic*], and the Chair will cite Hawaii Revised Statutes 92-5(a)(4), which is 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. Couch?

VICE-CHAIR COUCH: Thank you, Mr. Chair. I move to go into executive session per HRS 92-5(a)(4).

COUNCILMEMBER VICTORINO: Second, Mr. Chair.

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

COUNCIL MEMBERS: Aye.

CHAIR HOKAMA: Opposed, say no. Motion passes with 9-0.

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VOTE: **AYES:** **Chair Hokama, Vice-Chair Couch, and Councilmembers Baisa, Carroll, Cochran, Crivello, Guzman, Victorino, and White.**

NOES: **None.**

EXC.: **None.**

ABSENT: **None.**

ABSTAIN: **None.**

MOTION CARRIED

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

CHAIR HOKAMA: We shall enter into recess to prepare for executive session. . . .(*gavel*). . .

RECESS: 1:33 p.m.

RECONVENE: 2:34 p.m.

CHAIR HOKAMA: . . .(*gavel*). . . The Policy Committee shall return to open session. Thank you, Members.

COUNCILMEMBER COCHRAN: Oh.

COUNCILMEMBER BAISA: No more legal.

COUNCIL MEMBERS: . . .(*chuckle*). . .

CHAIR HOKAMA: Oh. We . . our . . we do not have Mr. Corp. Counsel at this time. No, no, no, no, it's okay. What I'm going to say in open session is not going to be--yeah, thank you--excuse me, contentious.

So anyway, Members, regarding Item 41, the Chair wanted to make some comments. The Chair, with no objection, would like the Committee. . .well, the Chair would like to inform the Committee, with no objections, that I will be forwarding to the County Auditor, Mr. Taguchi, a request for consideration to perform an audit regarding the Old Wailuku Post Office as prescribed by authorization of the resolution to this Committee regarding financial and performance; and in that letter, the Chair intends to ask the Auditor to respond within two weeks, and in that response if he agrees to perform the audit, to give us indication of how he may wish to move forward and any other information that will assist the Committee in tightening up a

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schedule of how we can then proceed and conclude our review for final Council consideration. Regarding that com..., scheduling, again one of the key components at this time the Chair is looking, of course, at is the Auditor agreeing to our request. I'm hoping he can move forward. We'll allow him some flexibility to come up with the amount of time he needs, if he chooses to move forward.

The second thing, Members, that I would like to ask you to consider this afternoon is, it is your Chair's position at this time that I would like to have the Department of Corporation [sic] to be deleted from the Committee's review and investigation. The Chair's position is that the Department, upon request, provides advice and counsel. The Department does not make any final decisions regarding CIP projects or the final expenditure of, of public funds. They provide us with advice, and the Administration with advice, and counsel. So with no...if there's any questions for the Chair. Mr. Couch?

VICE-CHAIR COUCH: Do you need a...Mr. Chair, do you need a motion for that or do you just need our support for a discharge... something like this, how we do the discharge?

CHAIR HOKAMA: I'm informing you of my intention as your Chairman. Part of the request for the opting out the Department of Corporation Counsel, I believe timing is of a...is important, and so your Chair's approach to this matter is that I'm going to recommend to this Committee that the Chair will present a proposed resolution that I will be sending to Ms. Baisa for posting. Part of that resolution to opt out the Department of Corporation Counsel will also be a request to discharge this Committee from further consideration of that request to waive the Rules of the Council and have the Council make its decision at that Council meeting.

COUNCIL MEMBERS: No objections.

COUNCIL MEMBERS VOICED NO OBJECTIONS.

CHAIR HOKAMA: No objections to that? Okay, the Chair will move forward. Is that for all points regarding also the request--

COUNCILMEMBER BAISA: Yes, all points.

CHAIR HOKAMA: --for the Auditor?

VICE-CHAIR COUCH: Yep.

CHAIR HOKAMA: Okay. I will take that and as your Chair, I will move forward with the forwarding that request to Mr. Taguchi regarding the audit as well as prepare a proposed resolution for consideration for discharge and final Council decision making regarding the opting out of the Department of Corporation Counsel. Is there any further, more questions? I think once we get that two squared away, we'll be able to tighten up the timetable and inform the Administration of

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our schedule and request their assistance to work with the Committee so we can move towards a quicker resolution than later. If there's no further discussion--Mr. Couch, yes?

VICE-CHAIR COUCH: Just, just a thought that, that if you get a chance to discuss with whomever the possibilities of moving forward with the project while we're doing this. I know we discussed a little bit of it before, but is there a way we can legitimately do that? So if there's a way you can discuss that with Corp. Counsel or whomever to see if we can bifurcate this whole setup. . .if you can.

CHAIR HOKAMA: The Chair would be happy to have a discussion with the appropriate. . .indi..., you know, personnel, Mr. Couch, and I'll be happy to report back to the Committee. Mr. White?

COUNCILMEMBER WHITE: Thank you, Chair. And, you know, as I said in our, in our Council meeting, my interest is in facilitating the. . .moving ahead with the, the fee. . .

CHAIR HOKAMA: Uh-huh.

COUNCILMEMBER WHITE: . . .the budget amendment to provide money for fees for the design, and with your concurrence if Mr. Kushi is assigned to us, then that allows me now to have a Corp. Counsel with whom I can discuss steps that we can use to move forward on that. So, I will be more than happy to follow-up with Mr. Kushi on that.

CHAIR HOKAMA: Okay. Thank you very much. Any further questions or comments for the Chair? . . .Yeah, we're clear, are we clear? Okay. Okay. Yeah, we are, we going defer this item.

Okay, Members, last action for today is, with no objection, the Chair would like to defer Item 41.

COUNCIL MEMBERS: No objections.

COUNCIL MEMBERS VOICED NO OBJECTIONS.

CHAIR HOKAMA: Thank you. Item 41 is deferred.

ACTION: DEFER pending further discussion.

CHAIR HOKAMA: And thank you for your attendance, Members, and your participation. This Policy meeting is adjourned. . . .*(gavel)*. . .

ADJOURN: 2:41 p.m.

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APPROVED:


G. RIKI HOKAMA, Chair
Policy and Intergovernmental Affairs Committee

pia:min:130814r

Transcribed by: Tammy M. Frias