

# **POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE**

**Council of the County of Maui**

## **MINUTES**

**March 13, 2014**

**Council Chamber, 8<sup>th</sup> Floor**

**CONVENE:** 9:04 a.m.

**PRESENT:** Councilmember G. Riki Hokama, Chair  
Councilmember Donald G. Couch, Jr., Vice-Chair  
Councilmember Stacy Crivello, Member  
Councilmember Don S. Guzman, Member  
Councilmember Michael P. Victorino, Member  
Councilmember Mike White, Member

**EXCUSED:** Councilmember Gladys C. Baisa, Member  
Councilmember Robert Carroll, Member  
Councilmember Elle Cochran, Member

**STAFF:** Carla Nakata, Legislative Attorney  
Sharon C. Brooks, 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(21))  
David C. Goode, Director, Department of Public Works (Item PIA-2(21))  
Kyle K. Ginoza, Director, Department of Environmental Management (Item PIA-1(3))  
Danny J. Matsuura, Assistant Chief, Department of Police (Item PIA-1(11))  
Richelle M. Thomson, Deputy Corporation Counsel, Department of the Corporation  
Counsel (Item PIA-1(3))  
Moana M. Lutey, Deputy Corporation Counsel, Department of the Corporation Counsel  
(Items PIA-1(11) and -1(33))  
Patrick K. Wong, Corporation Counsel, Department of the Corporation Counsel (Items  
PIA-1(3), -1(11), and -1(33))  
Edward S. Kushi, Jr., First Deputy Corporation Counsel, Department of the Corporation  
Counsel

**OTHERS:** Calmentina Gomes (Item PIA-2(21))  
Arleen Ricalde-Garcia (Item PIA-2(21))  
Colleen Doyle, Esq., Hunton & Williams LLP (Item PIA-1(3))

*Seated in the gallery:*

Scott K. Kaneshina, Senior Analyst, Office of the County Auditor (Item PIA-2(21))

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

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CHAIR HOKAMA: . . .(*gavel*). . . Council's Committee on Policy and Intergovernmental Affairs shall come to order. This is the Committee's regular meeting of March 13, 2014. Present at today's Committee meeting is Vice-Chairman Couch.

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

CHAIR HOKAMA: Good morning. Committee members, Ms. Crivello.

COUNCILMEMBER CRIVELLO: Good morning, Chair.

CHAIR HOKAMA: Good morning. Mr. White.

COUNCILMEMBER WHITE: Good morning, Chair.

CHAIR HOKAMA: Mr. Guzman.

COUNCILMEMBER GUZMAN: Good morning, Chair.

CHAIR HOKAMA: And Mr. Victorino.

COUNCILMEMBER VICTORINO: Good morning, Chair.

CHAIR HOKAMA: Chair excuses from today's meeting, Ms. Baisa, Ms. Cochran, and Mr. Carroll. Before we take up the Committee's business as agendized by the Chair, we shall take public testimony. Anyone wishing to give public testimony has three minutes, make yourself known to the Chair, you shall have your opportunity to give your thoughts to the Committee on any item that we have agendized for today, state your name, your organization if you represent one, and we shall assist you with your time, you have three minutes, two minute-thirty mark, a yellow light goes on. For those in our District Offices, the Staff will announce the two minute thirty second mark, and at the three minute mark, the Chair is gonna ask you to conclude your comments. Therefore, at this time we shall take public testimony. Ms. Frias, any request for public testimony?

MS. NAKATA: No, Mr. Chair.

CHAIR HOKAMA: Thank you, Ms. Nakata. Do we have any from Hana?

MS. LONO: Good morning. This is Dawn Lono at the Hana Office, and there is no one waiting to testify.

CHAIR HOKAMA: Thank you, Ms. Lono. Lanai?

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MS. FERNANDEZ: Yeah, good morning, Chair. This is Denise Fernandez on Lanai, and there is no one waiting to testify.

CHAIR HOKAMA: Thank you. Molokai?

MS. ALCON: Good morning, Chair. This is Ella Alcon on Molokai, and there is no one here waiting to testify.

CHAIR HOKAMA: Thank you. Members, there is no request for testimony. The Chair shall close testimony for today's meeting of March 13, 2014.

COUNCIL MEMBERS: No objections.

CHAIR HOKAMA: Thank you, Members, so ordered. Thank you, ladies, in our District Offices.

**ITEM PIA-2(21): NOMINATIONS TO BOARDS, COMMITTEES, AND COMMISSIONS (VARIOUS) (CC 13-42)**

CHAIR HOKAMA: Today, we have before the Committee, two nominees for consideration. One is with the Cost of Government Commission. The Mayor has re-nominated, Calmentina Gomes, for reappointment to the Cost of Government Commission. So we'll ask Ms. Gomes if she would come forward, please, and give us some of her thoughts regarding the reappointment.

MS. GOMES: Good morning, Chair --

CHAIR HOKAMA: Good morning.

MS. GOMES: --Hokama, Vice-Chair Couch, Members of the Council.

UNIDENTIFIED SPEAKER: Good morning.

MS. GOMES: I have been asked to be reappointed, I guess, to the Cost of Government Commission, and I had accepted. Again, when I was here, about a year and a half or so ago, I do take these appointments very serious. I don't just look at it as a volunteering type of aspect; I do look at it as a job of mine, and again, I do want to carry on what the current Commission, the members that are there. . .we do have of quite a lot that are vacating at the end of this month, which would have included myself, and I would like to carry on what we've worked on within this past year. So those are my thoughts on being reappointed, and I'm hoping that I will be seriously considered for reappointment, thank you.

CHAIR HOKAMA: For the Committee's understanding, can you share what the Commission has been working on?

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MS. GOMES: Within this past year, prior to this year, we've worked on...there was two subcommittees, we had done a shift over the year because of the transition with the Office of the County Auditor. This year we've worked on two items, one was a strategic plan for the Cost of Government Commission, the other was an, somewhat of a new evaluation, and I'll use the term investigation of the Office of the County Auditor, so that would be the two items that we had worked on.

CHAIR HOKAMA: Okay. I think you guys straying into areas you not authorized to do so.

COUNCILMEMBER VICTORINO: Chair?

CHAIR HOKAMA: Yes, Mr. Victorino.

COUNCILMEMBER VICTORINO: Oh, okay. Can we ask some questions?

CHAIR HOKAMA: No, no. . .yeah, yeah.

COUNCILMEMBER VICTORINO: I was, just was waiting. I don't know if you were finished, that's why.

CHAIR HOKAMA: No, I just gave my comment that I think they straying into areas that the Chair does not believe they authorized to do so.

COUNCILMEMBER VICTORINO: Yeah, I was going to ask that question as far as, have you looked at the Charter and the way the Charter is mandated?

MS. GOMES: Yes, we do believe. . .I was not necessarily a part of the TIG, Temporary Investigative Group that if we're referring to the evaluation, investigation of the Office of the County Auditor, I was not part of that particular group; however, given the information that will come back to us on the Commission, we aware that the Charter is the, that is the document that we do ultimately refer to, so yes, we do understand the Charter.

COUNCILMEMBER VICTORINO: And then, I guess, my next question is, with that being said, has Corporation Counsel been consulted with what you guys intent is?

MS. GOMES: Oh, yes, we've. . .to my understanding, I believe Chair De Rego, has consulted and with Corporation Counsel. We've received in the meetings, their input regarding it.

COUNCILMEMBER VICTORINO: And, Chair, I would like to ask Corporation Counsel after all the questions asked to the testifier, a little more clarification in that statement. I think, I agree with you, sir, you know, I agree with you, but I'll hold up and let other questions be asked of the applicant and then maybe thereafter discuss, you know, with Corporation Counsel, please.

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CHAIR HOKAMA: Okay.

COUNCILMEMBER VICTORINO: Thank you, Chair.

CHAIR HOKAMA: Thank you. Mr. Guzman, any questions for Ms. Gomes at this time?

COUNCILMEMBER GUZMAN: No questions, Chair, just a comment. I've worked with Ms. Gomes in the past; I believe that she's very competent in terms of her duties and look forward to working with her again. Thank you for re-upping.

MS. GOMES: Thank you.

COUNCILMEMBER GUZMAN: Thank you.

CHAIR HOKAMA: Thank you. Mr. White.

COUNCILMEMBER WHITE: Thank you, Chair. Yeah, I have some of the same concerns. The Charter states that the Commission shall be advisory to the Auditor. And in what. . . I realize that the Cost of Government Commission has the ability to investigate any department, but my concern is that we drafted the Charter amendment to establish the Office of the Auditor in a way to provide significant independence from the Administration and from this body.

MS. GOMES: Correct.

COUNCILMEMBER WHITE: Everywhere or in most places, the Auditor position exists, it answers to the legislative body, because we are the one that are responsible for providing checks and balances. The Commission is tied more to the Administration than it is to this body. My concern had been in looking over minutes, and you just stated it, that the Commission is looking at investigating the Auditor, because you are not allowed to evaluate him. I'm troubled by the direction, because right out of the box, you and others have seemed to be involved in significantly reducing the independence of the Auditor, which we took great pains to keep the Auditor at a arms distance from this body, and we made it possible for the Auditor to investigate, or to audit the Council and every branch of the Administration. So I would like to have some explanation as to why these votes were taken to create an investigation, why the votes were taken to insert, from the looks of the minutes, the, a review of the Auditor position as part of your strategic plan?

MS. GOMES: I think, speaking for myself, with regards to the strategic plan and including the investigation, and again, that term was coined to us because of the use of the word evaluation. Again, I don't necessarily look at it as an adversarial approach to working with the County Auditor. As like any other department that the Cost of Government is going to investigate, the County Auditor is one that we would believe that if the job is being performed, we would also would like to work with the County Auditor in making sure that these jobs are performed. We looked at it as a hand-in-hand approach, we didn't look at it from a distance that we are at one

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end of the spectrum, they are at the other end of the spectrum. I understand the concern because of the independence, we definitely strongly suggest that we strongly, we're on the same page with the Office of the County Auditor with that, that was included to work in collaboration with the County Auditor. Of course, for myself, I didn't expect it to be so controversial probably up until the last couple of months or at least definitely the last month of Cost of Government meetings, that this was definitely something of a concern. I mean, again, Chair Hokama had mentioned if we have consulted -- oh, I'm sorry -- I think it was Councilmember Victorino had mentioned if there was any type of consultation with our Corporation Counsel. I know these conversations were done during the meetings, and they had advised us of our terminology, which is why the wording was changed, and we are looking at it from an, you know, advisory role, we do refer to the Charter as the underlying document for us.

COUNCILMEMBER WHITE: Okay. Thank you, Chair. I don't find the explanations consistent with the actions that have been taken in the body. I think it has become, or to me, one where the Commission seems to want to control the Auditor, and to use the word investigate right out of the box, we haven't even gotten the first report from the Auditor, to see what the quality of the work is or have any reason to investigate or evaluate. I just find it very difficult to accept the fact that they're working with them in an advisory and complementary role. So, Chair, I won't be able to support this nomination.

CHAIR HOKAMA: The Chair will give his comments at a later time of this meeting. Mr. Couch, questions?

VICE-CHAIR COUCH: No questions.

CHAIR HOKAMA: Ms. Crivello?

COUNCILMEMBER CRIVELLO: I don't know if it's necessarily questions, but in your strategic planning, is that like a five-year strategic plan, or is that like a ten-year strategic plan?

MS. GOMES: I believe initially we looked at a five-year and we went down to a three-year. It is a living document.

COUNCILMEMBER CRIVELLO: Okay. So in this strategic planning, when you say, when you mentioned investigate because the Charter does mention part of the role of Cost of Government is to study and investigate the organizations and methods and operation of all departments. So in your opinion, is that how the setting up of this strategic plan came about with the word investigate, and does Corporation Counsel sit in these meetings with...they do have representation, right, in your planning sessions or meetings?

MS. GOMES: When we are broken into a temporary investigative group, we do not have, you know, Corporation Counsel with us, obviously. I think the process is that, you know, you break out into your groups, you decide on what topics you would work on for the year or in the coming months. Again, I do want to reiterate, I was not part of the evaluation, so quote, "investigative group". I

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know that the questions are targeted towards that, but when the strategic plan was considered, that was not necessarily the focus, the investigating or evaluation of the County Auditor was not the first and foremost item on why we decided to look at a strategic plan. A strategic plan was considered to just keep us as a Commission on task. I, in the past, have experience with the Campaign Spending Commission on working on a strategic plan and due to that, I found it to be an instrumental tool for any commission or board, and of course, the Charter is the document that we refer to, I know that it's been questioned in the past why a strategic plan, but it's, for the most part, it's situations like this when Members are vacating and you do have new Members that come on board. A lot of times and in the past, I've been part of that where you're not sure what you're there for or what should we be doing right now, that was the reason for my suggestion of a strategic plan, it had nothing to do with throwing in the County Auditor's investigation/evaluation, that kind of all came about with trying to work in collaboration with the County Auditor. Now I do need to mention that since I did chair the strategic plan, attempts were made to speak with the County Auditor to get his input to get an idea of what he would like to say or suggestions or how we can work on this particular document. Unfortunately, I was unable to meet with him to no avail. I . . .it was unsuccessful, he was in the transition of getting into a new office, so I understood that, timing was not good, but I do understand that our chair at the current moment, Chair De Rego had communicated with him.

COUNCILMEMBER CRIVELLO: So thank you. Personally, as one who came in very raw into different County commissions or boards, often there's no explanation as to what your job description is, so I can appreciate and value a process, if you want to call it, strategic planning or what have you as some sort of a road map, you know, coming with the dotted lines under a Charter, but as you conclude all this --

MS. GOMES: Yes.

COUNCILMEMBER CRIVELLO: --in your honest opinion, as a Cost of Government Commission member, what do you see, your link with the Auditor as well as what you see, the Commission's link?

MS. GOMES: I can honestly say that that is also a work in progress. It is so brand new and I think the office, and I'm speaking for myself, I do believe that the Office of the County Auditor's also figuring that out as well. I do believe it's something that we are, the relationship is being established as we speak. For me, I do look at it from a collaborative approach. He is independent, we are independent, and that is, you know, that is the, what we have to accept, I mean, there are things that we are not going to be able to, you know, we can make our recommendations like anything else, and it's not something that the Office of the County Auditor needs to adhere to and that's that independence that we understand. And so that is what I believe with the link, but I also do believe that it is a work in progress, as again, it, the relationship is so fresh, the transition is still ongoing for the Office of the County Auditor, and as I said in meetings, I mean, we're still trying to establish that relationship still.

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COUNCILMEMBER CRIVELLO: I guess I'm trying to have some determination from you, who, I understand presently serve on the Commission, you know, how do you define what the Charter says advisory, the Commission shall be advisory to the County Auditor?

MS. GOMES: How I define that is if we chose to investigate specific a department or process or in the past, as you know, we've looked at building permits, if we chose to investigate that and we had a recommendation, that's the way that I look at as advisory as we would advise, maybe our thoughts, our findings basically and make our recommendations. And, I mean, that's the role that I see because the County Auditor is gonna. . .he and his office has, have their own set of ideas or process that they're gonna go through, and again, that's the way that I look at it for advisory, I mean, it's a matter of just what we do is independent and should we bring it forward to the Office of the County Auditor as like we do with the Members of the Council, it is advisory basically, it's just an advisory of what we've found, what we've looked at, and basically that's all we can hope for.

COUNCILMEMBER CRIVELLO: So what you're saying is, if you find that there's a department or a process that may be out of whack or what have you, you would, the Commission, would like to recommend to the Auditor to consider looking into this because of dot, dot, dot, dot?

MS. GOMES: I think, again, I know that, and I, myself, I mean, I do need to express that I, myself, was very new for Cost of Government as well when I had come into Cost of Government, I was coming in mid of someone else's expiring term. To my understanding, we would do an investigation or we would go ahead and collect the information, the data that we've come up with, we would make recommendations of the findings that we've come up with, we would present it to you folks, to the County Council members, and I believe that that is something that we would also, you know, talk about with the Office of the County Auditor. It's not to say that it is their role to take on what we've looked at, you know.

COUNCILMEMBER CRIVELLO: I'll yield. Thank you. Thank you.

CHAIR HOKAMA: Okay. Any further questions for the nominee? Mr. Victorino.

COUNCILMEMBER VICTORINO: No, it's Corporation Counsel, I'd want to ask them specifically, but I will say that thank you for being here.

MS. GOMES: Thank you.

COUNCILMEMBER VICTORINO: I am, too, a little, I'm in a little doubt in how you would serve in this committee, you know, nothing personal, I gotta be honest. I'm rarely ever felt this way, you know, it's really something that I'm not sure and until I get clarification from Corporation Counsel, I will not make a decision. So please forgive me --

MS. GOMES: That's alright.

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COUNCILMEMBER VICTORINO: --but thank you for being here and being very candid and honest with your answers, thank you.

MS. GOMES: Thank you.

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

COUNCILMEMBER WHITE: No.

CHAIR HOKAMA: Mr. Couch?

VICE-CHAIR COUCH: No.

CHAIR HOKAMA: Ms. Crivello?

COUNCILMEMBER CRIVELLO: No.

CHAIR HOKAMA: Okay. I understand your responses to the questions from the Committee members, but I, you know, I had hoped we could have avoided this with this transition with the Charter amendments, Members, but now I'll take my responsibility. . .I should have done maybe a better job in seeing how potentially we should have adjusted the Charter language as it regards to the Cost of Government, you know, we're so focused on creating the Office of Auditor that, you know, I'll take the responsibility that. . .I should have had the Committee do a maybe closer review of potential conflicts and unintended issues that part of the discussion is this morning on. . .but I don't have any questions for you, Ms. Gomes. I thank you for serving in, I understand your comments and the current Cost of Government Commission's position, so I appreciate that. If there's no other questions for the nominee, we'll release her, she has more responsibilities to do. You are still also a member of the Status of Women?

MS. GOMES: I believe so. I believe that it would begin next month if I'm not mistaken,

CHAIR HOKAMA: Okay. Thank you for that, Ms. Gomes, and thank you for making yourself available this morning, we appreciate your presence.

MS. GOMES: You're welcome.

CHAIR HOKAMA: Okay. Members, we also requested Dr. Arleen Ricalde-Garcia, who has made her time available to us. She is a practicing physician, who is willing to serve on a very critical commission, called the Maui County Cultural Resources Commission, and I've asked Dr. Ricalde-Garcia, if she would come forward and make some comments for us regarding her nomination.

MS. RICARDE-GARCIA: Good morning, Council members --

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CHAIR HOKAMA: Good morning.

MS. RICARDE-GARCIA: --Chairman Hokama, thank you for allowing me to be here. Again, my name is Arleen Ricalde-Garcia, I'm one of the doctors at Maui Medical Group, my specialty is internal medicine and I work there part-time. I work fulltime and overtime as a mother of two boys, 12 and 9 years old. I'm interested in the CRC, and because of my medical background, you must be wondering, well, why not the Commission of Aging or Disability. So I know you have my profile, my application in front of you, and I really don't want to reiterate anything else that's there, I want to give you a little bit of my personal background, and then maybe you'll see why I'm interested in becoming part of the CRC. My dad was in the U.S. Navy, and so I was born in Guam, he went to the Vietnam War and my mom and I went to live in the Philippines for. . .so I spent the first few years of my life there, my first language was Tagalog. Then my dad was stationed in Puerto Rico, I learned Spanish, then I learned English. We moved to Okinawa, had to learn Japanese. And both my parents are of Filipino ancestry, but I've been told that on my dad's side, his ancestor was a stowaway in Ferdinand Magellan's ship that traveled to the Philippines, so I'd like to say that I'm kind of sort of related to Magellan, but that's as close as I'm gonna get. My husband's family is very entrenched in the history of Maui. The Garcias, Portuguese from the Azores, they were businessmen, and you know that church, the Valley Isle Fellowship, Joaquin Garcia, his great-great-great-great-uncle, he used to own that, that used to be the biggest house in Wailuku, and he owned a lot of businesses in Wailuku, and \_\_\_\_\_ Building is one of them. And he is also part Hawaiian, he is of the lineage of Chief Piilani, he's also related to Emily Kaina, who married Edward Bailey of the Bailey Museum, so that is his great-great-great-grandfather. He's also related to the Bal family, they're the French Family from Bordeaux, the wine country in France, and they were cork makers, and they arrived here into Lahaina during the whaling season, or the whaling era. So you see, a lot of this is family being a big part of Maui. My history of living in different parts of the world, I've been exposed to various cultures, so to me it's really important to be able to identify, preserve, cultivate, perpetuate culture, any cultural aspect be it historical sites or storytelling, and that's why I'm interested in this particular commission. So if you have any questions, please.

CHAIR HOKAMA: Thank you very much for your sharing some information about you and your family, we appreciate that. We're gonna go right down the line, every Member's gonna have an opportunity to --

MS. RICARDE-GARCIA: Okay.

CHAIR HOKAMA: --ask you a question. So we'll start with Mr. Guzman. I think you had your hand up. . .I'm sorry, Mr. Victorino. We'll start with you, Mr. Victorino.

COUNCILMEMBER VICTORINO: Thank you and mine is not so much questions 'cause I've read her resume and it's quite extensive, and just that quick history has assured me at least you have strong interest in the culture of Hawaii and it's multiplicity of ethnicities that we all, you know, makes Hawaii such a unique place, you know, and so thank you very much. My other question

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is, have you really learned or studied the Hawaiian history and culture as. . .you know, you mentioned about the various things your husband, but yourself?

MS. RICALDE-GARCIA: Well I've lived. . .my father was stationed Pearl Harbor, and so I was raised on Oahu, too.

COUNCILMEMBER VICTORINO: Okay.

MS. RICALDE-GARCIA: And my family still lives there, and I've been part of the Native Hawaiian Health, the hui, the Native Hawaiian Health Center in Cameron Center --

COUNCILMEMBER VICTORINO: Yes.

MS. RICALDE-GARCIA: --as part of that. I was also part of the Investigative Review Board with . . .(*inaudible*)... and so, you know, being raised here in Ewa Beach, that's as local as you can get, so yes, I am very aware of our culture.

COUNCILMEMBER VICTORINO: Okay. No, I just, you know, because this is, you know, this particular commission has a lot to do with what happens and, you know, it's important for a good understanding of the Hawaiian culture, and all the other ethnicities that make Hawaii what it is today, so, okay, thank you very much. And, you know, I've had an opportunity to deal with her and her husband in Boy Scouts and, you know, the two sons are exemplary young men coming up in our County, so thank you very much. Thank you, Mr. Chair.

MS. RICALDE-GARCIA: Thank you, Councilman.

CHAIR HOKAMA: Okay. Mr. Guzman?

COUNCILMEMBER GUZMAN: Thank you, Chair. I don't have any questions, I just have. . .hi, Arleen. She's actually my neighbor and very close family friends, our kids grew up together and go to school together. She's the godmother of my youngest child, and so if I had in the past, anytime that I had a project to work on, she has been the first one that I knock on the door to help me out. We did the 100 Year Filipino Celebration together, she's very active in all cultural aspects, and she just have a wonderful heart and the willingness to serve our community, so with full support, I would recommend this nomination. Thank you, Chair.

CHAIR HOKAMA: Okay. Thank you very much. Mr. White?

MS. RICALDE-GARCIA: Thank you, Councilman Guzman.

COUNCILMEMBER WHITE: Thank you, Chair. This is one of those that I'll follow the lead of my two colleagues.

CHAIR HOKAMA: Oh, it's dangerous.

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COUNCILMEMBER WHITE: Well not in. . .I know it is on many occasions but certainly not this one. No, I appreciate your willingness to serve and with your background, your willingness to serve is even more remarkable, so thank you very much.

MS. RICALDE-GARCIA: Thank you, Councilman.

CHAIR HOKAMA: Mr. Couch?

VICE-CHAIR COUCH: Thank you, Mr. Chair. And thank you for being here, Doctor. Yeah, your willingness to serve, thank you very much for that, and as you said, you're overworked already. Are you sure you gonna have time for this? 'Cause I'm looking at your thing and my goodness. When do you have time to do your doctoring, too?

MS. RICALDE-GARCIA: Well, you know, that did come up. That was one of my concerns, because I really wanted to do this, I wanted to be a part of it. So I spoke with Chairman Hokama regarding this, and he reassured me and I was very happy with his information, and so I made my decision, I made my informed decision based on that. So I'm fully committed --

VICE-CHAIR COUCH: Okay.

MS. RICALDE-GARCIA: --after having spoken with him.

VICE-CHAIR COUCH: So you feel you have enough time in your. . .

MS. RICALDE-GARCIA: Oh, yeah.

VICE-CHAIR COUCH: Oh, yeah, why not, there's only 24 hours in a day. Alright, thank you.

CHAIR HOKAMA: Thank you. Ms. Crivello?

COUNCILMEMBER CRIVELLO: Aloha.

MS. RICALDE-GARCIA: Aloha.

COUNCILMEMBER CRIVELLO: Thank you for taking this into consideration, you know. As I was listening to your travels and all what you bring culturally is. . .well last night, driving yesterday afternoon riding up to Chair Baisa's fundraiser with two beautiful rainbow, and that sort of kind of reminds me of where you're coming from, and yet, there's the host culture that not only because you're raised on Oahu or Hawaii, that's what is the lineage of your children, and as a mother, we know that every ounce of blood that runs through the veins of our children is so rich because of what. . .and I feel that's what you bring. And I appreciate you making the time to do this because our host culture embraced all of the different races that came into our community, and then we all became, you know, it's like a pot of gold of who we are. So just that I think what

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you can bring to this Commission, I feel is of value and just you taking your time as a mother first of all and then doctor and everything else in your life, thank you.

MS. RICALDE-GARCIA: Thank you. Thank you for your kind words. And again, thank you for having me here.

CHAIR HOKAMA: We are happy you can make the time. And so, I, it was. . .I asked the Doctor to make herself present. You have all been made aware and some of you have mentioned her schedule, scheduling issues and whatnot, and yet, you see the Doctor here with two young children, being able to manage her time, manage her calendar to be present, and she's assured me she will accordingly make the time available for this commission if the Council and the Members should give her that opportunity. And so I thank you for being here.

MS. RICALDE-GARCIA: Thank you.

CHAIR HOKAMA: I have no questions for the Doctor since we had a lengthy discussion of whether or not she would really want to do this or not, or if there was other areas of interests, but I appreciate her being willing to put herself through this process and still show a willingness to serve not only her family but her community. So, yeah, if there are no other questions, I'll release the Doctor, and she can either continue to stay with us or if you have requirements, Doctor, we understand them. We thank you for making the time for us this morning.

MS. RICALDE-GARCIA: Thank you. I'm very honored.

CHAIR HOKAMA: Okay. Thank you. Okay. Members, let us take up or bring up Item 2(21), under the title of Nomination to Boards, Committees, and Commissions. We have basically taken care of the majority of the master list, as presented by Mayor Arakawa. We also have the presence to assist us this morning, Mr. Molina, representing the Office of the Mayor, regarding any other questions or a need for comment regarding nominations. So let me ask Mr. Molina first under Public Works Commissions, as the Chair understands, the Mayor did make an adjustment in the terms for Ms. Matsumoto and Mr. Fernandez, is that correct, Mr. Molina?

MR. MOLINA: Yes, Mr. Chairman and Committee members, with regards to the two of the nominees, Patrice Matsumoto and Alan Fernandez, we did request an amendment change to the terms. Mr. Fernandez' original term was for 03/31/2017, we asked for a request to amend his term to 2016, and vice-versa for Ms. Matsumoto, her original term was for 2016 and we asked for an amendment to extend, to give her basically the three-year term, if that is the pleasure of the body, Mr. Chairman. Thank you.

CHAIR HOKAMA: Okay. Thank you. Any further comments as in regards just to the Public Works Commission, Mr. Molina?

MR. MOLINA: Mr. Chairman, I'll yield to Mr. Goode if he has any additional comments, but I'll just state for the record that these, most of, the majority of these members being considered for your

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nomination have served on some of our other boards and commissions related to Public Works, and with that being said, I'll ask Director Goode if he would like to give additional comment on the nominees. Thank you, Mr. Chairman.

CHAIR HOKAMA: Thank you, Mr. Molina. Director, any additional comments you can share with us this morning, please?

MR. GOODE: Good morning, Chair and Members, Dave Goode, here, from Public Works. At this time, we look forward to hopefully passing this out of Committee. I think we had a good discussion last time about the members and also the process, and one of the reasons I think we held this back was to make sure that these terms were going to expire on March 31 of their respective years. So moving forward as a new commission is a little challenging for us all to put it all together, so I thank your Committee and your Staff for getting us this far.

CHAIR HOKAMA: Okay. Members, any questions for Mr. Goode? And I just want to focus on the Public Works Commission at this time, please, okay.

COUNCILMEMBER VICTORINO: Okay. That was my next question is when we're gonna get to the. . .okay fine.

CHAIR HOKAMA: We will take each of the commission independently, Mr. --

COUNCILMEMBER VICTORINO: Okay.

CHAIR HOKAMA: --Victorino, but just on --

COUNCILMEMBER VICTORINO: Okay. Thank you.

CHAIR HOKAMA: --the Public Works, okay.

COUNCILMEMBER VICTORINO: Okay. Thank you.

CHAIR HOKAMA: Mr. Couch?

VICE-CHAIR COUCH: Thank you, Mr. Chair. And maybe it's for you, or Mr. Molina, or Mr. Goode. I know we had discussion on a. . .the engineers, two of them were from the same firm and we were thinking about moving the alternate into one of the positions, and then bringing one of the ones in the same firm down to as an alternate, did that. . .I don't see that on the correspondence, so was that discussed at all or. . .

CHAIR HOKAMA: Mr. Molina, do you have some comment you could share with us, please?

MR. MOLINA: Thank you, Mr. Chairman. Councilmember Couch, you know that discussion did come up, and to be honest with you, we never really gave it any more additional thought; however, I

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can consult with Administration again about the. . .and the applicants as well to prevent any potential, you know, conflict should a situation arise while serving on the commission. Needless to say, the nominees would be aware if there's a conflict, they will certainly make the board aware of it, and then if they are cleared at the behest of the, whether it be the committee chair or recommendation from Corp. Counsel, to recuse themselves from voting, they certainly will abide by that. But we will provide for you a response in writing to that, Mr. Chairman, prior to first reading, or second and final reading at the Council level, if that is your wish, Mr. Chair.

CHAIR HOKAMA: Okay. Well, you know, Mr. Couch brings a very important question and concern, but the Chair, in my perspective, Mr. Couch, is that it's one of the advantages this commission has with Corporation Counsel and with the Director to utilize the alternates to take the place of a voting member should a potential conflict arise, and the question of quorum becomes an issue, the advantage is the alternate that does not have that conflict to continue to participate and allow the commission's business to continue to move forward, is how I'm viewing this. So I'm quite comfortable, but you raised a very good question that I would ask Mr. Molina to at least make the rest of the Administration aware that it was a concern of the Committee, and at all means we'd like to avoid in the future as many potential conflicts as possible, okay. Any comments from either of you gentlemen, Mr. Goode, Mr. Molina? Okay. Any other questions as regards to the Public Works Commission, Members?

COUNCILMEMBER VICTORINO: Yeah. Real quickly --

CHAIR HOKAMA: Mr. Victorino.

COUNCILMEMBER VICTORINO: --and again for Ms. Matsumoto and Mr. Fernandez, and I know you said it and I think I spaced. What was the reasons for changing their length of time? And I apologize for asking the same question.

MR. MOLINA: Mr. Chairman.

CHAIR HOKAMA: Yeah.

MR. MOLINA: Committee members, well, I guess two reasons, one, basically Ms. Matsumoto, she's very enthused about serving, she resigned her term on the Real Property Tax Review Board basically to commit more time to this commission. And with Mr. Fernandez being that this is somewhat a new endeavor for him, he had never served on any prior boards or commissions, it was suggested to him that maybe he try it out for two years instead of three years, so if it works out, fine, then he would be eligible to be reconsidered at a later point for maybe another term. So it was a case of one member maybe wanting a little bit more time to serve, and the other one, well, let's do on a trial and error, 'cause we were, you know, interested in getting Mr. Fernandez' participation, and we're certainly glad that he agreed to serve.

COUNCILMEMBER VICTORINO: Okay. Just so I was clear, and I apologized if I missed it, you know, I just, I was like, why was that done, you know, sorry. But no, I think that's good and

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again for Mr. Fernandez, like you stated, if he likes it and he does a good job and he feels like he can continue and you guys, he can be reappointed, 'cause if it's two years or less, they can be reappointed, right?

MR. MOLINA: That's correct.

COUNCILMEMBER VICTORINO: If it's five years, or three or more, then they are no longer eligible to be reappointed until another term came up, right? I think that's the way rules work.

CHAIR HOKAMA: The cycle, yeah, he needs to--

COUNCILMEMBER VICTORINO: No?

CHAIR HOKAMA: --clear a cycle.

MR. MOLINA: Yeah.

COUNCILMEMBER VICTORINO: Yeah, a cycle, yeah, or whatever it might be, yeah?

MR. MOLINA: And some of these members, Councilmember, do have, I guess, full five-year terms and they're on staggered terms, at this point, so this way there's some continuity.

COUNCILMEMBER VICTORINO: And that's why those three top ones don't have any date expiration because they're the full term?

MR. MOLINA: Yes.

COUNCILMEMBER VICTORINO: Okay. Very good, thank you. Thank you for that clarification.

CHAIR HOKAMA: Any other questions as regards to the Public Works Commission, Members? If not, let us move to the Maui County Cultural Resource Commission. We have two nominees, one is a reappointment, Francis Skowronski, and of course the new nominee. Thank you for being here, Director Goode. Is there any questions for Mr. Molina or the Chair regarding the two nominees for Maui County Cultural Resource Commission? Okay. Having none, we're gonna move forward to the Cost of Government Commission. We have five nominees. Can we make a separation of Ms. Gomes separately, or we still have the whole commission for consideration. Okay. So we do have a decision to make on all five nominees. There is one reappointment, Ms. Gomes, also being nominated for appointment for full terms that would expire March 31, 2019, is Gabriel Hoeffken, Kent Hiranaga, John Watling, and Stanford Lanias.

COUNCILMEMBER VICTORINO: Mr. Chair?

CHAIR HOKAMA: Yeah, Mr. Victorino.

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COUNCILMEMBER VICTORINO: This is the one that I would like to ask Corporation Counsel in the discussion or the questions of concern that myself had and I think Mr. White and maybe others and I won't speak, but there was some questions about this strategic plan and what they're putting forward and this investigation. Can you tell us in your mind, based upon reading the Charter, and I can read this right here, you know, Page 10, you know, I got it, is there a potential of conflict? And I guess that's my concern right now, is we even haven't gotten out of the gates and we're looking to do things, and I don't want to stagger the Cost the Government, and like you said, Mr. Chair, maybe we should have given more thought towards it and maybe we have to in the future, sit down and give it more. . .

CHAIR HOKAMA: Well, I'll share my comments after I let you folks ask your questions.

COUNCILMEMBER VICTORINO: Well, I need a question answered and then you can go share your comments, but I think there's some validity in what you're saying. But, Mr. Kushi, if you would, please.

CHAIR HOKAMA: Mr. Kushi, if you could respond as best you are able to the question, please.

MR. KUSHI: Yes, Mr. Chair. Member Victorino, by the way, as we speak, the Cost of Government is having a meeting on the ninth floor today. But however, unfortunately or fortunately, I was involved in this whole process. I was involved in the Charter Commission, which created the Auditor, with Mr. White's input, and I, currently together with my associate Linden Joesting, we do represent the Cost of Government Commission. As you know the Auditor's brand new, the new Cost of Government Commission is also brand new, they have different roles. I look at it as they're both growing pains, they're both growing pains. I also look at it as almost like a parent-child relationship or parents-stepchild relationship at times. We did have extensive discussions, my office with the Commission in executive session regarding its desire to evaluate the Auditor, and I'm not sure if I can say this in open session, but we told them what they could and could not do. We basically told them that their role is advisory, they're in fact attached to the cost of the Auditor's Office, the Auditor's staff, staffs this Commission in advisory capacity, and I basically told them, they didn't like it, but if the Auditor asked them for advice, that's their role, if the Auditor doesn't ask them, they have nothing to advise on, they didn't like that of course. But again, per the Charter, they can independently investigate any and all County agencies, including the Office of the Auditor. That may have some complications, but again, that's what the Charter says. Their other role and duty is to provide you with an annual report. In the past, they have recommended some functions of government that, you know, in their mind needs to be fixed, example, the County auto policy, automobile policy, et cetera. However, that report is just a recommendation to this body and the Mayor and the Auditor's Office. So they're in a transition stage and so is the Auditor. Hopefully it'll work out. We would be. . .we do staff that Commission, we also staff the Office of the Auditor. So again, I say this in the context of your. . .what you have here today is the reappointment of Ms. Gomes. She's, in my mind, she's truly qualified, but also in my mind, you have five appointees before you. The Commission is made up of nine. Ms. Gomes is the most experienced commissioner, because the five people

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who are leaving have been there forever. Again, there's five out of nine commissioners before you, so I think you should concentrate on the appointee herself.

COUNCILMEMBER VICTORINO: Well, thank you.

MR. KUSHI: And the functions of the Auditor and this Cost of Government Commission, we're trying to work it out, and hopefully it will be.

COUNCILMEMBER VICTORINO: Okay. Thank you for that clarification, and I . . .and you know, you got four guys walking out and four new coming in, 'cause she'd be a reappointment, she's not actually new so, but anyhow that's just mathematics and semantics and whatnot. You know, and I thank you for that, because at least in my mind now, I'm a little bit clearer, and I assumed that that was what was happening, but I had to hear it from you, and I don't know if I'd like to request executive session just to get into more details or take it on face value, Mr. Chair, I mean, I'll wait for your comments, 'cause I still undecided, you know, and I'll be very up you know me, normally I kind of know what I want to do with certain people, but this one is one of those unclear, because of what has been said and the answers she responded and that's what I'm responding to. But you. . .thank you for that clarification on what the distinguished. . .distinguishing the two offices and how the. . .or the Commission and the Office and how they should interact, and what you given them as advice, so I thank you very much and I'll wait to hear what other Council members have to say about this. Thank you, Chair.

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

COUNCILMEMBER GUZMAN: Thank you, Chair. Just want to reiterate my support for Ms. Gomes, I believe that we should not go outside the scope of the subject matter. I wanted to pipe in earlier, but I believe that we are on the nomination and investigation, if you call it, but we should focus on her personal accomplishments and if she's qualified to do the job, I believe she is, regardless of what issues she may take or her. . .I think there may be what Mr. Kushi says is that there's some growing pains that there needs to be some bright line rules and policies basically understood and written out, and with the Charter in mind that it has full jurisdiction no matter what policies are put out there, so I'm basing my decision on her qualifications. Thank you, Chair.

CHAIR HOKAMA: Thank you. Mr. White, any questions?

COUNCILMEMBER WHITE: No.

CHAIR HOKAMA: Mr. Couch? Ms. Crivello?

COUNCILMEMBER CRIVELLO: Thank you, Chair. I, too, will support her nomination. I can understand what they're going through as far as in relation to the Charter, but how I understood her explanation is coming as a whole as serving on the Commission, and it does say in the Charter that they do study, investigate organizations or other departments, and I think Mr. Kushi

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clarified it very clearly that upon the request for advice from the Commission that the Auditor's Department would come forth before that. So based on the individual's qualification and, you know, just a way of us having opportunities to have young, more qualified people with fresh ideas to bring forth into a commission or board, I value, so I have no doubt in supporting Ms. Gomes for the reappointment.

CHAIR HOKAMA: Okay. Thank you very much. The Chair will just say a couple things, part of the confirmation process is for us to ask where they stand on certain positions, not just whether they're qualified or not, whether it's for a State commission, U.S. Supreme Court, their individual positions make a difference whether they get confirmed or not, and that's why reviewing bodies take everything into consultation and final, as part of the final determinations of what the decision will be made. I find it interesting an appointed commission wishes to take on things that is either, to me belongs to an elected or to an elected policy decision. It disturbs me that we have an appointed nine individuals wishing to become overseer of the Auditor. I will not tolerate or support any nominee that believes they can tell the Auditor what to do. We worked hard for an independent Auditor, independent of us, it should also be independent of an appointed commission to the Mayor's Office. Stating that, your Chair has already put forth a proposal that's being developed that will be back in Committee for full vetment and discussion whereby I'm gonna propose a Charter amendment to strip the Cost of Government to be only advisory, just like the language in the Charter as it relates to the Board of Water Supply, very clear, it should be only one body that has the independent authority to investigate, we have given that to the Auditor, not to nine other individuals, in your Chair's opinion. It needs to be adjusted, we cannot continue to have potential conflicts in a mandatory structure of local governance, and therefore the Chair is gonna put forth this proposal shortly upon having it received and received within the Committee's docket, and it will be discussed sooner than later. So saying that, is how the Chair's planning to clean up any further issue with who makes the call. The Chair's position is just what the people voted for and it's in the power of the Auditor, period, not nine appointed commissioners. Stating that, we still need to make a determination on the following. So is there any request for separation or you guys want to take it all at one crack?

COUNCILMEMBER VICTORINO: I would like separation.

COUNCILMEMBER WHITE: Separation, please.

CHAIR HOKAMA: Okay. You know what, I'm gonna. . .let's be specific, I can, we can separate to do everything except Cost of Government, or we can just separate according to specific name of nominees. I leave it up to you.

COUNCILMEMBER VICTORINO: Let's go with, Mr. Chair, with no objections, I would like to separate from the Cost of Government Commission, Calmentina Gomes.

CHAIR HOKAMA: Okay, there's a motion.

COUNCILMEMBER WHITE: Second.

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CHAIR HOKAMA: I have a second to separate the name of Calmentina Gomes from all further consideration of the master. Yes?

VICE-CHAIR COUCH: Mr. Chair, just a point of procedure. . .

CHAIR HOKAMA: You know what, I'm glad you brought it up. I would first, let's say that I'm gonna not recognize any motion, but what the Chair will recognize is a motion to approve and placing all names on Exhibit "A" for approval -- is that correct or Exhibit "B"?

VICE-CHAIR COUCH: B.

CHAIR HOKAMA: Exhibit "B" for approval, the five names for the Cost of Government Commission, the two names for the Maui County Resource. . .Cultural Resource Commission, and the nine nominees and two alternates for the Public Works Commission for terms expiring as indicated on the agenda.

VICE-CHAIR COUCH: Thank you, Mr. Chair. I move that the, we pass the, adopt the resolution appointment of members to the Cost of Government Commission, Maui County Cultural Resources Commission, and Public Works Commission for the County of Maui by placing all names on Exhibit "B".

COUNCILMEMBER VICTORINO: Second, Mr. Chair.

CHAIR HOKAMA: Okay. I have a motion by Mr. Couch, seconded by Mr. Victorino. Okay. The Chair is now open to a motion to amend from Mr. Victorino.

COUNCILMEMBER VICTORINO: Yes, Mr. Chair, I'd like to move to separate the name of under the Cost of Government Commission of Calmentina Gomes.

CHAIR HOKAMA: Okay. I have a motion to separate. Is there a second?

COUNCILMEMBER WHITE: Second.

CHAIR HOKAMA: I have a motion made by Mr. Victorino, seconded by Mr. White to separate from the main motion, the name of Calmentina Gomes, which is a reappointment to the Cost of Government Commission. Discussion, Members? Mr. Couch.

VICE-CHAIR COUCH: Thank you, Mr. Chair, just a point of clarification, just asking, we're not voting on Ms. Gomes one way or the other, we're just taking her name off of any list at this point?

CHAIR HOKAMA: We are separating the question, yeah --

VICE-CHAIR COUCH: Okay.



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will include all names except the name we have separated, which is Ms. Gomes. Any discussion on the motion before the Committee? Mr. White.

COUNCILMEMBER WHITE: Just for clarification, the motion is on all the other names, correct?

CHAIR HOKAMA: Correct.

COUNCILMEMBER WHITE: Thank you.

CHAIR HOKAMA: And the motion was specific to include those names on Exhibit "B" for approval. Any further discussion, Members? Having none, all in favor of the motion, please say "aye".

COUNCILMEMBERS: Aye.

CHAIR HOKAMA: Opposed, say "no"? Motion passes, six ayes, three excused.

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

**NOES:           None.**

**EXC.:           Councilmembers Baisa, Carroll, and Cochran.**

**ABSENT:       None.**

**ABSTAIN:      None.**

**MOTION CARRIED**

**ACTION:        Recommending ADOPTION of revised resolution approving the nominations to the Cost of Government Commission (except Calmentina Gomes), Maui County Cultural Resources Commission, and Public Works Commission.**

CHAIR HOKAMA: We are now back to the motion of separation, and we would need a, I would say, a motion, the Chair's open to a motion to consider Ms. Gomes, whether she be on Exhibit "B" for approval, Exhibit "C" for disapproval, and the Chair will also note by Charter, this Committee, or I should say, the Council has, I think, I believe 'til March 30<sup>th</sup> of this month to make a determination by Council. Should Council choose not to or there is no five majority votes either way, then the nomination becomes valid through quiet ascension that the Charter allows. So is there an understanding of the situation? Mr. Couch.

VICE-CHAIR COUCH: Thank you, Mr. Chair. Maybe if I can just to rephrase it in my head out loud, so it's clear in my head, right now we have a resolution that has 17 names on it in Exhibit "B",

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approving these nominations. Now we have another name that's out there without a Exhibit "A" or "B", and so this motion would be to move that name to Exhibit "B" or "C" depending on your recommendation?

CHAIR HOKAMA: Or the Committee can choose not to make any --

VICE-CHAIR COUCH: Not to make. . .correct.

CHAIR HOKAMA: --recommendation, and then the Council will have its final opportunity.

VICE-CHAIR COUCH: Correct.

CHAIR HOKAMA: If Council chooses not to make a vote, then at the end of the time, March 30<sup>th</sup>, the nomination becomes valid and approved by quiet ascension.

VICE-CHAIR COUCH: Yep. Okay.

CHAIR HOKAMA: Okay. Any other questions for the Chair?

COUNCILMEMBER WHITE: No. Chair's recommendation?

CHAIR HOKAMA: Well, for me, I, my recommendation is based on, you know, I understand the nominee is qualified, I don't agree with the direction that the Commission is going in, and so I will say that I, my recommendation is to disapprove. I need commissioners that understand the role of this and the role of the Auditor, and so that is my recommendation.

COUNCILMEMBER WHITE: So moved.

CHAIR HOKAMA: So that means, Members, what the Chair's saying is I would recommend that the name be placed on Exhibit "C" for disapproval.

VICE-CHAIR COUCH: So moved.

COUNCILMEMBER WHITE: Second.

CHAIR HOKAMA: I have a motion made by Mr. Couch, seconded by Mr. White to place the name of Calmentina Gomes on Exhibit "C" for disapproval. Discussion, Members. Okay. I know we have members who are very supportive of the nominee for good reasons and there's Members who don't for their own good reasons so. Mr. Guzman.

COUNCILMEMBER GUZMAN: Chair, I fully appreciate your rationale in terms of the line of questioning to Ms. Gomes in flushing out the various issues, but as you stated early on, you are going to attempt to solidify in bright line an ordinance that would clearly state an advisory position for the Cost of Commission. I think that's a great. . .

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CHAIR HOKAMA: It would be a Charter amendment.

COUNCILMEMBER GUZMAN: Charter amendment, okay, Charter amendment.

CHAIR HOKAMA: Not an ordinance.

COUNCILMEMBER GUZMAN: I stand to be corrected, thank you, Chair, a Charter amendment. So in doing so that would basically solidify the positions for both parties, and for us to lose a valuable asset, such as Ms. Gomes, the experience and her hard work and her dedication of years past is really sorrowful. Message heard, message sent, message heard, you've got to do what you've got to do, Chair, I respect that. I have another viewing position on this one.

CHAIR HOKAMA: Understood.

COUNCILMEMBER GUZMAN: Thank you.

CHAIR HOKAMA: Again, Members, this in no way prohibits Mr. Arakawa, Mayor Arakawa from reconsideration and resending potentially the same name forward again. The Mayor still has his ten days of opportunity to put forth another recommendation, and my understanding nothing prohibits the Mayor from sending down the same nominee. Okay. Any further discussion? If not, all in favor, please say "aye".

COUNCIL MEMBERS: Aye.

CHAIR HOKAMA: Opposed, say "no"?

COUNCIL MEMBERS: No.

CHAIR HOKAMA: Okay.

COUNCILMEMBER VICTORINO: Roll call. Roll call, Mr. Chair.

CHAIR HOKAMA: No, the Chair will just rule that the motion did not pass. Okay. Okay, we need. . .you need a vote count?

MS. FRIAS: Yes.

CHAIR HOKAMA: Yeah, okay. Who voted no, please? One, two, three, okay, we had three ayes, Mr. Couch, Mr. White, and the Chair, and three noes, Ms. Crivello, Mr. Guzman, and Mr. Victorino, so the motion is defeated.

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**VOTE:**       **AYES:**       **Chair Hokama, Vice-Chair Couch, and Councilmember White.**

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

**EXC.:**       **Councilmembers Baisa, Carroll, and Cochran.**

**ABSENT:**   **None.**

**ABSTAIN:** **None.**

**MOTION FAILED**

CHAIR HOKAMA: Okay. I am assuming that if we go to Exhibit "B" it's the same way, and we can therefore, move this name forward with no recommendation to the Council, and the full Council can make its final determination whether or not Ms. Gomes gets reappointed or not. Is there any objection to moving forward in this manner?

COUNCIL MEMBERS: No objections.

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

CHAIR HOKAMA: Okay. Then we'll forward Ms. Gomes name to the Council with no recommendation. But we'll have the discussion of the . . .or the issues regarding the nomination are in the committee report.

**ACTION:**   **FORWARD to Council a revised resolution regarding the nomination of Calmentina Gomes to the Cost of Government Commission with no recommendation.**

CHAIR HOKAMA: Okay. There being no other business regarding this, we'll conclude Policy Item 2(21), and move on to the fun stuff.

**ITEM PIA-1(3):**   **LITIGATION MATTERS (SETTLEMENT AUTHORIZATION AND STATUS: HAWAII WILDLIFE FUND, ET AL. V. COUNTY OF MAUI; CIVIL 12-00198 SOM BMK) (CC 13-41)**

CHAIR HOKAMA: Policy 1(3), Members, under the heading, Litigation Matters. . .thank you, Mr. Molina.

COUNCILMEMBER VICTORINO: Thank you, Mike.

CHAIR HOKAMA: Under Settlement Authorization and Status, we have the Hawaii Wildlife Fund, et al. v. County of Maui; Civil 12-00198 SOM BMK. This Committee is in receipt of

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correspondence dated February 14 of this year, 2014, from Corporation Counsel, whereby it is requested of this Committee for a status update. Members, please be aware, as well as the public, the Chair has already noticed on the agenda that we may anticipate executive session, and therefore, pursuant to Section 92-5(a)(4), the Hawaii Revised Statutes, this Committee, should it chose to, enter executive session to consult with legal counsel on questions and issues pertaining to the powers, duties, privileges, immunities, and liabilities of the County, the Council, and the Committee. Stating that, we have Mr. Wong, our head Corporation Counsel, that will be leading the team from County to provide the status to the Committee. Mr. Wong.

MR. WONG: Chair, I also want to inform the body that we have present here at our counsel table a special Counsel, Colleen Doyle.

CHAIR HOKAMA: Okay. Thank you.

MR. WONG: By way of quick update, when I last presented to this body, we were prior to a settlement conference, and I took the further settlement negotiations very seriously and we engaged with opposing counsel before Magistrate Kurren on two occasions since our last meeting here. Unfortunately, I'm here to report that as a result of the last two engagements, we arrived at a settlement impasse, and the settlement negotiations since then have stopped, and the litigation mode has been triggered, so we have had a most recent scheduling conference with the court and a dispositive motions deadline that has been set, I believe it's next Monday, and a further scheduling conference is set after that. What that means is that because we reached an impasse on settlement, and we can discuss the details of that in executive session, we have. . .both parties have moved towards a briefing schedule with the Federal Court and we can also apprise this body of our strategy moving forward also in executive session. If there's any questions that I can answer in open session, I'm willing to do that, but otherwise, I'd request that we move into executive session in further discussion of the strategies and issues involved in this case.

CHAIR HOKAMA: Okay. Thank you, Mr. Wong. Questions for Mr. Wong in open session regarding the litigation matter before the Committee on this?

COUNCILMEMBER VICTORINO: No, not at this time.

CHAIR HOKAMA: Okay. As I stated earlier, you heard further request of Mr. Wong as Corporation Counsel for executive session. The Chair is open to a motion for executive session as allowed under 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 of Maui, the Council of the County of Maui, and this Committee of the Council.

VICE-CHAIR COUCH: Mr. Chair, I move that we go into executive session pursuant to HRS 92-5(a)(4) and HRS 92-5(a)(8) as suggested by you.

CHAIR HOKAMA: Okay.

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COUNCILMEMBER VICTORINO: Second, Mr. Chair.

CHAIR HOKAMA: Thank you. Right now. . .

MS. NAKATA: Excuse me, Mr. Chair.

CHAIR HOKAMA: Right now the Chair would just recognize the 92-5(a)(4) component of the statute.

VICE-CHAIR COUCH: Okay.

CHAIR HOKAMA: That's more pertinent. And so with no objection, Members, the Chair will accept the motion as regards to that specific component of State Statute.

COUNCILMEMBER VICTORINO: No objections.

CHAIR HOKAMA: Okay. We have a motion. Any further discussion? All in favor of the motion, please say "aye".

COUNCILMEMBERS: Aye.

CHAIR HOKAMA: Opposed, say "no"? Motion passes with six ayes and three excused, Ms. Baisa, Ms. Cochran, and Mr. Carroll.

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

**NOES:       None.**

**EXC.:       Councilmembers Baisa, Carroll, and Cochran.**

**ABSENT:    None.**

**ABSTAIN:   None.**

**MOTION CARRIED**

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

CHAIR HOKAMA: Before entering into executive session on this, I'm going to quickly bring up litigation Item 1(11), please, Ms. Lutey. And again, for Mr. Wong, as soon as we get into executive session, we'll take up the Wildlife Fund first.

MR. WONG: Thank you.

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CHAIR HOKAMA: Thank you, Ms. Lutey, for making yourself present.

**ITEM PIA-1(11):** **LITIGATION MATTERS (SETTLEMENT AUTHORIZATION: JOSHUA NAKAGAWA V. COUNTY OF MAUI, ET AL., CIVIL 11-00130 LEK BMK; AND ANTHONY LUM-JOHN V. COUNTY OF MAUI, ET AL., CIVIL 12-00569 JMS RLP (CONSOLIDATED)) (CC 13-41)**

CHAIR HOKAMA: Members, this is Item 1(11), also under the title of Litigation Matters (Settlement Authorization), this is the Joshua Nakagawa v. County of Maui, et al., Civil number 11-00130 LEK BMK; and Anthony Lum-John v. County of Maui, et al., Civil number 12-00569 JMS RLP, and this is a consolidated item. Ms. Lutey.

MS. LUTEY: Thank you. This matter is in active litigation and I'm here today actually to convey a settlement demand from both plaintiffs in this case. This lawsuit arose out of an incident involving police officers, both plaintiffs were injured by bullet wounds, one to the arm, one to the back end of his body, from an incident out in Honolua on July 18, 2010, at about 4:13 in the morning. Due to the nature of this lawsuit and the fact that we are going to be discussing settlement, I would ask for executive session.

CHAIR HOKAMA: Thank you very much. Is there any questions to Ms. Lutey in open session regarding this consolidated case?

COUNCILMEMBER VICTORINO: No.

CHAIR HOKAMA: Having none, the Chair will accept a motion to enter into executive session under Hawaii Revised Statutes 92-5(a)(4), which the Chair has already stated the reasons why in the previous case, as well as Section 92-5(a)(8), and under 5(a)(8), it is to deliberate or make a decision upon a matter that requires a consideration of information that must be kept confidential pursuant to a State or Federal law or a court order. Mr. Couch.

VICE-CHAIR COUCH: Mr. Chair, I move that we go into executive session pursuant to Hawaii Revised Statutes 92-5(a)(4) and 92-5(a)(8) as mentioned by you.

COUNCILMEMBER VICTORINO: Mr. Chair, I second the motion.

CHAIR HOKAMA: Thank you. We have a motion by Mr. Couch, seconded by Mr. Victorino for executive session. Any further discussion? Having none, all in favor of the motion, please say "aye".

COUNCILMEMBERS: Aye.

CHAIR HOKAMA: . . .(coughs). . .Excuse me. Opposed, say "no"? Motion passes with six ayes, three excused.

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

**NOES:**        **None.**

**EXC.:**        **Councilmembers Baisa, Carroll, and Cochran.**

**ABSENT:**     **None.**

**ABSTAIN:**    **None.**

**MOTION CARRIED**

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

**ITEM PIA-1(33):**   **LITIGATION MATTERS (SETTLEMENT AUTHORIZATION: CLAIM OF MYRTLE BATES; CLAIM 2013-1038-15) (CC 13-41)**

CHAIR HOKAMA: Okay. One final item in open session at this time, Policy Item 1(33), also under litigation matters. This is a Settlement Authorization: Claim of Myrtle Bates, Claim number 2013-1038-15. Ms. Lutey.

MS. LUTEY: Thank you. This is something I'm thinking we may be able to handle in open session as long as we don't get into the medical condition of the claimant. Basically, I'm requesting settlement authority in the amount of \$9,000. What happens in this case is Mrs. Bates is on Maui as part of a crew ship stop and it's December 2<sup>nd</sup>, 2012, she's walking around the banyan tree, there's uneven sidewalk area, approximately a two-inch gap, she trips, falls, is injured and as a result of that is forced to cancel her vacation, seek immediate medical treatment. She was transported by ambulance to Maui Memorial, and then she was forced to return back home for further treatment. Part of the evaluation of this claim is for the loss of the remainder of her vacation, her return flight back to Los Angeles, and then also a car rental to get her from the airport back to her house, and she's accepted 50 percent contributory liability in this and it. . .we've estimated this claim to be anywhere valued at from \$8,363 to 13,000, or, I'm sorry, \$16,726 to 26,726, so half sort of falls just above the low end of that at 9,000.

CHAIR HOKAMA: Okay. Thank you. The Chair would like some additional discussion on this matter, so we'll take it up in order, Members. So I'm gonna recess, and we're gonna go into executive session first and take care of the Chair's priority, which is the Wildlife Fund status review.

COUNCILMEMBER VICTORINO: So this one is not going into. . .

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CHAIR HOKAMA: This is not going into executive session.

COUNCILMEMBER VICTORINO: Okay. No. Just wanted clarification.

CHAIR HOKAMA: We're gonna take it in order.

COUNCILMEMBER VICTORINO: Okay. Thank you, Mr. Chair. I'm sorry.

CHAIR HOKAMA: Okay. So we are gonna go enter into general session recess, and re-adourn [*sic*] in executive session on those two executive session items. Okay. We are in recess. . . .(*gavel*). . .

**RECESS: 10:22 a.m.**

**RECONVENE: 11:53 a.m.**

CHAIR HOKAMA: . . .(*gavel*). . . We are back in open session.

**ITEM PIA-1(33): LITIGATION MATTERS (SETTLEMENT AUTHORIZATION: CLAIM OF MYRTLE BATES; CLAIM 2013-1038-15)** (CC 13-41)

CHAIR HOKAMA: We have one last item, Policy Item 1(33), under Litigation Matters. This is regarding the Settlement Authorization: Claim of Myrtle Bates, Claim number 2013-1038-15. Members, you've heard the opening session comments from Counselor Lutey. The Chair does have some issues he wants to bring up in executive session prior to a decision on this, so as allowed by Hawaii State Law, I'm going to invoke Section 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 in regards to a claim to 2013-0138-15. So the Chair is open to a motion for executive session. Mr. Couch.

VICE-CHAIR COUCH: Mr. Chair, I move that we go into executive session pursuant to HRS 92-5(a)(4).

COUNCILMEMBER VICTORINO: Second, Mr. Chair.

CHAIR HOKAMA: Okay. Members, just so that we are definitely covered by State law, and the Chair's also going to invoke with no objections in the motion Section 92-5(a)(8).

COUNCIL MEMBERS: No objections.

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

CHAIR HOKAMA: Okay. Thank you. And I will just read it so it's very clear to the public. This Section of the law, State law allows us to deliberate or make a decision upon a matter that requires the consideration of information that must be kept confidential pursuant to a State or

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Federal law or a court order. We have the motion. Any further discussion, Members? All in favor of the motion, please say "aye".

COUNCIL MEMBERS: Aye.

CHAIR HOKAMA: Opposed, say "no"? Motion passes, six ayes, three excused.

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

**NOES: None.**

**EXC.: Councilmembers Baisa, Carroll, and Cochran.**

**ABSENT: None.**

**ABSTAIN: None.**

**MOTION CARRIED**

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

CHAIR HOKAMA: We shall recess for executive session. . . .(gavel). . .

**RECESS: 11:55 a.m.**

**RECONVENE: 12:07 p.m.**

CHAIR HOKAMA: . . .(gavel). . . Policy Committee shall return to general session. We have one item left, that is Policy Item 1(33). . .or excuse me.

MS. FRIAS: . . .(inaudible). . .

CHAIR HOKAMA: That is correct. We do not need to take any. . .okay. Now, wait now. Quick recess. . . .(gavel). . .

**RECESS: 12:08 p.m.**

**RECONVENE: 12:09 p.m.**

CHAIR HOKAMA: . . .(gavel). . . Okay. We will turn to open session again.

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**ITEM PIA-1(3): LITIGATION MATTERS (SETTLEMENT AUTHORIZATION AND STATUS: HAWAII WILDLIFE FUND, ET AL. V. COUNTY OF MAUI; CIVIL 12-00198 SOM BMK) (CC 13-41)**

CHAIR HOKAMA: My apologies for any confusion regarding Policy Item 1(3), first, under Litigation, this is a Settlement Authorization and Status of the Hawaii Wildlife Fund, et al. v. County of Maui. Now, Members, the Chair is going to recommend deferral of this matter, since it's an ongoing litigation matter. So any objections to deferral?

COUNCIL MEMBERS: No objections.

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

**ACTION: DEFER pending further discussion.**

**ITEM PIA-1(11): LITIGATION MATTERS (SETTLEMENT AUTHORIZATION: JOSHUA NAKAGAWA V. COUNTY OF MAUI, ET AL., CIVIL 11-00130 LEK BMK; AND ANTHONY LUM-JOHN V. COUNTY OF MAUI, ET AL., CIVIL 12-00569 JMS RLP (CONSOLIDATED)) (CC 13-41)**

CHAIR HOKAMA: Regarding the Policy Item 1(11), also under litigation matters, the Joshua Nakagawa v. County of Maui, et al., and Anthony Lum-John v. County of Maui, et al., which is a consolidated case, that that also be deferred with no objections.

COUNCIL MEMBERS: No objections.

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

**ACTION: DEFER pending further discussion.**

**ITEM PIA-1(33): LITIGATION MATTERS (SETTLEMENT AUTHORIZATION: CLAIM OF MYRTLE BATES; CLAIM 2013-1038-15) (CC 13-41)**

CHAIR HOKAMA: Regarding Policy Item 1(33), Settlement Authorization: Claim of Myrtle Bates, Claim number 2013-0138-15. We have from Corporation Counsel, a proposed resolution, excuse me, a revised proposed resolution entitled, Authorizing Settlement of Claim number 2013-0138-15 of Myrtle Bates, which is for a amount total \$9,000 for settlement. The Chair is recommending adoption of this proposal, as a recommendation to full Council. Mr. Couch.

VICE-CHAIR COUCH: Thank you, Mr. Chair. I move to adopt the resolution, the revised resolution, Authorizing Settlement of Claim number 2013-0138-15 of Myrtle Bates.

COUNCILMEMBER VICTORINO: Second, Mr. Chair.

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CHAIR HOKAMA: We have a motion made by Mr. Couch, seconded by Mr. Victorino. We are under discussion. Any discussion, Members? Having none, all in favor, please say "aye".

COUNCIL MEMBERS: Aye.

CHAIR HOKAMA: Opposed, say "no"? Motion passes with six ayes, three excused.

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

**NOES:       None.**

**EXC.:       Councilmembers Baisa, Carroll, and Cochran.**

**ABSENT:    None.**

**ABSTAIN:   None.**

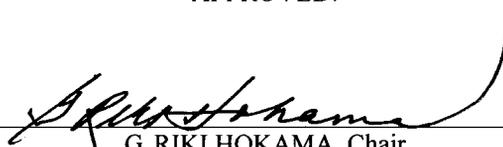
**MOTION CARRIED**

**ACTION:     Recommending ADOPTION of revised resolution.**

CHAIR HOKAMA: There is no further business of this Committee; therefore, we are adjourned.  
...*(gavel)*...

**ADJOURN:** 12:11 p.m.

APPROVED:

  
\_\_\_\_\_  
G. RIKI HOKAMA, Chair

Policy and Intergovernmental Affairs Committee

pia:min:140313:mb

Transcribed by: Michelle Balala

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**CERTIFICATE**

I, Michelle Balala, 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 4<sup>th</sup> of April, 2014, in Kahului, Hawaii.

*Michelle Balala*

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Michelle Balala