

# POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE

Council of the County of Maui

## MINUTES

June 30, 2014

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

**CONVENE:** 9:03 a.m.

**PRESENT:** Councilmember G. Riki Hokama, Chair  
Councilmember Donald G. Couch, Jr., Vice-Chair  
Councilmember Gladys C. Baisa, Member  
Councilmember Robert Carroll, Member  
Councilmember Elle Cochran, Member (In 9:08 a.m.)  
Councilmember Stacy Crivello, Member  
Councilmember Don S. Guzman, Member  
Councilmember Michael P. Victorino, Member

**EXCUSED:** Councilmember Mike White, Member

**STAFF:** Carla Nakata, Legislative Attorney  
Sharon 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.:** William R. Spence, Director, Department of Planning (Item PIA-27(2))  
David M. Yamashita, Planner VI (Supervisor), Long-Range Planning Division,  
Department of Planning (Item PIA-27(2))  
Patrick K. Wong, Corporation Counsel, Department of the Corporation Counsel (Items  
PIA-10(4), -10(5))  
Edward S. Kushi, Jr., First Deputy Corporation Counsel, Department of the Corporation  
Counsel

**OTHERS:** Lanai testifier (via telephone conference bridge):  
Ron McOmbler (Item PIA-69)  
Molokai Council Office (via telephone conference bridge):  
Dathan Bicoy (Item PIA-27(2))  
Glenn Teves (Item PIA-27(2))  
Deldrine Manera (Item PIA-27(2))

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

---

POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE MINUTES  
Council of the County of Maui

June 30, 2014

---

CHAIR HOKAMA: . . .(*gavel*). . . The Council's Committee on Policy and Intergovernmental Relations shall come to order. This is the Committee's meeting for June 30, 2014. We are on the 9:00 a.m. agenda. Present for this meeting is our Vice-Chairman, Mr. Couch --

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

CHAIR HOKAMA: --good morning, also joining us is our Council Chairwoman, Ms. Baisa --

COUNCILMEMBER BAISA: Good morning, Chair.

CHAIR HOKAMA: --good morning, and Committee members Mr. Victorino --

COUNCILMEMBER VICTORINO: Good morning, Chair.

CHAIR HOKAMA: --good morning, Mr. Carroll --

COUNCILMEMBER CARROLL: Good morning, Chair.

CHAIR HOKAMA: --good morning, Ms. Crivello --

COUNCILMEMBER CRIVELLO: Good morning, Chair.

CHAIR HOKAMA: --and Mr. Guzman.

COUNCILMEMBER GUZMAN: Good morning, Chair.

CHAIR HOKAMA: Excused are Ms. Cochran and Mr. White. Before we start on our items, Members, we shall open up testimony as required by our rules. Do we have requests for testimony this morning?

MS. FRIAS: No, Mr. Chair.

***. . .BEGIN PUBLIC TESTIMONY. . .***

CHAIR HOKAMA: Okay, we shall go, or before we go to our Regional Offices, we will state that for those wishing to provide testimony, you have three minutes. We shall assist you with your time. If you need more minutes, you shall request the Chair for that additional conclusion and if granted, you may proceed. All comments shall be directed to the Chair not to the members of the audience and I thank Mr. Carroll for helping to remind those that may not know procedure well. So thank you very much for that, Mr. Carroll. We'll go to our Hana Office and ask Ms. Lono if there's anyone wishing to provide testimony for our 9:00 a.m. agenda?

**POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE MINUTES**  
**Council of the County of Maui**

**June 30, 2014**

---

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

CHAIR HOKAMA: Thank you very much. We'll go to our Lanai Office and ask Ms. Fernandez if there's anyone wishing to testify.

MS. FERNANDEZ: Good morning, Chair. This is Denise Fernandez on Lanai and we have one testifier, Ron McOmber, testifying on Item No. PIA-69.

CHAIR HOKAMA: Okay, thank you.

MS. FERNANDEZ: Okay, go ahead.

MR. McOMBER: Good morning, Chair --

CHAIR HOKAMA: Good morning.

MR. McOMBER: --and members of the Council.

CHAIR HOKAMA: Good morning.

Mr. McOMBER: My name is Ron McOmber. I'm a past member of the Liquor Commission and Liquor Adjudication Board, so what I'm saying right now is on behalf of having boards and commissions members from the outside islands is essential to the total understanding of what's going on in Maui County. It's amazing to me when I sat on the Liquor Board, a lot of the questions that was given to me was how's Lanai doing? What's Castle & Cooke doing? What's going on? They have no idea and the people from the outer islands, and that wasn't only Lanai, this was Molokai and I believe Hana should be included in this. They should have a representative. These things are, what's happening to our outer island situation needs to be transmitted to you folks and to the County as a whole and to have a person that's knowledgeable and has the time and wants to stay on these boards and participate. I was shocked when I was on the Liquor Commission, the problem you were having with liquor being sold to minors and how many bars and stuff that were busted by the Liquor Control people. To us on Lanai, that's really not an understandable but when you see this and the affect it has on our youth, I was really glad that I was there to participate. We really need to have this. Riki, I thank Riki for putting this bill out. It has to be addressed. My other problem is the members of the boards and commissions seems to be a political football. We just had somebody assigned to the Planning Commission that absolutely knows nothing about what's going on in Lanai. This person has never been to any meetings. I've never seen this person. I don't even know who this person is and this is a detriment. It's just as well you put somebody on there that's going to stick with it. We had that case with the CPAC, the Mayor put four people on the CPAC and three of the four people never showed up to meetings unless they were told to be there by their union. This is not fair to the process. So on behalf of this bill, I strongly, strongly recommend that somebody from Molokai,

**POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE MINUTES**  
**Council of the County of Maui**

**June 30, 2014**

---

Lanai, and Hana be chosen to be on that, on those commissions and boards. It's important to our County. Thank you.

CHAIR HOKAMA: Thank you, Mr. McOmber. Any questions for the gentlemen, members? Having none, Mr. McOmber, thank you for your testimony this morning.

MR. McOMBER: You're welcome. Thank you for doing this.

CHAIR HOKAMA: Thank you. We'll go to Molokai and ask Ms. Alcon, is there anyone wishing to provide testimony.

MS. ALCON: Good morning. This is Ella Alcon on Molokai and I have no one here waiting to testify.

CHAIR HOKAMA: Okay, thank you, Ms. Alcon. Denise, once more, anyone else on Lanai wishing to provide testimony?

MS. FERNANDEZ: There's no one waiting to testify on Lanai.

CHAIR HOKAMA: Thank you. We recognize Ms. Cochran. Thank you for being here.

COUNCILMEMBER COCHRAN: Hi. Good morning, Chair. Thank you very much.

CHAIR HOKAMA: Good morning. Is there any other requests for testimony in the Chambers?

MS. NAKATA: No, Mr. Chair.

CHAIR HOKAMA: Okay, thank you. Members, we have no further requests for testimony, so with no objections, we shall close testimony for today's 9:00 a.m. agenda.

COUNCIL MEMBERS: No objections.

CHAIR HOKAMA: Thank you, so ordered.

**...END OF PUBLIC TESTIMONY...**

**ITEM PIA-27(2): COMMUNITY PLAN ADVISORY COMMITTEE SELECTION (MOLOKAI COMMUNITY PLAN ADVISORY COMMITTEE) (CC 11-164)**

CHAIR HOKAMA: Let us bring up our first item. The first item is Item 27-2 under the heading of Community Plan Advisory Committee Selection. The subheading is Molokai Community Plan Advisory Committee. Your Chair has a revised proposed resolution, which is entitled "Appointments to the Molokai Community Plan Advisory Committee". And this morning I have also, I requested various members of the nominees to make themselves present on Molokai for,

**POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE MINUTES**  
**Council of the County of Maui**

**June 30, 2014**

---

to receive their comments and any questions that you may have regarding their nominations. I believe at the Molokai Office, we have Mr. Bicoy, who has been nominated to be one of the Council's representatives on the CPAC and so I'm going to ask Mr. Bicoy, if you're present, if you would please identify yourself and share with us your thoughts on why you'd like to be serving on this Committee.

MR. BICOY: Yes. Mr. Bicoy is present. Thank you, Mr. Chair. Oh, yeah. I'm looking forward to trying to be on this board. I want to go through the process. I think we're overdue. Born and raised on the island. Hopefully I can do, you know, be a positive influence for the plan and for the community overall. I'm just looking forward to getting started. I know it would be a lot of time. Luckily, most of my kids are older now. Thank you very much.

CHAIR HOKAMA: Thank you, Mr. Bicoy. Mr. Victorino, questions for Mr. Bicoy?

COUNCILMEMBER VICTORINO: Yes. Good morning, Mr. Bicoy. I hope you can hear me. You have the time to work on this, as you stated. Do you feel that you will be able to contribute? Because this is a very important document. And so, will you be able to assist them and help them with the planning of Molokai in the future?

UNIDENTIFIED SPEAKER: Be able to assist them.

MR. BICOY: Yes. Yes, I think I can make the time and put in the effort to do so. Correct.

COUNCILMEMBER VICTORINO: Thank you, sir. I appreciate that. Thank you, Mr. Chair.

CHAIR HOKAMA: Thank you. Mr. Guzman, any questions for Mr. Bicoy?

COUNCILMEMBER GUZMAN: Nothing further. Thank you, Chair.

CHAIR HOKAMA: Thank you. Ms. Baisa?

COUNCILMEMBER BAISA: No questions but I would like to say that I'm in strong support of Mr. Bicoy. I know him and his family. I know their history on the island. I know they have helped to build Molokai. His dad was a mover and shaker in the idea of economic development and planning for Molokai and I think he'll do a good job. Thank you.

CHAIR HOKAMA: Mr. Couch?

VICE-CHAIR COUCH: No. No questions, Mr. Chair.

CHAIR HOKAMA: Thank you. Ms. Cochran?

COUNCILMEMBER COCHRAN: Chair, no questions at this time.

**POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE MINUTES**  
**Council of the County of Maui**

**June 30, 2014**

---

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

COUNCILMEMBER CARROLL: No, just that I support what's before us today, Chair.

CHAIR HOKAMA: Okay, thank you. Ms. Crivello?

COUNCILMEMBER CRIVELLO: Thank you, Chair. Aloha Dathan. This is Councilmember Crivello. Thank you for considering serving on the Molokai Community Plan Advisory Committee. Is it your understanding, or do you understand that the community plans, or plan that we have now is, that you're going to be charged with reviewing and recommending revisions to the existing community plan, and do you realize that it involves critical land use policies?

MR. BICOY: Yes, I do realize that.

COUNCILMEMBER CRIVELLO: Okay. Thank you, Dathan. Support you strongly. Thank you.

CHAIR HOKAMA: Thank you.

MR. BICOY: Thank you very much.

CHAIR HOKAMA: Are there any other questions for Mr. Bicoy? Having none, Mr. Bicoy, thank you for volunteering and making yourself available to your community and we, you will be aware of our decision when we come to that point in the meeting. So thank you very much, Mr. Bicoy.

MR. BICOY: Thank you and thank you for considering my application.

CHAIR HOKAMA: Thank you, sir. Ms. Alcon, is their either Ms. Manera or Mr. Teves available?

MS. ALCON: Yes, they both are present.

CHAIR HOKAMA: Okay, if I, whoever wants to come up next please do.

MS. ALCON: Okay, I have Glenn Teves.

CHAIR HOKAMA: Okay, let's bring up Mr. Teves.

MS. ALCON: And, Chair, can we have the members speak loudly if they have questions?

CHAIR HOKAMA: Yes, thank you.

MS. ALCON: Thank you.

MR. TEVES: Good morning, Councilman Hokama.

**POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE MINUTES**  
**Council of the County of Maui**

**June 30, 2014**

---

CHAIR HOKAMA: Good morning, Glenn.

MR. TEVES: Yes.

CHAIR HOKAMA: Yeah. Why don't you share with us some thoughts you have about why you'd like to serve on this committee.

MR. TEVES: Okay. I was on the last General Plan Committee. It was very intensive. Long hours were involved up to even 11 o'clock at night. I think it was very important. I have some concerns that, you know, we need to have continuity from the last General Plan meetings and I think I'm the only one that came from that last group. And we did a lot of work together. The group was very cohesive. It was very diverse. And I think we did a really good job on that last round but my concern is that we don't have, I mean except for me, I think, there's none that were from that last group and I think we need that kind of continuity and institutional memory to make this process more productive.

CHAIR HOKAMA: Okay. Well, thank you for that. Any other thoughts you'd like to share, Mr. Teves?

MR. TEVES: I've been involved in this community for, I don't know, 30 years or more when I started working at the University of Hawaii, College of Tropical Agriculture. I'm heavily involved in water on the island because I think water is probably one of the most important planning elements in development on this island. At the same time, we need to understand the preciousness of this water and not flaunt it for anything that comes our way. The Plan needs to drive development on the island, everybody needs to agree to the Plan. And water will be the limitation in the planning process going forward.

CHAIR HOKAMA: Okay, thank you for your thoughts on that. I'll ask Ms. Crivello if she'd like to start. Any questions for Mr. Teves?

COUNCILMEMBER CRIVELLO: Aloha, Glenn.

MR. TEVES: Aloha.

COUNCILMEMBER CRIVELLO: Mahalo for considering sharing and bringing back your expertise on the table. You mention about the institutional memory. I think that would be of value. But do you also see us coming in with fresh ideas that can continue to serve as a cohesive method of establishing revisions or recommendations to the community plan?

MR. TEVES: I agree. I think we need some new blood in there. We need to have some new ideas. At the same time, we need to have some of the old ideas come forward and then be tested in this new time and new needs for the community.

**POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE MINUTES**  
**Council of the County of Maui**

**June 30, 2014**

---

COUNCILMEMBER CRIVELLO: Thank you. I support your application. Besides your institutional, matured memories, I appreciate your knowledge of our water resources and how that can drive and, you know, we all know that our island, we got plenty plans on the shelf and how we can extract what will bring our young people home and what we can do to sustain our existing residents. So I thank you for your participation.

MR. TEVES: Thank you very much, Councilwoman Crivello.

CHAIR HOKAMA: Ms. Cochran, any questions?

COUNCILMEMBER COCHRAN: Thank you, Chair. And aloha, good morning. Thank you, Mr. Teves, for being there and willingness to serve and I just wanted with the words being stated via your Councilmember Crivello and see your past involvement with the community plan, do you see perhaps some outstanding changes from the previous to current needs of your island in particular, off the top of your head if you have any comments?

MR. TEVES: I think the needs haven't really changed. I think the need for economic development, for jobs that are of redeeming social value to the community and not just jobs that barely get them above the poverty level. But with that comes education and education doesn't always mean going to school. It could be mentoring and people teaching each other. I mean, I think there's a lot of different ways of education on the island but we still need to come up with a vision and I think we've had one through the enterprise community process that helps us to jumpstart some of the things we need to do.

COUNCILMEMBER COCHRAN: Thank you for your comments and again, thank you for your willingness to serve and volunteer. Mahalo.

MR. TEVES: Thank you.

CHAIR HOKAMA: Mr. Couch?

VICE-CHAIR COUCH: Thank you, Mr. Chair, and thank you, Mr. Teves, for volunteering and being willing to come back on a committee that seems to have been a fun and very exciting position. Question for you is as stated in a couple of applications that they want to make sure there is no, I guess, divisiveness and whatnot in the committee. The question I have for you is can you, having been on the previous CPAC, can you kind of take a look at, you know, what the divisiveness is in the community and bring everybody together so that you have productive meetings as opposed to, you know, you have all kinds of factions in all communities around Maui that are trying to make things divisive and we need to be a cohesive group. Do you have that, do you think you have that capability of getting all these folks together? Because you're going to be looked on as the senior person in the group.

MR. TEVES: I think what is important is to find our strengths and commonalities, to look at, like our children and their needs and cover the long term community needs. Molokai has been imposed

**POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE MINUTES**  
**Council of the County of Maui**

**June 30, 2014**

---

on by a lot of things around us and we're very different from those other places and we need to look at how we can continue to be different from every place else because that will be our strength. And with that strength comes a lot of opportunities that are different from other islands. I think we, Molokai has a very strong ethic toward food security and being able to have resources that our parents and grandparents had. I think there's a lot of common threads between the members that we can build upon to move things forward.

VICE-CHAIR COUCH: Great. Thank you very much and thank you, again, for offering to step back into the fray.

MR. TEVES: Mahalo.

CHAIR HOKAMA: Thank you. Ms. Baisa, any questions?

COUNCILMEMBER BAISA: Aloha, Glenn. And again, thank you very much for volunteering. We really appreciate this. After one round and sitting through meetings until midnight, you know what's ahead of you. But I want to say that, you know, I'm really happy that you're willing to come back. I know you. I've heard your name for the last 30 years or longer and you've been involved in every important thing that's happened on Molokai. I'm very excited that you're coming aboard with your background in ag and water because I think we have to pay very close attention to that. I'm interested, also, in your interest in economic development and good jobs. We know that that is absolutely essential. So mahalo nui and all the best and thank you for taking it on.

MR. TEVES: Thank you, Councilwoman Baisa. I appreciate your comments.

CHAIR HOKAMA: Mr. Guzman, any questions for Mr. Teves?

COUNCILMEMBER GUZMAN: No, nothing further. Thank you, Chair.

CHAIR HOKAMA: Thank you. Mr. Victorino?

COUNCILMEMBER VICTORINO: Thank you. And not so much a question but a comment. Glenn, thank you again. Miss you from the fair days and I hope you, you know, you continue service with your institutional knowledge and your willingness to bring parties together. It's so important, especially in this day and age. So I wish you nothing but success and I can truly support what you, this upcoming appointment. Mahalo for your service again. Aloha.

MR. TEVES: Mahalo, Councilman Victorino.

CHAIR HOKAMA: Thank you. Mr. Carroll, any questions for the gentlemen? Fine. Ms. Crivello, any last question --

COUNCILMEMBER CRIVELLO: No.

POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE MINUTES  
Council of the County of Maui

June 30, 2014

---

CHAIR HOKAMA: --for Mr. Teves?

COUNCILMEMBER CRIVELLO: Thank you, Glenn. Again, mahalo.

CHAIR HOKAMA: Okay, thank you very much for being there this morning, Mr. Teves. We'll ask Ms. Manera if she would come to the Molokai microphone and share some thoughts with the Committee, please?

MS. MANERA: Good morning.

CHAIR HOKAMA: Good morning.

MS. MANERA: I, well first of all, I would like to thank you for considering my application. You know, I'm a lifelong resident of Molokai, a native Hawaiian, born and raised on the East End of Molokai. So I've seen over the past, what five decades how Molokai has changed. Nobody really wants to see a whole lot of change but change is inevitable and I think Molokai has been pretty much left the same but we need to be up with time and I think being that this is a sensitive community, we need to be sensitive to her needs. At the same time, we need to be able to practice sensible kuleana here on Molokai because there's so much stuff going on on Molokai. I mean, we can stay here all day and talk about all the stuff that's going on on Molokai. I just got back from a four-week vacation and five people have passed and there was an incident on the ocean where a boat was hana ino, I would think but because people are so passionate here on Molokai, sometimes I think the kuleana gets twisted. So I just think I can bring a refreshing outlook or look on how things should be done on Molokai with respect, with cultural values, respect for each other and for Molokai. Thank you.

CHAIR HOKAMA: Thank you, Ms. Manera. Ms. Crivello, any questions for the lady?

COUNCILMEMBER CRIVELLO: Thank you, Chair. Aloha, Kaui.

MS. MANERA: Aloha, Stacy.

COUNCILMEMBER CRIVELLO: I understand your comments about the passion that we all have for our island and I recognize also that you're a practitioner, and you're a practitioner of the `āina as well as kai, upon the ocean. I look at you as the woman with the green thumb and as well as gathering the `ono limu `ele`ele as well as utilizing your teachings from your kupuna with your lauhala making and then you continue to work with our kupuna on Molokai. So being that you're, you know, you hear the voices of our kupuna, that you work with them daily, do you feel you can carry their voices with you on this Community Plan update?

MS. MANERA: Yeah. Yes. I think, like as you said, you know, Stacy, I think when you're born and raised living off the land. I don't pick up as much `ele`ele as I used to, let me tell you. It's hard work, Stacy, but no I totally appreciate the fact that we still have people practicing our culture

**POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE MINUTES**  
**Council of the County of Maui**

**June 30, 2014**

---

here on Molokai and working with kupuna has been an honor. It's been an honor all these years. Yes, I can take to the table with me, bring with me, the cultural values and the discipline that Hawaiians have had all these years and I think it's sad to say we're losing. We're losing ground because things are so different now. But if you ask me if I can bring with me the values that have been instilled in me by my own kupuna and the kupuna that I engage with today, definitely yes.

COUNCILMEMBER CRIVELLO: Thank you, Kauai.

MS. MANERA: You're welcome.

CHAIR HOKAMA: Thank you. Ms. Cochran, questions?

COUNCILMEMBER COCHRAN: Thank you, Chair. No, not so much questions but it's nice to see that Ms. Manera is very involved with our culture and it looks like she can carry that voice forward in the Community Plan for the island and that's very refreshing and encouraging to hear and feel. Thank you very much for your willingness to step and serve.

CHAIR HOKAMA: Thank you.

MS. MANERA: Thank you.

CHAIR HOKAMA: Mr. Couch, questions?

VICE-CHAIR COUCH: No questions.

CHAIR HOKAMA: Thank you.

VICE-CHAIR COUCH: I just thank her for volunteering.

CHAIR HOKAMA: Ms. Baisa, any questions?

COUNCILMEMBER BAISA: No questions but I want to thank her for the additional explanation that she gave as an attachment to her application. It certainly gives me a very good idea of the value of having her on the committee and I want to thank her very much for volunteering.

CHAIR HOKAMA: Thank you. Mr. Guzman, questions for the nominee?

COUNCILMEMBER GUZMAN: Nothing further, thank you.

CHAIR HOKAMA: Thank you. Mr. Victorino?

COUNCILMEMBER VICTORINO: Other than saying thank you and thank you for the information and thank you for the clarification this morning and I can support her. Nothing else but mahalo.

**POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE MINUTES**  
**Council of the County of Maui**

**June 30, 2014**

---

CHAIR HOKAMA: Okay, thank you. Mr. Carroll, any questions?

COUNCILMEMBER CARROLL: Just that I really appreciate her application and the clarity that it brings. Thank you.

CHAIR HOKAMA: Okay, thank you very much. Mr. Bicoy, Mr. Teves, Ms. Manera, if you folks need to leave, thank you very much for making yourself present. If you can stay, make yourself comfortable. The Committee's going to be taking your matter up shortly after we have an opportunity to meet with the Director, Mr. Spence. So if you would come down, Mr. Spence, for your participation. You want to bring Mr. Yamashita? That's fine too.

MR. SPENCE: Good morning, Mr. Chairman.

CHAIR HOKAMA: Good morning.

MR. SPENCE: Members.

CHAIR HOKAMA: Good morning. Director, you've heard, you know, we've done this before for Molokai and we're trying to wrap up our requirements of the nine members that are appointed by the Council for this region. You've heard some of the comments of this morning's three people that shared their thoughts about us. One thing I wanted to ask you, and, because I think the cultural component is covered very well, how much of a financial review do you give the CPAC people regarding the Plan and what their goal is in the revisions? Do they get a financial analysis of whether or not it's been an official current plan, whether they're behind times? And can, you know, make it more specific. Lanai, like this budget year, the Council was kind enough to spend about \$7 million on Lanai. Lanai brings in four-and-a-half million dollars of revenues. So, I know that Maui supports us in the tune of at least two-and-a-half million dollars more than our capacity to pay, current capacity to pay. Is this things you folks provide the CPAC Committee and the financial aspects of what their decisions may or may not do in the future?

MR. SPENCE: Thank you, Mr. Chairman. I'm not familiar that we provided that to the Lanai CPAC.

CHAIR HOKAMA: So when we talk about economic development in those plans, it's just a nice verbiage and kind of nebulous thing or we have some sense of what it means for the Plan's, you know, 10, 20 year forecast, what it means for the County?

MR. SPENCE: Okay, perhaps...okay. Dave Yamashita's a little more familiar with that than I am so I would defer to him.

MR. YAMASHITA: Thank you for the question. I'm Dave Yamashita, the Planning Supervisor for Long Range. We do as part of the consultant contract, consult, have a consultant-prepared, an economic development paper. So we did one for Lanai. Unfortunately as you know, things changed once the paper was submitted. We do have one for Molokai but it is, it was done several

**POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE MINUTES**  
**Council of the County of Maui**

**June 30, 2014**

---

years ago but it does provide a rather detailed description of what's going on from just an economic development perspective.

CHAIR HOKAMA: Because I think it would be helpful for those members that are volunteering to have a sense of should you go down certain options or paths, what is their benefit or disadvantages of some of those choices they might want to make.

MR. SPENCE: Okay. And I believe I understand the Chair's comments on Lanai. We can provide that kind of information for the Molokai Plan as well.

CHAIR HOKAMA: I think we need to give all our regions a sense of where we are numbers wise with the money. I think it's only responsible for us to know that what their decisions may or may not do to the County finances and the ability for the County then to provide those services with those resources. Ms. Crivello, any questions for the Department?

COUNCILMEMBER CRIVELLO: I do believe you're ready to get us going and your office will also be training our committee members on what is expected and what outcome that, at least from the Planning perspective, that you would like to see.

MR. SPENCE: Absolutely. A good portion of the beginning of the meetings would be orientation. You know, this is what 2.80B says is required in the plans. You know, we go over Robert's Rules. We go over all that stuff. So there's, we'll be discussing, you know, pretty in-depth what's expected and everything. And as noted in the last meeting on this, the last time we met on this subject, we are working on a draft and we look forward to starting that process.

COUNCILMEMBER CRIVELLO: Thank you. Thank you, Chair.

CHAIR HOKAMA: Okay, thank you. Questions for the Department, Members? Having none, fine. Anything you guys want to conclude? Do you know if Council moves this out within, I would say within a month, with scheduling with the Chair, the Administration would be ready with their names?

MR. SPENCE: To be honest, I have not spoken to the Mayor specifically about this but I understand, I believe Mr. Molina commented to this Committee last time that the Administration is ready to go forward with that.

CHAIR HOKAMA: Okay, thank you very much for that comment. With no other questions, the Chair will be recommending that the Committee send to the Council the revised proposed resolution, which is attached to your memorandum dated June 23, 2014 from Mr. Kushi, from the Department of Corporation Counsel, that we forward the revised resolution entitled "Appointments to the Molokai Community Plan Advisory Committee" and that the following names shall be forwarded for the Council to consider for appointment: 1, Dathan Bicoy, 2, Lori Buchanan, 3, Steve Chaikin, 4, Lance Dunbar, 5, Gregory Jenkins, 6, Debra Kelly, 7, Deldrine



**POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE MINUTES**  
**Council of the County of Maui**

**June 30, 2014**

---

**EXC.:** Councilmember White.

**ABSENT:** None.

**ABSTAIN:** None.

**MOTION CARRIED**

**ACTION:** Recommending **ADOPTION** of revised resolution and **FILING** of communication.

**ITEM PIA-2(31): NOMINATIONS TO BOARDS, COMMITTEES, AND COMMISSIONS (LIQUOR CONTROL COMMISSION) (CC 13-42)**

**CHAIR HOKAMA:** Members, may I direct you to 2(31). This is under the heading of Nominations to Boards, Committees, and Commissions. This has the subheading of Liquor Control Commission. We are in receipt of correspondence dated June 6, 2014 from Mayor Arakawa, who is nominating Stephen West to the Liquor Control Commission for a term expiring March 31, 2017 to fill a vacancy from a resignation. There is no request for the nominee to come before us. Is there any questions for your Chair at this time? Having none, Members, the Chair is going to recommend that this Committee move to the Council the proposed resolution appointing a member to the Liquor Control Commission for the County of Maui by placing the name of Stephen West on Exhibit B for approval. Mr. Couch?

**VICE-CHAIR COUCH:** Thank you, Mr. Chair. I move to adopt the resolution appointment of a member to the Liquor Control Commission for the County of Maui by moving the name of Mr. Stephen West to Exhibit B.

**COUNCILMEMBER BAISA:** I second the motion.

**CHAIR HOKAMA:** Thank you, I have a motion made by Mr. Couch, seconded by Ms. Baisa. Members, we are under discussion. Again, this is for a term expiring March 31, 2017. Having none, all in favor of the motion, please say "aye"?

**COUNCIL MEMBERS:** Aye.

**CHAIR HOKAMA:** Opposed, say "no"? Motion passes with eight ayes, one excused. Thank you very much, Members.

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

**NOES:** None.

**POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE MINUTES**  
**Council of the County of Maui**

**June 30, 2014**

---

**EXC.:** Councilmember White.

**ABSENT:** None.

**ABSTAIN:** None.

**MOTION CARRIED**

**ACTION:** Recommending **ADOPTION** of revised resolution approving the nomination.

**ITEM PIA-2(32): NOMINATIONS TO BOARDS, COMMITTEES, AND COMMISSIONS**  
**(MAUI COUNTY COMMISSION ON PERSONS WITH DISABILITIES) (CC 13-42)**

CHAIR HOKAMA: If we would just move on to the next one, which is Item 2(32), also under the heading of Nominations to Boards, Committees, and Commissions. We are under the subheading of Maui County Commission on Persons with Disabilities. For this, we have a correspondence dated June 10<sup>th</sup> of this year from Mayor Arakawa and he's nominating Harold Davis to the Maui County Commission on Persons with Disabilities and this is for a term to expire March 31, 2015 due to a vacancy. There has been no request for Mr. Davis's presence. As many of you know, Mr. Davis provides many public service to this County and I believe he just got off the previous board that he was serving in. There is no conflict of terms or responsibilities, Members. Any questions regarding Mr. Davis? Having none, the Chair will entertain a motion to recommend to Council forwarding the resolution entitled "Appointment of a Member to the Maui County Commission on Persons with Disabilities" with the name of Harold Davis to be placed on Exhibit B for approval. Mr. Couch?

VICE-CHAIR COUCH: Thank you, Mr. Chair. I move to adopt the resolution entitled "Appointment of a Member to the Maui County Commissions on Persons with Disabilities" by, and moving the name of Harold Davis to Exhibit B.

COUNCILMEMBER BAISA: Mr. Chair, I second motion.

CHAIR HOKAMA: Thank you. I have a motion and a second made by Mr. Couch and Ms. Baisa. Members, any discussion? Having none, all in favor of the motion, please say "aye"?

COUNCIL MEMBERS: Aye.

CHAIR HOKAMA: Opposed, say "no"? Motion passes with eight ayes, one excused, which is Mr. White.

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

**POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE MINUTES**  
**Council of the County of Maui**

**June 30, 2014**

---

**NOES:**       **None.**

**EXC.:**       **Councilmember White.**

**ABSENT:**   **None.**

**ABSTAIN:**   **None.**

**MOTION CARRIED**

**ACTION:**    **Recommending ADOPTION of revised resolution approving the nomination.**

**ITEM PIA-69:    MINIMUM ISLAND REPRESENTATION ON SPECIFIED COUNTY  
BOARDS AND COMMISSIONS (CC 14-129)**

**CHAIR HOKAMA:** Let me now direct you to Item 69. From our last Committee meeting and the comments, the Chair took your comments and under advisement made some appropriate adjustments. That is why the current heading of this item now is called Minimum Island Representation on Specified County Boards and Commissions. This will just set a minimum requirement by island units of the County of the inhabited island units, at this time Molokai and Lanai, on specified County boards and commissions shall be required to have a minimum of one member from each island. Those would be the Board of Variance and Appeals, the Cost of Government Commission, Fire and Public Safety Commission, Liquor Control Adjudication Board, Liquor Control Commission, and Police Commission. I believe we made, didn't we make one revision? The Chair made one revision. The Chair removed the Cost of Government Commission from the Specific Commissions for representation. Any questions for the Chair? Mr. Couch?

**VICE-CHAIR COUCH:** Thank you, Mr. Chair, and, you know, I think I mentioned this last meeting. My only concern is if they can't find somebody on each island, and we've had that issue before, if there's some sort of language we can put in there that says if you can't find any, then let's not have a vacancy until somebody else can show up. I don't know. My concern is, especially on Lanai, we had prior, having to deal with this myself, we had some issues with even finding somebody from being willing to serve or having the time especially on these very difficult commissions. So if there's some sort of, saying, you know, after you've tried and exhausted all possibilities, then potentially coming up with somebody else from somewhere else. I'm not sure how that would work. Otherwise it's great, I mean, thank you for getting all of our revisions in there but I still have that one small concern.

**CHAIR HOKAMA:** Uh-huh. I would say my problem is having the community residents coming to me saying they never get an opportunity and they keep applying. So I get the opposite. We want to

**POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE MINUTES**  
**Council of the County of Maui**

**June 30, 2014**

---

serve, we apply, we never get considered. So I'm just sharing with what I deal with when I'm home. Everybody will have an opportunity to speak on this one. Mr. Carroll?

COUNCILMEMBER CARROLL: Thank you, Chair. Although I understand Mr. Couch's concern, I do not agree. I think that we just need to try harder and we try to get our people more involved. Putting something like that in sounds like it could be used to, well, I just don't see anybody around so we're going to get somebody else. I think we just need to try harder in our communities to get these people out. Thank you.

CHAIR HOKAMA: Thank you. Ms. Baisa?

COUNCILMEMBER BAISA: Thank you very much, Chair. I support what Vice-Chair Carroll said. I think that we just have to give a bigger effort. I can't believe that in those people there isn't somebody who is qualified and would want to, if they were given the opportunity. We just have to make it available and see what we can come up with. Thank you.

CHAIR HOKAMA: Well, I want to thank all of you. I think with your decisions and definitely actions whereby even in the Budget we have placed specific attention of resources to the, is it the Ipu Kukui Program, where we made specific allocation for Molokai and Lanai to help develop the next generation of future leaders and whatnot that part of it is letting them serve on this type of boards and commissions. So I think we're in the right direction, Members.

COUNCILMEMBER BAISA: Chair, I really believe that, you know, we are a tri-island county and it's very important that we have everyone's perspective. You know, we complained about the Honolulu-centric decisions and I know that people on the neighbor islands, our neighbor islands feel the same way about Maui-centric decisions. So I think every effort should be made. Thank you.

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

COUNCILMEMBER GUZMAN: Nothing further, Chair.

CHAIR HOKAMA: Mr. Victorino?

COUNCILMEMBER VICTORINO: Thank you, and I concur with my colleagues and I think the time is now and I don't see any necessity to make any more revisions. I think I like what we put together and I think we should, first of all we should try it and work hard at it and then from there if revisions need to be made, we can take a look at it, you know. I think that's one of the biggest things is we sit here and we try to make sure that we get perfect laws, perfect ordinances, perfect resolutions and they don't always come together. Until we can see the residual effect we have no idea. I concur with you, Mr. Chair. I thank you for bringing this forward. I think it's long overdue and let's get it done. Thank you.

CHAIR HOKAMA: Thank you. Ms. Cochran, did I call on you?

**POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE MINUTES**  
**Council of the County of Maui**

**June 30, 2014**

---

COUNCILMEMBER COCHRAN: No, Chair. I just want to say I echo the sentiments of my fellow colleagues. Thank you.

CHAIR HOKAMA: Thank you. Ms. Crivello, any thoughts?

COUNCILMEMBER CRIVELLO: Thank you, Chair. Thank you for moving this forward and I agree with you. You know, I've had applicants that were never considered calling as to why is it that we're not, I'm not being considered for a position on a commission or a board. So I think this is a good move that we have an exclusive, it's not so exclusive, it's only Maui, you know, it involves the full County. The other advantage to...I'm looking from just from my island and I'm sure that with, after what you mentioned about leadership, this does encourage and empower young people to take into consideration the process of government and who knows where their involvement will take them and I think we all need to look at that. So I support this and appreciate your efforts to bring it forward, Chair.

CHAIR HOKAMA: Okay, thank you very much. Do you have anything for me? Okay, if there is no further questions or comments, Members, the Chair's going to recommend that the, that we push out to Council a bill for an ordinance, a revised bill for an ordinance entitled "A Bill for an Ordinance Amending Chapter 2.41, Maui County Code, to Require Specified County Boards and Commissions to Include Members from Lanai and Molokai" and the filing of all pertinent communications. Mr. Couch?

VICE-CHAIR COUCH: Thank you, Mr. Chair. I move that, to pass "A Bill for an Ordinance Amending Chapter 2.41, Maui County Code, to Require Specified County Boards and Commissions to Include Members from Lanai and Molokai" and to file all pertinent communications.

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

CHAIR HOKAMA: Thank you. I have a motion made by Mr. Couch, seconded by Ms. Baisa. Members, do we have further discussion on the motion? Mr. Couch?

VICE-CHAIR COUCH: Thank you, Mr. Chair, and I, you know, I, as much as it pains me to say, I agree with Mr. Victorino. It doesn't pain me to say that. I agree with Mr. Victorino. We can pass it out as it is now and if we have the issues that I have concerns, then we can come back and take a look at it. So I'm perfectly happy with doing that. Thank you.

CHAIR HOKAMA: Thank you. Any further discussion? I would say that's one of the good things about an ordinance. We can, Council can bring it back soon to make the appropriate adjustments if necessary. There being no further discussion, all in favor of the motion, please say "aye"?

COUNCIL MEMBERS: Aye.

**POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE MINUTES**  
**Council of the County of Maui**

**June 30, 2014**

---

CHAIR HOKAMA: Opposed, say “no”? Motion passes with eight ayes, one excused. Thank you very much, Members.

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

**NOES:           None.**

**EXC.:           Councilmember White.**

**ABSENT:       None.**

**ABSTAIN:      None.**

**MOTION CARRIED**

**ACTION:        Recommending FIRST READING of revised bill and FILING of communication.**

**ITEM PIA-10(4): PROPOSED CHARTER AMENDMENTS (ALLOWING THE COUNCIL TO REMOVE THE CORPORATION COUNSEL) (CC 09-229 AND 14-143)**

CHAIR HOKAMA: Let me now direct you to Policy Item 10(4). This is under the heading of Proposed Charter Amendments, subheading Allowing the Council to Remove the Corporation Counsel. We are in receipt of various communications, one is from Mr. Molina dated [*sic*] 09-229 as well as one from Mr. Guzman, Communication 14-143. And with that, we have a proposed resolution entitled “Proposing Amendment to the Revised Charter of the County of Maui 1983, as Amended, Allowing the Council to Remove the Corporation Counsel”. Now this will need to be placed on the ballot if it does move forward for the electorate to make a determination on whether the Charter should be amended to allow this proposed action. We have handed out some information from the Staff for your review and use as appropriate, Members. I’ll ask Mr. Guzman for some comments if he has at this time regarding his proposal for us.

COUNCILMEMBER GUZMAN: Thank you, Chair. Would you like me to move for the proposal or...

CHAIR HOKAMA: We’ll just take discussion now.

COUNCILMEMBER GUZMAN: Okay. Okay.

CHAIR HOKAMA: We’ll take the motion at the appropriate time.

**POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE MINUTES**  
**Council of the County of Maui**

**June 30, 2014**

---

COUNCILMEMBER GUZMAN: Okay, thank you, Chair. I brought this resolution forward for the amendment of the Chapter 2 of the Department of Corporation Counsel, Section 8.2.3, as well as, oh, I'm sorry, 8.2.2., Corporation Counsel. And if you can look at the amended version here on the resolution itself, I'm amending the powers to remove...I'll just cite the full language here. Corporation Counsel shall be appointed by the Mayor with the approval of the Council and may be removed by the Mayor...and then I'm deleting with the approval of and deleting that section and substituting or amending or by resolution approved by a two-thirds vote of the entire membership of the Council. By doing this, this allows the Council to also have equal balance of power to remove the Corporation Counsel, equal power with the Mayor. As it is originally written, the only person that could trigger the removal of Corporation Counsel is the Mayor. And so if you look at Section 8-2.3, the Powers, Duties, and Functions, and that's in your handout, it specifically states that the Corporation Counsel, Subsection 2, be the chief legal advisor and legal representative of the County of Maui, of the Council, the Mayor, all departments and all boards and commissions, and all officers and employees in matters relating to their official duties. Now that language in itself basically says that the Corporation Counsel is the legal advisor and legal representative of both the Executive branch and the Administrative branch, I mean Executive branch and Legislative branch and in doing so there, the Corporation Counsel has multiple clients. And to have just the Mayor have the inherent right to trigger the removal somewhat is a conflict of interest in that the Corporation Counsel does serve at the Mayor's pleasure and can be fired at any time and it seems reasonable that he would have a material personal interest in the representation of the Mayor that would prevent him from giving effective legal advice to the Counsel. Corporation Counsel has a basic financial interest at stake and that might very well influence him, however subtle, in his attempt to resolve conflicts. What that means is since the Mayor has the power to appoint and he's the only person that can terminate the Corporation Counsel's job, there is a tendency to have a financial interest in protecting a person's job. So this is all about the balance of power. Being able for the Council to have that power to also terminate. This is not an old-aged issue, Chair. Specifically in our rule 1.7 of the Rules of Professional Conduct under Attorneys, it's an inherent right for the client to be able to terminate. And also, it also prohibits attorneys from representing a client whose interests are adverse to another client. And under that section, government lawyers are not exempt from the rules of professional conduct. As I said, this is not an old-aged issue, Chair, and the Administration and the Executive branches are two distinct entities with different interpretations of public interest, different obligations in representing their constituents, and have a responsibility to oversee each other. If you look back at the second, at the third handout here on the third page there, you have, I've presented to the Members a transcript of the May 8, 2002 Committee of the Whole and this was chaired by Dane Kane and during that time period, Chair, the issue of amending the Charter came forward and that was, basically that Committee was reviewing the Charter Commission's proposal to amend 8.2.3. And during that, I guess the Charter Commission's proposal, they actually amended the language on number 4. Before it used to read, as shall be assigned by the Mayor, which basically means that if the Council wanted something to go through Corporation Counsel, we had to go through the Mayor, and the Mayor then assigns the duties. But that Council under Chair Dane Kane, went ahead and reviewed the Charter Commission's proposal and passed it through to be placed on the ballot, which then changed the duties of the Corporation Counsel to what we have now, which basically spells it out that Corporation

**POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE MINUTES**  
**Council of the County of Maui**

**June 30, 2014**

---

Counsel represents both the Executive and the Legislative branches. During that discussion, when the Council was reviewing the proposed Charter amendments, it was brought forward under Councilmember Arakawa that the amendments by the Charter Commission didn't go far enough for balancing the power. So I have an excerpt here that points out that under Page 160, under the Committee of the Whole, May 8, 2002, Councilmember Arakawa says right now, it specifically states that it should be the Mayor that removes it with the approval of the Council. And I guess even though it relates, perhaps the best thing for me to do is when we do our own changes, perhaps look at if it would be agreeable to put it in to be removed by the Mayor or the Council. That discussion didn't go any further because apparently Chair Kane limited the discussion to only the amendments that were proposed by the Charter Commission. But then you see on Page 170, Councilmember Nishiki saying that, and I don't have a copy of that. I can provide the copy of Page 170 to the Members, Councilmember Nishiki saying, well, because I think that there were the changes are not there, he's saying that the changes he believes, are not really there, the changes should be and they should be if that was the concern that has been raised and they are saying that this is the answer to those conflicts. What Alan Arakawa is saying in 2.2 is where the real change should be. That's, that it's not the Mayor that appoints the Counsel, that it's not the Mayor and the Council that approves at that point but it also should be perhaps the Council that can also without any approval from the Mayor, remove the Corporation Counsel to make it equal. Right now it's only the Mayor can make that type of recommendation to remove. The Council cannot. From what the Charter reads under 2.2, and I think that was what Mr. Arakawa was getting at. But like you were saying, that is, that's not what we're discussing now. So this is an old-age issue, Chair. And if you look at, I have another transcript here from the Committee of the Whole, August 1, 2002, from Councilmember Jo-Anne Johnson, and she states right now, the Mayor has the authority to initiate the hiring or the firing of Corporation Counsel, therefore the Department of the Corporation Counsel has a special relationship with the Executive branch. In the past, legal disputes with the Executive branch, the Council has been forced to hire special counsel while the Mayor has been represented by the Corporation Counsel and these inequalities do put the Council at a disadvantage. And so, co-equal branches of the government and the County's policy making body, the Council does have a critical need to receive reliable legal advice from in representation from its Staff Attorneys. But that may be another issue that's going to come up in the next amendment that I have. But, Chair, I'm just getting back to this is an issue where if we want to move forward and the other previous Councils have faced this issue before, an equal balance, I really believe that we're going to move forward and take that next step to complete what the previous Councils intended and wanted to do but didn't follow through with it. You know, it's our responsibility as the future Council body to take those issues that haven't been completed and complete those issues. This is one area that I believe really does need to be addressed and amended just for the balance of it. Just like I said, if Corporation Counsel, Chair, is to represent both branches, we should and we do have an inherent right as a client, as the Legislative branch, to have the right to terminate equally with the Mayor. Thank you, Chair.

CHAIR HOKAMA: Thank you for your thoughts, Mr. Guzman. I would agree, this is not a new issue for us and unfortunately Council has taken the Administration to court many times in the past that was unfortunate but it did occur and we've even had some supreme court rulings. Not

**POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE MINUTES**  
**Council of the County of Maui**

**June 30, 2014**

---

opinions but actual rulings, which is why the Council is the only one that can allow special counsel, in this County at least. I'm open to other participation and points. Mr. Couch?

VICE-CHAIR COUCH: Thank you, Mr. Chair. You know, I understand where Mr. Guzman is coming from but if you read the Charter 8.2.2, it does say may be removed by the Mayor with the approval of the Council. So it's not just the Mayor being able to ask, to remove the Corp. Counsel. We as a Council have to agree. I do agree that the Mayor is the only one right now that has the ability to initiate that removal. So I understand the concern there but as far as other councils, you know, in the only minutes we did get it would be nice to be able to get, if we're going to quote from minutes, that everybody gets a chance to read those. So I appreciate the ones that we did get but it says, you know, perhaps look at it if it would be agreeable. So since 2002, it hasn't been agreeable with the Council, if it was somebody would have brought it up between now and then. You were the Chair, a couple of times, I believe, a couple of terms in there and it wasn't brought up so I have, I like it the way it is. We do have the chance to remove if the Mayor brings it up. If it's something that we don't like, that's, you just mentioned, we're the only ones that have the right to appoint special counsel, so typically what happens is we do our special counsel if we don't agree with what happens with what the Corp. Counsel says. That's been the way it's been for quite a while. So I think, I can't support this at this point because it's, it appears to be we each have an equal opportunity. We get the special counsel, they get a chance to initiate the removal but they don't get to remove, they just get to initiate the removal. We, as Council, are the ones that have to agree with it. So that's where I stand on that. Thank you.

CHAIR HOKAMA: Ms. Baisa?

COUNCILMEMBER BAISA: Thank you very much, Chair. My thoughts on this. I'm going to say from the get go, I'm not in support of it. One of the things that I'm interested in is I'm looking at these quotes from the minutes and, of course, you know, people's perspective changes. When you're a Councilmember, you look at laws some way and when you're the Mayor, you look at them a different way because becoming the Chief Executive of the County, you have a different perspective than you do as a Councilmember and I can tell you this because being the Chair of the Council, I now have a very different perspective than I did as a member. You know, you realize the total responsibility of being in charge. And so you have different ways of looking at things. You realize as Chief Executive that you really need to have some power because you are responsible and the buck does stop on your desk. And for me, regardless of what this law reads, there is nothing to stop the Council if we are so upset with our Corp. Counsel. First, we can get special counsel. Secondly, I'm sure we can raise enough of a ruckus that the Mayor might have to do something. So, you know, I'm not really interested in rocking the boat. And as far as the idea of suggesting financial consideration, it does bother me because, and again we're speaking about what exists today. We have a Corporation Counsel in my opinion that we're very lucky to have. I know that this gentleman probably could be in the private sector earning a heck of a lot more money than he does as our Corp. Counsel and I consider us very fortunate to have him. So for me, I'd like to not support this. Thank you.

**POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE MINUTES**  
**Council of the County of Maui**

**June 30, 2014**

---

CHAIR HOKAMA: Thank you. Ms. Crivello, any thoughts or comments at this time?

COUNCILMEMBER CRIVELLO: Yes, thank you, Chair. You know, if I have to just look at equal balance of power with the Mayor as well as the Legislative branch, you know, if something like this is put in place for us to be able to bring qualified people, in other words, you know, if I work for a corporation or a place of business, I have to know who my bosses are and who will evaluate me as to make the recommendation to sever me from my employ or not. So I think that sort of adds an imbalance, at least for the appointee and which to me is not, is really not a fair approach. For me, I believe it states in the Charter that Corporation Counsel represents the Mayor as well as the Council and we've witnessed where we've wanted to have special counsel because we couldn't get a direct kind of support. So I can understand why there is this kind of consideration. However, if I had to think long term, and I'm sure that's what the prior Council may have considered, their representation remains the same but the initiation of severance or removing the Corporation Counsel should come just from one solid line and then bring before the Council for the approval. That being said, at this time anyway, I can't see myself supporting this particular amendment to allow the Council as well as the Mayor to make the decision. We do approve the Mayor's recommendation for the hiring as well as the firing. It, you know, we still have the final say.

CHAIR HOKAMA: Thank you. Mr. Carroll, any comments at this time that you wish to share?

COUNCILMEMBER CARROLL: Thank you, Chair. All of the Councils have always had the concern about Corporation Counsel and the service that they give the Mayor's Office, the Administration, and the Council and it has always been a matter of contention, whether we talked about this type of action or any other actions. I mean, it's going to be with us no matter what. Even if we approve this, it's still going to be a matter of discussion going through. But I understand the difficulties. We need to have it, think about the Corporation Counsel, the person himself that is in the position. Right now, he knows that only the Mayor can terminate him, period. It really puts him in a very difficult position at times when considering whatever. And that I do not like to see. I don't like to see our employees put in a position to where they have to serve two masters with only one having the authority to really censure or release. It seems like this would put Corporation Counsel in a better position to serve us without worrying about well, if I do this, you're going to take me away or I going doing that the other side. The way we have it now works. I would hope that we can do something over here, either with this or modifying this to make it to where our intentions are met and again it actually serves the Corporation Counsel Office itself. And I think that needs to be our main concern. Thank you, Chair.

CHAIR HOKAMA: Thank you, Mr. Carroll. Ms. Cochran, any comments at this time?

COUNCILMEMBER COCHRAN: Thank you, Chair. And I see, so I'm not sure, I'd like to hear from actual Corporation Counsel to see if they have...

CHAIR HOKAMA: Yeah, we'll bring them down.

**POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE MINUTES**  
**Council of the County of Maui**

**June 30, 2014**

---

COUNCILMEMBER COCHRAN: And I see Mr. Wong is here also in the gallery. But also someone like yourself, Chair, that you stated that this, you know, isn't a new issue as Mr. Guzman stated and what, why it hasn't been acted upon, you know, and why it is the way it is until today. So for me, it's just the process right now of hearing out all perspectives and vetting of this. But I understand the intent and reasoning behind Mr. Guzman's proposal and so, but I want to see if there's some unintended consequences that could, you know, put this body, the Council, in liability or conflicting or something type situations with that call and perhaps that's why it hasn't been done thus far. So that's kind of where I'm at at this point, Chair. Thank you.

CHAIR HOKAMA: Okay, thank you. Mr. Victorino, any comments at this time?

COUNCILMEMBER VICTORINO: No, I think, you know, to be perfectly honest, Mr. Chair, Mr. Guzman brings up something that's been an age-old question, balance of power. United States Constitution tried to address that and today we find that there is an arm of our government now who has become probably more powerful than the other two and it becomes dangerous. I would look at considering something like this although at this time I cannot support this resolution but more work needs to be done on this. I think there will become a day that maybe we need to look at Council having some or similar power when it comes to the Corporation Counsel. And it's been an age-old question like you said, you know, we can assign special counsel. We can hire special counsel. But it's really hard sometimes when you sit there and you try and ask the question, which has Administrative and Legislative trying to balance who has and what has higher priority as far as what you're trying to accomplish at that point in time. So I'd like to hear from Corporation Counsel also but I thank Mr. Guzman for bringing this forward. I think it's always healthy to have discussions. I don't think that's, not in my mind, but I do not support, at this time, this change. So I'll listen to Corporation Counsel to see if there's anything else that they can tell me that would make me reconsider what I've just said. Thank you, Mr. Chair.

CHAIR HOKAMA: Mr. Guzman?

COUNCILMEMBER GUZMAN: Thank you, Chair. I just, I understand my Members' concerns and this proposal is not directed specifically to our Corporation Counsel. This is for our future. So that just like what Member Carroll says, and I must quote in the Charter, as chief legal advisor of both the Council and the Mayor. Now that means in legal terms you have multiple clients. You have two clients essentially, the Executive and the Legislative branch. Just like any other business or ordinary business that you have out there that probably are not subject to the Professional Rules of Responsibility but here's a simple analogy. You have two clients coming to you. Only one of them is able to terminate you and you serve both clients and you're going to be in a position where you're going to say, okay, do I have a financial interest to one over the other because only one of them can terminate you. So I am more interested in removing any kind of taint and if you read the Charter as it is now, it could be perceived that the Corporation Counsel, may it be Mr. Wong or any future Corporation Counsel, will have a tendency to be more one sided than the other based off of his ability or fear of being terminated by one branch. Yes, Mr. Couch. I also agree with you that we do have that power to approve the termination or

**POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE MINUTES**  
**Council of the County of Maui**

**June 30, 2014**

---

the removal but just as the Charter says specifically, we can stand up and down, yell, and turn blue in the face, we still do not have the right, inherent right to make that termination. We do not have that triggering right to terminate completely right straight forth, right off unlike what the Mayor does. He has that triggering effect to terminate. And here's an example. If you have a Corporation Counsel that you feel as the Council body is doing a good job but the Mayor is saying, okay, I would rather have him, you know, he's not doing a good job. Okay, he triggers the removal, we say no, still do we have a bad Corporation Counsel. Reverse that. The Council does not like the Corporation Counsel. We can stand blue in the face and nothing will get done until the Mayor triggers it and he may not even allow that removal. So you're at a standstill. You're at a stalemate. If you guys cannot see what this is going to effectively do to better the system, then I'm sorry. I basically feel, analytically feel that this is a good thing for all of us so that we--if I was Corporation Counsel, I would want this in here just to remove the taint of being, having some kind of financial interest in this section here by having one branch being able to terminate versus the other. That's all I have to say, Chair. And it's a two-thirds vote to remove. That's a supermajority.

CHAIR HOKAMA: I would just say, Members, I think it was when we were on the board, Big Island had it for many years, we can elect the County attorney. We can propose to elect the attorney and be in one appointed position. That's another way to approach it. Not necessarily a better option but that's how some other counties approach it, making the attorney...like, I would just share with you that, Members, for me, Corporation Counsel should remember one thing, their primarily client is the County of Maui, period. The Corporation Counsel should either advocate or admonish either the Council Legislative branch or the Mayor and his Executive branch if it is the wrong position on behalf of the County. I understand recently, you know, some of our potential issues or frustrations we get when we reach certain types of legal situations where trying to get advice or counsel had put us in difficult situations where for various reasons we were not able to receive that information. I think if, one way to look at it is how to avoid that or to move forward and then that's something we can have Corporation Counsel representatives, including Mr. Wong and others give us comment on if it's the first to gripe gets the counsel first, then let's make that aware to everybody, including the residents. That whichever branch complains first gets their legal representation and the other branch has to suck it up and ask for special counsel if warranted. But I'm not too sure if that's the right way to do it. Again, for me, if the Administration's wrong, Corp. Counsel should be admonishing them completely, not hiding it or defending it. They should be admonishing that position or that act. Okay. And I can tell you, we as members of Council have paid big money, in the millions, for Mayors that have not listened to Corporation Counsel. So for me, I have an issue and I understand Mr. Guzman because I've had to agree to paying a lot of money for bad decisions of the Executive branch. Okay, big money. It upsets me. Why have legal advisors if you're not going to take it as been designated as the County's advisor. So that's something we need to think about. Regarding special counsel, Members, it is the hammer, a strength of the Council that we have by judicial rulings. But I would say maybe it's something we need to discuss on the next item as another way to see if there's opportunities for us to be able to receive required legal input within appropriate parameters that will still have its rightful standing if we move forward to litigation or other judicial remedies. So saying that, Members, I don't have a problem. I'll ask Mr. Wong if

**POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE MINUTES**  
**Council of the County of Maui**

**June 30, 2014**

---

he'd like to join us with Mr. Kushi and if he has comments he'd like to share upon hearing the Committee membership, share some thoughts. Thank you for being here, Mr. Wong with Mr. Kushi. So, gentlemen, if you folks have comments you'd like to share with the Committee, please do so.

MR. WONG: Excuse me one second, Chair.

CHAIR HOKAMA: Sure.

MR. WONG: Sorry. I did not have an opportunity to review this material until now. Chair.

CHAIR HOKAMA: Mr. Wong.

MR. WONG: It's with great difficulty that I sit here before you to hear that I may be in a position that I would compromise my ethical obligations to the County for a financial reason. I understand that it may not be targeted towards me individually but in any future circumstance, any Corporation Counsel that takes the role that I have taken takes on a huge obligation. During my confirmation process, I was asked that question about dealing with the service of two masters. I assured this body then, and I remind this body now that my obligation, as Chair has pointed out, is first and foremost to the County. I assure this body that I have admonished the Administration from the Mayor, to the department heads on issues and topics where they may be extending beyond the scope of their obligation, and as much as I have shared with this body that this body also has a scope of responsibility. When you start to expand beyond it because it's personal and it's a direct affront, it's unfortunate. Very, very unfortunate. The timing of this measure is interesting but I leave that to the Councilmember that proposes it. I offer to you that under our ethical obligations as a governmental entity, it is run differently than the private sector. There are specific ethical rules that apply to the lawyers under the Code of Professional Responsibility as it relates to governmental entities. Same is true and applicable to the Attorney General and to the State. I, for every circumstance, have to deal with the struggle between the pushing and the pulling of my two primary clients. The difficulty, I think, is measured in the responses that you receive depending on the topic. Our first and foremost obligation is to the County regardless of which entity is asking for what type of information. If the County is perceived to be at risk, then it is my obligation to protect it against any push and pull from either body. That's a very difficult scenario to be in. Quite frankly, I feel that the current language in the Charter provides me more protection in the event Mayor and I or Administration and I have a direct disagreement, which does happen. I find comfort and understanding that he cannot remove me unless you approve. Same is true of my appointment. Having sat here before you in a very extensive timeframe on multiple occasions, hours on end, recognizing that you, too, have the authority over myself as an appointee and the rest of my Department. Quite frankly, if any one individual perceives that they're being maltreated by anyone in my Department, I would want to hear that directly and that would be dealt with with immediate dispatch. Unfortunately, people believe that just because you don't receive the answer that you want that it's a vindictive scenario. It is not. It's meant to protect the County as a whole. That's the primary obligation. I don't see the change in the Charter providing me or my future replacement any more comfort than what's already provided

**POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE MINUTES**  
**Council of the County of Maui**

**June 30, 2014**

---

under the Charter. Quite frankly, it would be more disconcerting, in my view, for fear of retribution should the person in my position not agree with an individual political agenda. How would that put that office...it would put the office at risk every single time. I believe currently the protections that are provided of the Department provides the Department with the opportunity to provide, to give you direct advice and to give the Mayor and the Administration and the body direct advice. You are correct, Chair. The obligation of this Department that I operate is to the County as a whole and we have, including the deputies, taken that very, very seriously. We continually operate, in my view, in the highest ethical realm that we can in representing this County beyond the expectations, I believe, of Council members and of the Administration. Kind of hurt to hear that the financial component of this is made an issue. You know, the Salary Commission sets that. This body approves that. The ordinances change to deal with it. I don't have any concern about what the salaries are set at. It's set by a commission. I didn't even testify before that body to increase or decrease. The deputies that are in my office, their salaries are set by your ordinance. I have discretionary flexibility, 20 percent above and below but you choose what that number is. You choose whether or not I get paid what the Salary Commission approves or not. It's not the Mayor's decision to do that. I think that if you believe as a body that every time there's a conflict between the Mayor and the Legislative branch that it's always about the blue check, then I'd offer to you my ethical belief is that it's never about the paycheck and I would surrender my position in a heartbeat if you felt that I would compromise my position and my ethical role in this community over a dollar. It's ludicrous. It's crazy. I never took this job over the dollar. It's about the role. It's about the obligation. It's about doing what's right. And I'm willing to do that today.

CHAIR HOKAMA: Thank you very much, Mr. Wong. Before we continue, the Chair has been given notice we will be in recess until 10:45. . . .(*gavel*). . .

**RECESS: 10:34 a.m.**

**RECONVENE: 10:47 a.m.**

CHAIR HOKAMA: . . .(*gavel*). . . We shall return to session. We are the Policy Committee and we are on the item that Mr. Guzman was kind enough to bring forward. We're still under discussion regarding the Department of Corporation Counsel and whether or not the Council should have the authority to determine continued employment or not of the Corporation Counsel. Further discussion, Members? Any further discussion? Mr. Guzman?

COUNCILMEMBER GUZMAN: Thank you, Chair. I just wanted to briefly have my opportunity to rebut. When I say financial interest, I'm basically pointing out the fact that only one branch is able to terminate and that's what I mean by, what financial, potential financial interest and so nothing to do with Salary Commission and so and so forth. It's just the fact that one branch has that power to terminate someone's, the Corporation Counsel's job and that's basically the financial portion of it. Getting back to the amendments that were made in 2001, clearly that Council made sure, and you were on that Council, Chair, made sure that it was spelled out in the Charter what the duties of the Corporation Counsel was, to represent both branches, and with

**POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE MINUTES**  
**Council of the County of Maui**

**June 30, 2014**

---

that representation comes with the ability to terminate and to balance that, to balance the powers it just makes, it's just logical sense that we take that next step further and having that power invoked. And all I'm asking this body to do is pass this forward to let the people decide. I mean, we're not going to be out, we don't have the ability or the authorization to pass this in the Charter. All that we're doing is passing it forward to be placed on the ballot and if it makes sense to the people then we should let the people decide this. It makes perfect sense to me regardless of what Mr. Wong is saying that, you know, I'm taking this personal, blah, blah, blah. If I were to take this personal, I would have hired special counsel or hired a private attorney and gone forward. I looked at this section and on its face it looks like there is a, it's unbalanced and I clearly am trying to correct something that on its face looks like it's unbalanced. And Mr. Wong may think it's otherwise but I saw this section based off of maybe some previous issues but I'm not bringing those up. I'm trying to create balance in the system. But as I said, I think it's up to our body to bring it forward and let the people decide. Thank you, Chair.

CHAIR HOKAMA: Okay, thank you. Further discussion, Members? Mr. Couch?

VICE-CHAIR COUCH: Thank you, Mr. Chair, and while I'm not a lawyer, I seem to think that the Mayor doesn't have the ability to fire. The Mayor has the ability to initiate a termination proceeding of which we actually have the ability to approve or disapprove. So that's the way it currently stands. Now if we pass this Charter Amendment, if this were to go through, the Mayor would have the ability to terminate without any Council approval, because that has been removed from this language here. So I'm not willing to give the Mayor carte blanche in removing Corp. Counsel. It has to be a mutual decision between the two of us. That's one of my major concerns with this language. So I still wanna reiterate that it is a mutual decision between the Mayor's Office and us and it's not, the Mayor doesn't get to terminate right away. So that's my biggest concern. Thank you.

CHAIR HOKAMA: Thank you. Ms. Cochran?

COUNCILMEMBER COCHRAN: Thank you, Chair. I don't know, I'm not sure who this question...so perhaps Mr. Guzman since he's the proposer, in regards to initiation, I think you mentioned, I mean trying to find the balance where currently it only states that Mayor can initiate and then we approve or disapprove the termination in the end. But we at this point cannot initiate the...right, is that right? But where in your changes does it allow then? Is that, I'm trying to figure that, the wording out.

COUNCILMEMBER GUZMAN: That's...may I respond?

CHAIR HOKAMA: Mr. Guzman?

COUNCILMEMBER GUZMAN: Thank you, Chair. Yes. In my amendment, we can initiate the removal by resolution approved by two-thirds vote of the entire Membership. So if we get a two-thirds vote, then we can initiate the removal. The Mayor can just initiate the removal on his own. As it was in the previous language and is still in the amended section but I'm removing the

**POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE MINUTES**  
**Council of the County of Maui**

**June 30, 2014**

---

approval part of the Council. So the Mayor outright can terminate and so can we outright terminate. I mean, I understand where Mr. Couch is going. There could be language in there that says the Mayor can initiate with the approval of the Council and the Council can initiate with the approval of the Mayor. I could have amended it that way but if we were to propose it that way, Chair, I believe that you'll come up with a stalemate every time and there has to be an end to it. It's either the Mayor can terminate and/or the Council. If we have the Mayor with the approval of the Council and the Council with the approval of the Mayor, it's circular. You're going to get a stalemate every time. Well, not every time but it, more likely than not it's going to have a stalemate. But if you like that type of language, I'm willing to take an amendment on it but I find it circular.

COUNCILMEMBER COCHRAN: So...

CHAIR HOKAMA: Ms. Cochran?

COUNCILMEMBER COCHRAN: Thank you. Thank you, Mr. Guzman. So if either side chooses to initiate such termination and the other, like we initiate but corporation, or Administration says no, we don't agree and then they are going to hire special...I mean, we have the option of hiring special counsel today as our, this body. So would special, Corporation Counsel then say well we need, we don't agree with you, Council, County Council, we're going to get our own attorneys to combat what you're trying to do and so I don't know. Is that going to lead into other situations and more complications and I mean I don't...

COUNCILMEMBER GUZMAN: Chair?

COUNCILMEMBER COCHRAN: I'm just trying to play it out.

COUNCILMEMBER GUZMAN: Can I just narrow the issue a little bit because...

CHAIR HOKAMA: Wait, first here, let's get it straight. Only the County Council can approve a request for special counsel. Not the Mayor, not a department head, not even Mr. Wong. The County Council is the one that is authorized to hire special counsel. So it's not a two-way street. And, you know, I hear the points and, you know, again, depending on the cycle and the times, Corporation Counsel has a term. If they come in with the Mayor, they have four years. At the end of four years, they have no job. Okay. They go out with the Administration. If the Mayor gets re-elected, he could be considered for Corporation but would go through a reconfirmation hearing process again for the period of the Mayor's term. So there is a beginning and an end date to be Corporation Counsel for the County. I understand Mr. Guzman's consideration. I would say right now the strength in the structure is you need both branches to agree to come to any decision. It cannot be one branch, this way or that way. I consider that to be unfair employment situation where you got two bosses and one boss unhappy so he fires you or you make the other one unhappy and then he fires you. I cannot see that in good governance to give good advice to represent the best interest of the, this County at this time. I would say, you know, I would recommend you guys consider this to stay in Committee and work on it. I don't think

**POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE MINUTES**  
**Council of the County of Maui**

**June 30, 2014**

---

it's, the Chair's not ready to entertain a motion hearing the discussion today so unless someone, you know, but again, that's my position. Anyone can make a motion under our rules and procedures and according to our rules if you have enough support, including a second, we'll make a decision, but other than that at this point in time, Members, I don't think it's ready to go out there yet. I think we should consider various options and it may be going back to an elected County attorney. Who knows? And let the political influence be by the voters instead of the Council or the Mayor. You cannot get away from political factors. It's just part of government. It's a reality that we gotta deal with, Members. And that's where your Chair is at this point. So if you, if there's anyone that would like to have more discussion, the Chair is open. If there's a Member that would like to propose a motion, the Chair is open, and if there is none then the Chair is gonna recommend we defer this and move on with the agenda.

COUNCIL MEMBERS: No objections.

CHAIR HOKAMA: Okay. Members, hearing no request to the Chair, the Chair, with no objections, will defer this item.

COUNCIL MEMBERS: No objections.

**COUNCIL MEMBERS VOICED NO OBJECTIONS** (excused: MW).

CHAIR HOKAMA: Okay, we'll defer this item.

**ACTION: DEFER pending further discussion.**

**ITEM PIA-10(5): PROPOSED CHARTER AMENDMENTS (ATTORNEYS WITHIN THE OFFICE OF COUNCIL SERVICES)** (CC 09-229 AND 14-165)

CHAIR HOKAMA: Let us bring up our next item because this one to me is intriguing and has some merit. I would ask that you look at Item B, Policy Item 10(5). Under 10(5), we have communications from Mr. Guzman where he is proposing a resolution entitled "Proposing an Amendment to the Revised Charter of the County of Maui, 1983, as Amended, Relating to Attorneys within the Office of Council Services". We do not have, as the Chair understands it, a sign off as to form and legality. So please note that at this time, this is before us as a consideration and we have not had all the final reviews from Corporation Counsel as yet. Mr. Guzman, if you'd please share your thoughts on this with us.

COUNCILMEMBER GUZMAN: Thank you, Chair. I actually had my first amendment that I submitted.

CHAIR HOKAMA: Okay.

**POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE MINUTES**  
**Council of the County of Maui**

**June 30, 2014**

---

COUNCILMEMBER GUZMAN: And I felt that possibly this could be a second alternative for the Members to discuss. And this would be my proposed amendment to the Charter to allow the attorneys within the Office of Council Services to allow them to be, to serve as legal advisors and to, and legal representatives of the Council and its Members in addition to the attorneys within the Department of Corporation Counsel. And it's, it somewhat emulates the Honolulu Charter but in the fact that I think Honolulu Charter only designates when there's a conflict of interest, their Council Services attorneys are allowed to represent in litigation. But in this proposal I'm looking more at being able to be represented, at least have legal advice and opinions from our own legal Staff. We have, I've handed out some handouts here indicating Honolulu's Charter and they've had that language in there that provides Council Services the ability to represent, or their attorneys to represent them in court litigation and disputes with the Executive branch and where their Corporation Counsel may represent the Mayor or offices of the Executive branch. They've had that as part of their Charter for 20 plus years and so there is some precedence in terms of allowing our Legislative Attorneys to have the power to give opinions and to represent. On the second page there that I have in my handout is Anchorage, Alaska's Charter and in Anchorage, Alaska they have something similar but they also have Corporation Counsel, but they also have what you call an assembly attorney, and that's on the second page of the Anchorage Charter. And their assembly attorneys have the general duties that consist of providing legal advice to the assembly, drafting ordinances, resolutions, and memoranda and other working documents, conducting legal research and providing opinions to the assembly. Now basically, Chair, our Legislative Attorneys do the drafting of ordinances, resolutions, and memorandum and other working documents and they conduct legal research but our legal attorneys cannot provide legal opinions. And so my point there is that by allowing this amendment in the Charter, we would then have the ability to receive a legal opinion from our own attorneys on Staff. In many ways, I believe that might be helpful, at least in terms of saving our taxpayers monies. I know that any time that we have a conflict right now, we have the ability to hire special counsel. But if we had the ability to present, or at least have representation from our own legal Staff to present an opinion or a representation to talk, to negotiate with Corporation Counsel, things could possibly be settled easier attorney to attorney versus Council member to Corporation Counsel. A lot of times I've been faced with having to deal with Corporation Counsel by myself without any other representation. If I needed representation then I would have to come to this body for special counsel, but if I, if the Members had an issue, we could at least get an opinion from our own legal Staff and present it to Corporation Counsel and they could talk over or at least mediate it at the first stage. If things cannot be resolved, then we have the option of hiring special counsel. The Administration will always have the upper hand or at least have the advantage in terms of representation because under the Charter, the Council is the only one that can go for special counsel. The Executive Branch cannot so therefore Corporation Counsel will always be their representation, will always represent the Administration. And so we are left with having to go out to get out special counsel who is an outside attorney, who probably won't know all the issues and will not, will have to work from the outside in versus Corporation Counsel, which has the full autonomy and full force of every department, and boards and commissions to, and they've been working day in and day out on the issues. So to bring, for us to have equal footing at least we should have the ability to have some legal advice on, in our Staff to represent or at least present certain issues. And I think it would be

**POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE MINUTES**  
**Council of the County of Maui**

**June 30, 2014**

---

more efficient. I think that a lot of the smaller issues could be worked out instead of having to not get any advice and having to go hire special counsel, and when we do that then we get the backlash from the community saying that we're spending too much money for special counsel. This is a way to be more cost effective and I think this is a second alternative option and it's just for discussion. Thank you, Chair.

CHAIR HOKAMA: No, thank you, Mr. Guzman. And I need to make a correction. Communication dated June 27<sup>th</sup>, we do have a response from Mr. Wong and his Department to the Chair of this Committee regarding the proposal PF, Policy 10(5), and they list their comments as well as some of the discussion points and their conclusion at this time.

VICE-CHAIR COUCH: Chair, we didn't...yeah. We don't have that.

CHAIR HOKAMA: It should be on your desk, Members. The head, the head says Request for Legal Service June 20<sup>th</sup>, in the back of that is the attachment dated June 27 from Mr. Wong. Yeah, and they go back and also share information from at that point in time, Corporation Counsel, Mr. Moto, who provided his opinion, I think, to Ms. Johnson and yeah, this was dated May 2010 and Mr. Moto's response. So you folks can review that. Again, this is Mr. Moto's opinion to a member of the Council. Maybe we can, I can ask Mr. Kushi some questions at this time. Like the County, the State has only one legal representative, that's the State Attorney General, Mr. Kushi, and yet we know it is daily practice of the Legislature that the minority and majority attorneys of either the Senate or the House does the drafting and review of their legislation. It doesn't go to the Attorney General for form and legality and that type of processing and that's what the Legislature does as it moves its proposals forward, including enactment of bill for an act. So stating that and that that is a day to day occurrence at the State Legislature and this proposal of such as a Council attorney being able to review a proposed bill for an ordinance, why would, for the State, that be an acceptable practice and for this County it wouldn't be an acceptable practice?

MR. KUSHI: Mr. Chair, I'm not too familiar with the State AG's Office role with the State Legislature. I do know that there's only one State Attorney that represents the State in court. The State Legislature only convenes part of the year so the attorney-client privilege, I'm not sure what their attorney-client privileges are with respect to the State Legislature. As far as Maui County's concerned, as well as the other counties, you do have Legislative Attorneys on Staff but they don't go to court as far as I know. And you do have the ability to have your Staff Attorneys write up memos. There's nothing to prevent that. But it wouldn't come from our office. It wouldn't be signed off or blessed from our office because we have no supervision over them.

CHAIR HOKAMA: Correct.

MR. KUSHI: I believe, that was one of then-attorney, Corp. Counsel Moto's real concern is that your Legislative Attorneys may not be subject, at their roles right now, are not subject to the Hawaii Rules of Disciplinary Counsel Ethics. Their supervisor in the Charter qualifications is not required to be an attorney. So you may have a situation where you have a supervisor,

**POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE MINUTES**  
**Council of the County of Maui**

**June 30, 2014**

---

non-attorney, supervising attorneys. That causes a problem. Moto also pointed out the attorney-client privileges and all the ramifications it would have if you have two sets of County attorneys serving multiple clients. If you think the Mayor's recent directive is troubling, this would cause a hell of a lot more trouble in terms of who can I talk to and what can I talk about. In any event, Mr. Moto's memo, 12 or 13 pages really goes into it and the same issue was brought up in 2010, what you're facing now, and we stand by that memo.

CHAIR HOKAMA: Okay, thank you. Since you did bring up this current situation, and I'm sure Chair Baisa is on this, but if you can at this time speak on it that would be helpful and if you cannot let the Chair know. Because we are, in my mind, the Chair's mind, we are of equal standing with the Administration of being an equal client to Corporation Counsel, we don't need permission from the Mayor to speak with your Department and your personnel, do we?

MR. KUSHI: Yes, you're talking about the memo that was issued a couple of weeks ago?

CHAIR HOKAMA: Yes.

MR. KUSHI: We did speak to the Mayor and there should be a clarification or redraft coming out that exempts our office as you are our clients.

CHAIR HOKAMA: Can you restate that, please? I'm sorry, I lost, I got lost in translation.

MR. KUSHI: Yeah, we're not covered by that memo.

CHAIR HOKAMA: Okay. Okay, thank you very much for the clarification, Mr. Kushi.

MR. KUSHI: But...

CHAIR HOKAMA: Members...

MR. KUSHI: But you would --

CHAIR HOKAMA: Yes.

MR. KUSHI: --if there's an attorney representing you--

CHAIR HOKAMA: Wait, what?

MR. KUSHI: --then we would speak just to the attorneys if it's an official representation situation. And again, Mr. Chair, you've been through this before.

CHAIR HOKAMA: Uh-huh.

**POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE MINUTES**  
**Council of the County of Maui**

**June 30, 2014**

---

MR. KUSHI: Your power to appoint special counsel is subject to the qualification that there's a real necessity or need for it. So if our office cannot represent either party in a situation, there might be a situation where you have, we would come to you and ask for special counsel on both sides, Administration as well as this branch. That possibility kind of crept up in the Wailuku Post Office situation, if you recall, because we can't just say, oh, there's a conflict and we'll represent Administration and have special counsel represent the Council because you're both our clients.

CHAIR HOKAMA: I guess...I understand. I guess our only, our main power is we could say no to both sides technically. Okay. Mr. Couch, questions for Mr. Kushi on the proposal that we are discussing at this time?

VICE-CHAIR COUCH: It would be a question, I guess, in general. I'm not sure who would answer it but, you know, if this were, barring all this information we've received about Mr. Moto's decision, if we were to do something like this, would we remove, and this is more of a logistic thing, remove a few EPs from the Corp. Counsel and move it to us? If not, then if we're adding EPs? There's a consistent extra cost to the taxpayers versus once in a while having a special counsel. So I'm wondering if the financial analysis has been done on this, this situation because right now, if we hire a couple, three more people, that we would have to do for an attorney, not just an attorney, you know, according to what some of the things here in Mr. Moto's discussion, so we're hiring these folks and paying them so much per year. We've already run into, that'll run into the amount of the special counsel that we may need to hire. But then what happens when there's a conflict? When Mr. Kushi says one thing and our attorney says another and they're just not going to give up, and we do know that that happens once in a while with attorneys. They don't always agree. Then we have to go to court and litigation and the cost to the taxpayers would be tremendous in my opinion. But I don't know, it sounded like a good idea until reading some of this and also wondering as long as we don't add to the personnel count, you know, if we move a few from Corp. Counsel maybe or something like that, that might be a doable thing. That was prior to reading most of this stuff here. I'm now trying to figure out which would be the better course to go. But that was, that's my biggest concern is that real cost to the taxpayers, special counsel versus our own counsel. Thank you.

CHAIR HOKAMA: Thank you for that. Ms. Baisa.

COUNCILMEMBER BAISA: Thank you very much, Chair. This is a very interesting proposal and I understand why it's put forward and I certainly can understand the, you know, the positive side of it, but as you know having been Chair of this Council, you know what goes on in Council Services and you also are aware of how busy our Staff Attorneys are. You know, our Staff Attorneys are just constantly trying to advise us in putting legislation together and dealing with day to day occurrences, calls from constituents, how do we deal with this? Who do we refer it to? Do we call Corp. Counsel? Advising Members who come down and say my client wants to, my constituent wants this and how do I answer and so their plates are really, really full and I have a real concern about if we're going to take on anything more in that department, and I don't know if our...I would very be interested in how our Staff Attorneys feel about this, you know, we don't know how they feel. But, you know, they take on the responsibility of doing what they

**POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE MINUTES**  
**Council of the County of Maui**

**June 30, 2014**

---

already do and they do provide us with a lot of legal guidance even though it may not be an opinion or something official, but constantly we ask them to check things out for us and, you know, tell us when we need to check with Corp. Counsel. So my concern is how are we going to make this work? We're going to pile more work on them? We're going to have to have more people. I just don't think it'll work by adding any more responsibilities to what they already are doing. They're very, very stretched so that's my big concern.

CHAIR HOKAMA: Okay, thank you. Mr. Victorino, any comments you wish to share at this time?

COUNCILMEMBER VICTORINO: Well, again, I would concur with my colleagues. I believe that this has some merit but what will it entail, and I think there has been many occasions in the past that I've sat here for the past eight years, some of them with you and others in this Chamber that there was that question raised. Should we get some legal advice from our Corporation Counsel attorneys because we're in a quandary and so I'm open to looking at some specifics. But if it's going to, and again, like, and I hate to say I agree with him, but if it's going to cost money, then, you know, what is the return on the investment because that's very important also. You know, again, we have that power to have special counsel. I think that's, we all know that's available but what return on investment if we have to hire additional Staff. And I agree with Ms. Baisa, our people are pretty much taxed and we constantly shifting things, PAFs going in and out and they do a lot of work for us, a lot of leg work for us and our Committees so that would be my concern. I'm not opposing it. In fact, in concept I support it in concept, but if you can be more specific that's what I would have to see how it all pans out, yeah. So thank you, Mr. Chair.

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

COUNCILMEMBER CARROLL: Not at this time.

CHAIR HOKAMA: Ms. Crivello?

COUNCILMEMBER CRIVELLO: Thank you, Chair. No, I can understand probably why this would be somewhat to consider. You know, you go to our Office of Council Service lead legal person and really you cannot receive an opinion. It needs to be processed through Corporation Counsel before it comes back if, you know, I recently went in to inquire about certain situation and I was given the interpretation but not an actual opinion, which I was advised it would come from Corporation Counsel. And at the same time I understand where Chair Baisa is coming from as far as the cost. And but also the amendment is saying in addition to the attorneys, you know, it says shall the Charter be amended to allow attorneys within the Office of Council Services to serve as legal advisors to and legal representatives of the Council and its Members in addition to the attorneys within the Department of the Corporation Counsel. That is, to me, rather confusing to set before our voters to start off with. I actually think like the prior agenda item, we need to have more work done on this and, you know, hear from the director that's in place for the head legal person.

CHAIR HOKAMA: Thank you. Ms. Cochran.

**POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE MINUTES**  
**Council of the County of Maui**

**June 30, 2014**

---

COUNCILMEMBER COCHRAN: Thank you, Chair. And, yeah, I do see merit to this proposal and, you know, I'm trying to cross reference Mr. Moto's, the handout via his replies, and the one where the, strikes me and this is something that we banter back and forth are the may's and the shall's of the world. And in Mr. Guzman's there's the may serve as legal advisors. In the paperwork with Mr. Moto's stuff it says shall. So to me, the may and the shall really does make a big difference in the proposal. I like that word because it gives more flexibility and gives us the option if we opt to use our Council Services legal Staff to, you know, enhance and sort of put forward what this body is trying to, you know, get across and portray in differences of opinion of whatever, you know, the case may be with our Corporation Counsel, who is, you know, legally our County official counsel. So, you know, I think it's worth, definitely worthwhile discussion and I do see the need, you know. I've needed it and I've asked our Council Services yet it doesn't have the true legal in effect like our Corporation Counsel but they've had some good perspectives I thought that they could bring to the table. So if it could be worked in conjunction or in assistance with to work together, then. But not like black and white only they're going to be our representation or only Corporation, you know, I think it should be a mix and a meld and a working together to sort of if our legal people here on the seventh floor can help enlighten or I don't know bring more to the table to educate, bring awareness to the third floor people, then, you know, I think it's beneficial to us as the Council to have a stronger voice and representation with their assistance and help. Because we do work one on one with our legal, you know, analysts here on the seventh floor. So I see the may serve as a good starting point in discussion from the differences from the past documentations you gave us. So those are my comments for now. Thank you, Chair.

CHAIR HOKAMA: Thank you. Mr. Guzman.

COUNCILMEMBER GUZMAN: Thank you, Chair. That point is really on point, Councilmember Cochran. The reason why it's not shall was because it is, it gives the Council and the Council members an option, may serve, as legal advisors or legal representative. So if we're talking about staffing, they may or may not, you know, be equipped at the time but they, if they're available and they can give an opinion then why not and why can't we have that basis of an opinion. If we look at an example, even the veto portion, was it properly conducted or was it, you know, was it a proper veto. There was issues about that. And we could have given it a legal opinion but in order to do so we would have to hire outside counsel. Why can't we do something as simple as having the option of asking our legal representation in Staff to write up an opinion? I don't know what is the right thing to do, Chair, but I'm just trying to give options for this body. And in terms of addressing Chair's concerns or Mr. Couch's concerns about what is the finances, well, we're currently we have an attorney who is the directive, who is the Director of Council Services so that would be easily amended in the Charter. How he feels, I don't know, but I do have on the last handout here that's provided to the Members an article that was written by Mr. Raatz and its emerging trends, legislative attorneys in State and municipal legislatures and it appears that several states, including Colorado, Florida, Louisiana, Minnesota, Oregon, and New Mexico have legislative attorneys that are empowered to litigate against the executive branch. But I'm not talking about litigation, you know. I don't know if we're equipped for that but we

**POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE MINUTES**  
**Council of the County of Maui**

**June 30, 2014**

---

can, you know, at that point we could go to special counsel. I'm looking more at resolving issues at, you know, somewhat of a minimal state that we can, our Staff or our Legislative Staff Attorneys can accommodate. On the second page there, it says emerging trends and it goes into further simply providing legislators with a reliable source of independent legal research can be just as important and court room advocacy. Moving forward on the second to the last paragraph, some critics contend that the very presence of legislative attorneys undermines the chief law officer's authority and provokes unnecessary intragovernmental strife. Others, including many executive branch lawyers acknowledge that legislative attorneys can identify and help resolve legal issues before they become problems. Observers also recognize the benefit of accruing from legislative attorneys expertise in parliamentary procedures and legislative drafting. Legislative attorneys have assumed an expanded role and more prominent function in government seeking to ensure the separation of powers. So based off of this article, you can assume that our Director of Council Services, I would assume, is in support of some type of legislation like this. Thank you, Chair.

CHAIR HOKAMA: Thank you, Mr. Guzman.

COUNCILMEMBER BAISA: Chair?

CHAIR HOKAMA: Yes, Ms. Baisa?

COUNCILMEMBER BAISA: Chair, I'd like my intent to be clear because I don't want to be misunderstood. I understand this is a viable idea but I deal with the practicality of operating a division every day and I know how busy that division is. It is not unusual that we have Legislative Attorneys working to the evening to get things ready for a Committee meeting or a deadline and that is my concern. It's not about money. It's not about anything else. It's about practicality. We do not have any more space in Council Services for any more bodies and if we're going to add more responsibility, I think it's a given because we can only ask so much of our Staff. They are very, very busy and hard worked and before we put any more duties on them, I want to be sure that we can make it work. Thank you.

CHAIR HOKAMA: Thank you. Thank you. The Chair has listened to your comments and inputs and, I mean, I think there is merit on what you have all shared. Let me just ask Mr. Kushi a few questions and nothing currently prohibits a Council Legislative Attorney from being considered for special counsel? If they're licensed to practice if they did use, they passed the Hawaii bar, what is, is there anything you're aware of, Mr. Kushi, that would disqualify them or have them unable to be considered for a special counsel consideration?

MR. KUSHI: Mr. Chair, that would be pursuant to the powers of the Council under the Charter.

CHAIR HOKAMA: Okay.

MR. KUSHI: Through 3.36, is that what you're talking about?

POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE MINUTES  
Council of the County of Maui

June 30, 2014

---

CHAIR HOKAMA: Uh-huh.

MR. KUSHI: Offhand, I don't think there would be anything to prevent it. However, that attorney would need to be cleared for conflicts if they had an attorney-client situation with say somebody from Administration and now you're hiring them to represent the Council on a conflicted basis. So that kind of vetting would need to be done.

CHAIR HOKAMA: Prior to any --

MR. KUSHI: Versus hiring --

CHAIR HOKAMA: --contractual agreement, yeah.

MR. KUSHI: --a private attorney outside of the County.

CHAIR HOKAMA: Right. Okay.

MR. KUSHI: The other situation as Mr. Moto brought up is what kind of supervision does the Legislative Attorney receive? Who is the Legislative Attorney's immediate supervisor? You know ethical, disciplinary kind of concerns.

CHAIR HOKAMA: Would there be a problem? I mean, it would be the same thing if we hired an outside firm or an outside attorney, the supervisor would stay the same from our side.

MR. KUSHI: Yes, but again, you know, typical outside attorneys they're in, they're a law firm. As Moto pointed out, your Council Services Office is not a law firm. Structurally --

CHAIR HOKAMA: Right. Right.

MR. KUSHI: --you know, more qualification-wise, et cetera. Whereas people on the third floor, we are subject to the rules.

CHAIR HOKAMA: Okay. Yeah, Mr. Raatz is in a legal requirement at this time so he is unable to join us for this portion of the meeting, Members. And he did inform the Chair so the Chair is aware of his requirements elsewhere. I would, my comments to you, Members, is that I don't think this merits a filing. I think this still has opportunities for us to consider but I think, in my discussions with some of our sister counties, you know, one of them is watching what we're doing, another one has something in place and watching what we're doing, if we propose revisions or whatnot. So obviously this is an issue for various branches of government. The Speaker wants to take the President to court, Mr. Boehner, I mean, you know, it's not an unusual thing for branches to have disagreements. But I would recommend, Members, that I would like this to still remain viable, that if Mr. Guzman would like to continue to work on this I would suggest that to him, but I would recommend that this be deferred, Members, and that the Chair is open to considering bringing it up at another meeting. It may not make the deadlines for the ballot but it just means

POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE MINUTES  
Council of the County of Maui

June 30, 2014

---

for this coming ballot. It doesn't mean it cannot be a consideration for the next ballot if appropriate. So that's my recommendations, Members, is you consider deferring of this matter and that we move on. Mr. Guzman, are you fine with that?

COUNCILMEMBER GUZMAN: Yes, thank you. Thank you, Members. I wanted to just bring forth these issues and nothing personal, it's just these are issues that should be discussed and past Councils have discussed these same issues.

CHAIR HOKAMA: Uh-huh. Yes we have.

COUNCILMEMBER GUZMAN: Thank you.

CHAIR HOKAMA: Yes we have. And we have taken the Executive branch to court more than once so it's something that this Council does not shirk it's duties on. Any objection? The Chair is recommending deferral of this item.

COUNCIL MEMBERS: No objections.

**COUNCIL MEMBERS VOICED NO OBJECTIONS** (excused: MW).

CHAIR HOKAMA: This item is deferred.

**ACTION: DEFER pending further discussion.**

**ITEM PIA-1(34): LITIGATION MATTERS (SETTLEMENT AUTHORIZATION: DOUGLAS LEONE, ET AL. V. COUNTY OF MAUL, ET AL., CIVIL 07-1-0496(3)) (CC 13-41)**

**ITEM PIA-1(35): LITIGATION MATTERS (SETTLEMENT AUTHORIZATION: WILLIAM L. LARSON, ET AL. V. COUNTY OF MAUL, ET AL., CIVIL 09-1-0413(2)) (CC 13-41)**

CHAIR HOKAMA: Members, by request also, the last two remaining items has been requested to be placed for the next meeting in, I believe, the end of July by the Chief Deputy in charge of these two items, so with no objection, the Chair will be deferring the final two items of the agenda.

COUNCIL MEMBERS: No objections.

**COUNCIL MEMBERS VOICED NO OBJECTIONS** (excused: MW).

CHAIR HOKAMA: Okay, so ordered.

**ACTION: DEFER (no discussion).**

**POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE MINUTES**  
**Council of the County of Maui**

**June 30, 2014**

---

CHAIR HOKAMA: We are done with the 9:00 agenda, Members. We have a meeting at 1:30, which is basically to receive testimony on the initiative that has been submitted and accepted by the Clerk's Office. So that will be at our 1:30 meeting and the Chair will have specific guidelines for all participating, including the Members at the 1:30 meeting. So this meeting is adjourned. . . .(gavel). . .

**ADJOURN:** 11:38 a.m.

APPROVED:



G. RIKI HOKAMA, Chair  
Policy and Intergovernmental Affairs Committee

pia:min:140630-1:krr

Transcribed by: Kekai R. Robinson

**POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE MINUTES**  
**Council of the County of Maui**

**June 30, 2014**

---

**CERTIFICATE**

I, Kekai R. Robinson, 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 this 28<sup>th</sup> day of July, 2014, Wailuku, Maui, Hawaii.

  
\_\_\_\_\_  
Kekai R. Robinson