

# **POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE**

**Council of the County of Maui**

## **MINUTES**

**January 22, 2015**

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

**CONVENE:** 1:31 p.m.

**PRESENT:** Councilmember Michael P. Victorino, Chair  
Councilmember Don Couch, Vice-Chair (In 1:39 p.m.)  
Councilmember Gladys C. Baisa, Member  
Councilmember Robert Carroll, Member  
Councilmember Elle Cochran, Member  
Councilmember Stacy Crivello, Member  
Councilmember Don S. Guzman, Member (Out 4:43 p.m.)  
Councilmember Riki Hokama, Member  
Councilmember Mike White, Member (In 2:41 p.m.)

**STAFF:** Kimberley Willenbrink, Legislative Analyst  
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)  
David Raatz, Director, Office of Council Services; Hana Council Office (via telephone conference bridge)

**ADMIN.:** Michael J. Molina, Executive Assistant, Office of the Mayor (Items PIA-2(1), -2(2), -2(3), -2(4))  
Patrick K. Wong, Acting Corporation Counsel, Department of the Corporation Counsel (Item PIA-14)  
John D. Kim, Acting Prosecuting Attorney, Department of the Prosecuting Attorney (Item PIA-15)  
David S. Taylor, Acting Director, Department of Water Supply (Item PIA-16)  
Edward S. Kushi, Jr., First Deputy Corporation Counsel, Department of the Corporation Counsel

*Seated in the gallery:*

Robert D. Rivera, First Deputy Prosecuting Attorney, Department of the Prosecuting Attorney  
Brian A. Bilberry, Deputy Corporation Counsel, Department of the Corporation Counsel  
Gary Y. Murai, Deputy Corporation Counsel, Department of the Corporation Counsel

**OTHERS:** Bill Snipes, Director, Kihei Community Association (Item PIA-6(3))  
Sydney Smith, President, Maui Coffee Association (Item PIA-6(3))  
Daniel Kanahele (Item PIA-6(3))

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Rosemary Robbins (Items PIA-14, -15, -16)  
Shelley Maddigan (Item PIA-6(3))  
Annette Niles (Item PIA-6(3))  
Larry Shapiro (Item PIA-6(3))  
Zandra Amaral Crouse (Items PIA-6(1), -6(3))  
Lucienne de Naie (Item PIA-6(3))  
Additional attendees (5)

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

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CHAIR VICTORINO: . . .*(gavel)*. . . Good afternoon. And the meeting of the Policy and Intergovernmental Affairs Committee will come to order. This is January 22, 2015. I apologize, we're at 1:34 according to the clock and apology for being a little late. I am the Chair of the Committee, Michael Victorino. Members that are present at this time, first of all, I'd like to start with Mr. Robert Carroll from East Maui.

COUNCILMEMBER CARROLL: Good afternoon, Chair.

CHAIR VICTORINO: Good afternoon. Our lovely lady from Upcountry, Ms. Gladys Baisa.

COUNCILMEMBER BAISA: Good afternoon, Chair.

CHAIR VICTORINO: Running in right now is Ms. Cochran from West Maui.

COUNCILMEMBER COCHRAN: Aloha, Chair.

CHAIR VICTORINO: All right. Joining us also is our lovely lady from Molokai, Ms. Stacy Crivello.

COUNCILMEMBER CRIVELLO: Aloha, Chair.

CHAIR VICTORINO: Aloha. Our Member from the island of Lanai, Mr. Riki Hokama.

COUNCILMEMBER HOKAMA: Mr. Chairman.

CHAIR VICTORINO: Thank you. And our Vice-Chair of the Council, Mr. Don Guzman.

COUNCILMEMBER GUZMAN: Good afternoon, Chair. Thank you.

CHAIR VICTORINO: Excused at this time is Mr. Mike White--he's running a little late--and the Vice-Chair, Mr. Don Couch. Also today we have as in the, for the Administration is Mr. Ed Kushi, First Deputy Corporation Counsel.

MR. KUSHI: Good afternoon.

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CHAIR VICTORINO: Patrick K. Wong, Acting Corporation Counsel is also in the audience. John D. Kim, Acting Prosecuting Attorney, and David Taylor, Acting Director of the Water Supply are all in the gallery, and we'll be calling them up later. We also have the presence from the Administration, Mr. Mike Molina. Thank you, Michael, for being here.

MR. MOLINA: Yeah. Good afternoon, Chairman.

CHAIR VICTORINO: Good afternoon. Our Staff, Kim Willenbrink, our Legislative Analyst.

MS. WILLENBRINK: Good afternoon.

CHAIR VICTORINO: Tammy Frias, our Committee Secretary, and Sharon Brooks, our Legislative Attorney. Thank you, ladies. You know how invaluable they are. Today I would like to check with our District Offices to see if they're connected. First of all, I'd like to check with the island of Molokai. Ella Alcon. Ella, are you there?

MS. ALCON: Good afternoon, Chair. This is Ella Alcon on Molokai.

CHAIR VICTORINO: Mahalo, Ella. From the island of Lanai, Denise Fernandez. Denise, are you there?

MS. FERNANDEZ: Good afternoon, Chair. This is Denise Fernandez on Lanai.

CHAIR VICTORINO: Thank you. And going all the way out to Hana, Mr. David Raatz who is manning the Hana Office. David, are you there? Oh, maybe he's not.

MS. WILLENBRINK: He just arrived.

CHAIR VICTORINO: Well I mean, you know, I can't wait forever. Well we'll give Mr. Raatz a few minutes before we, we'll call upon him again. But David went and drove all the way out to Hana because we needed somebody out there and he volunteered to go out there. So I want to thank David for his efforts going all the way out to Hana. And we have four. Okay. So we have four...well, before I get into public testimony, let me set the ground rules. First of all, I'd like to make sure that no cell phones are on or I should say on noisemaker, so if you could please put them on silent mode, we'd appreciate that. Also, you will be allowed three minutes to testify on any subject matter on the agenda today. Okay. And so I would like, with no objections, to start public testimony. And let me check one more time before I start public testimony. David, have you been able to contact us?

UNIDENTIFIED SPEAKER: No.

CHAIR VICTORINO: Not yet. Okay. So I will double check with David in a few minutes to make sure that he, that Hana is connected. So with no objections, may I start public testimony in the gallery?

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**COUNCILMEMBERS VOICED NO OBJECTIONS**

CHAIR VICTORINO: Thank you very much. Our first testifier today is Mr. Bill Snipes, and he's from the Kihei Community Association. He's a director. Welcome, Mr. Snipes. And followed by Sydney Smith. Go ahead, sir.

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

MR. SNIPES: Good afternoon, Chair and Committee members. I'm here on behalf of the Kihei Community Association's board of directors in opposition to the proposed change, the last item on the agenda, PIA-6(3), proposed change to the Rules of the Council. We believe that voter input into matters coming before this Committee and the Council should be valued and respected, and that taxpayers deserve a fair opportunity to provide their input. Often there is little if any public testimony at Committee meetings as was the case at the meeting of this Committee ten days ago. That fact should offset those times when members of the public take the time during their own business day to be heard by the representatives they elected. So please walk the talk of the Council Chair's January 18<sup>th</sup> call for citizen participation. And our Association sincerely hopes to be able to inform our members tomorrow on our website that this Committee has preserved the current three-plus-one-minute time limit. Mahalo nui loa.

CHAIR VICTORINO: Thank you. Questions for the testifier? Seeing none, but I'll make one quick statement to you, sir. It's not just the voters, it's the constituents, anyone is allowed to come here and testify whether they're a voter or non-voter. So I just wanted a little clarification to your board. Okay. Thank you, sir.

MR. SNIPES: Thank you.

CHAIR VICTORINO: Next testifier is Sydney Smith from the Maui Coffee Association, followed by Daniel Kanahale. Hello, Sydney.

MS. SMITH: Thank you, Chair. Hello. Good afternoon, Councilmembers. As you said, my name is Sydney Smith. I'm the president of the Maui Coffee Association. I also own Maliko Estate Coffee, a coffee farm in Makawao. I'm testifying today regarding PIA-6(3). Most of you know me. I come here and testify on behalf of the many coffee farmers, roasters, and store owners who belong to the Maui Coffee Association. Our numbers have grown over the years and I'm speaking for over 500 people when I come here to testify. They elected me to speak for them, and we all elected you to listen. I don't always take the full three minutes or need the extra minute to wrap up my comments, but when I do, it's because it's important. Often the reason I'm here is because you're grappling with a complex issue that can't be summed up in a few words. The extra minute is important and valuable for you to hear the concerns of Maui citizens you may not have anticipated without that testimony. As a representative of an agriculture commodity, I'm always faced with explaining the impact of a well-meaning ordinance to Council and Administration who are unfamiliar

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with agriculture practices. Many times there are unintended consequences to plan changes. It's important for our community that we encourage our citizens to take part in this democratic process. Reducing the allotment of time by 25 percent sends a message that you do not value their voice. I urge you to keep the time allotment at its current three minutes with one minute for wrap-up. Thank you.

CHAIR VICTORINO: Thank you, Ms. Smith. We appreciate that. Any questions for the lovely lady? Seeing none, thank you very much, Sydney.

MS. SMITH: Thank you.

CHAIR VICTORINO: Next testifier is Daniel Kanahele and I guess he's speaking on himself as an individual, followed by Rosemary Robinson...Robbins. I'm sorry, not Robinson, Robbins. Excuse me.

MR. KANAHELE: Aloha, Chair Victorino and Committee members. I am Daniel Kanahele and I am testifying on the change to the Rule that will limit public testimony to three minutes, and I am against that Rule change. I'd like to read a couple of quotes taken from this little booklet that's found in your lobby downstairs which contains the Constitution of the United States. These quotes are from Thomas Jefferson, one of our founding fathers of the Constitution. He says we in America do not have government by the majority, we have government by the majority who participate. All tyranny needs to gain a foothold is for the people of good conscious to remain silent. He also says the good sense of the people will always be found to be the best army. I'm a firm believer in using it or you lose it, and I do use it, I testify regularly, and sometimes I have to use that extra minute to conclude. I think I'm not like, unlike many other people who when they come to this meeting during the working part of the day, have to take some time off not only from work but whatever else they could do. I come from Kihei, I come a long ways and I gotta go home, you know, that's about two hours out of my day. There's a price that I'm paying to be here today, and people who come pay a price to exercise their rights, their constitutional rights, their liberties to protect their freedom. You know you could submit written testimony, sure. Ideally you do both, you submit written and oral testimony. But if I had to choose between one or the other I would prefer to come in and address my representatives in person, because there's something about actually seeing the person, actually looking at them, actually looking at their body language, actually hearing the tenor of their voice that you don't get from written testimony. Plus this is broadcast on *Akaku* so a lot more people see it. So, you know, it's good to come in and give public testimony. I would also like to say that I'm, we're kind of getting a mixed message here. You know when I came in early, Chair Victorino pounded the pahu, the drum, and he says I'm calling everybody in, and then I answered him, I said, Chair, I have answered the call, I am here. So the message you're sending out with the pahu, the symbolism of it is we want you to come in, we want to hear you, we value what you have to say, but yet on the other hand, not really with the three-minute limit, right, we don't...we want to hear you but maybe not that much. So what is the message you're trying to send? It's a mixed message. Please, don't support this rule. We value the time that we have, and I often use the extra minute to conclude. Thank you very much.

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CHAIR VICTORINO: Thank you, Mr. Kanahale. Any questions for clarification of the testifier? Seeing none, thank you again, sir.

MR. KANAHELE: Thank you, Chair.

CHAIR VICTORINO: Before I call my next testifier up--Rosemary, one moment--David, are you there? David Raatz.

MR. RAATZ: Aloha, Mr. Chair. Yes, this is David Raatz in the Hana District Office.

CHAIR VICTORINO: Okay. Rosemary, I'll call you up right now, and I have two more testifiers. But after Rosemary I will check with the District Offices since David is there, if there's any testifiers wanting to testify at our District Offices. Rosemary Robbins, and she will be speaking on PIA-14, -15, and -16. Okay. Rosemary.

MS. ROBBINS: Good afternoon, everybody. Echo, echo what we just heard about getting the time if we need it. Thank you for bringing that up. Okay. I came down yesterday and went over the materials that were available on the seventh floor, and those three items that I want to speak to today, all have things in common and all have things that are unique to the particular item. So within those nine minutes I think I won't have any trouble getting that out. The first one that I would like to speak to is PIA-14 on today's agenda, and it has to do with the appointment of Corporation Counsel. This person has already been serving as that, and the Mayor sent a proposed item saying that he would like to have this person continue in that capacity and he quoted some items in the book. None of these people, who was up in those three items today is anybody that we have a vote on, those are the folks who are appointed by the Mayor. So I'd like to just read what the Mayor has itemized as terms of the background for that. He says that within 60 days of taking office, the Mayor shall appoint the Corporation Counsel and the Prosecuting Attorney--so those are two people involved in this--with written notice of the appointment to the Council. The Council then has 60 days after receiving that notice, and the records show that they received that 5 days after the date that was on that issue. If the Council does not act--and today's 23 days from then--the appointment will continue. So folks here have spoken up readily. I'd like to thank you, Mr. Chairman, for asking to have that clarified. And so you then had identified how that was clarified and asked to have not only that recommendation by the Mayor but in-opposition recommendation, so that when the Council does count on that, they've got two clearly written choices to make. Hopefully that will be by an individual aye, aye, nay, nay so that that will be very clear. So that was for the opportunity for the person who was going to be recommended, and the second--remember--is a resolution to saying not have that person \_\_\_\_ as the recommendation had been. So the second one has to do with the person--there's...we're on to PIA-15 now--has to do with the Mayor's having recommended somebody for the appointment of somebody as the Prosecuting Attorney, and both of those, the previous one that I mentioned and this one, both of those are dealing in the same numbers telling us to go to Page 14, 15 here in the pink book. We do as voters, concerned citizens have a say into this one. These are available here at the County Building. Feel free to take it

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and you can check those out yourself. So that has to do with the second capacity as far as appointing the person for...we had Corporation Counsel and now for this one. And then the third one has to do for again somebody who's already occupying and has for a number of years the capacity of the Director of our Water Supply. And you and I, us two have been dealing with this for years and years and years. And so I really appreciate that you went ahead and made sure that also in the paperwork that's in there that we have the yes, please make sure that this gentleman stays on and the opposition, please do not let that happen. So when the vote does come, again, I'm saying by the Council as a whole, both of those resolutions are in the paperwork on the seventh floor. I have them here. They're available to anybody. So when we talk about --

UNIDENTIFIED SPEAKER: . . .*(inaudible)*. . .

MS. ROBBINS: --how do we get involved--thank you--it's really important. You know when dates are identified as being whatever they are in this case, the original ones were on the 20<sup>th</sup> of that month, but look at what just happened during the beginning of this month. We had two weekends, place is closed, plus the holiday, so we lose a lot of opportunity to be able to come down and actually go through these. I didn't get my copy of this until the 20<sup>th</sup> and I'm here on the 22<sup>nd</sup>, I spent the 21<sup>st</sup> reading out the data that was in there. So we need to be careful. If we didn't go back and look at what was actually in the Charter we wouldn't know about that as being when Council Services received it, not the date that was on the original document. There are folks out there who consider this deliberately misleading. I'm not taking an opinion on the deliberately or not but it's definitely misleading. So and we are well within the time frame to be able to have gotten the work done that you asked for to be able to get both of those included in here, the resolution to yes, have those three gentlemen and the resolution on each one of them, no. Okay. So I'd be happy to answer any questions that anybody has on those. I did take yesterday off to do that. I would say that at that time the only endorsement from that other than from the Mayor was from another department head also appointed by the Mayor. So and we're hearing negatives around our community. There's only one-half sheet of paper that's also in that, and unsigned that is in that folder. So we need to be our best. Pono definitely happening, Page 1 in this Charter. Remember that back in the previous election that was one of the things that was put out there, do we want to operate by pono and the conclusion of the voting public was heck yes. So...

CHAIR VICTORINO: Thank you, Ms. Robbins. Anything else?

MS. ROBBINS: You're welcome.

CHAIR VICTORINO: That's it? Questions for the testifier for clarification? Seeing none, thank you, Ms. Robbins.

MS. ROBBINS: You're welcome.

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CHAIR VICTORINO: And we are working this out and trying to get it correctly, and the declinations are in here also but they came in after you had seen what, you know, so sorry. Sometimes the process is not always the easiest process as you've mentioned. Thank you.

MS. ROBBINS: Okay. You're welcome.

CHAIR VICTORINO: Before I call on the District Offices for any testifiers, I'd like to recognize the Vice-Chair of the Committee, Mr. Don Couch's --

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

CHAIR VICTORINO: --presence. Thank you, Vice-Chair. Okay. Let me start now with the District Offices. First of all, Ella on Molokai, do you have anyone wishing to testify?

MS. ALCON: There is no one here on Molokai waiting to testify.

CHAIR VICTORINO: Mahalo. Lanai, Denise, do you have one, anyone--excuse me--that's wishing to testify?

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

CHAIR VICTORINO: Thank you. And Hana, David, is there anyone in Hana wishing to testify?

MR. RAATZ: The Hana Office has no one waiting to testify.

CHAIR VICTORINO: Okay, mahalo. When I get through with the rest of the testifiers here in the Chamber I'll call upon you folks one more time in case anyone comes in. Going back to the gallery, we have Shelley Maddigan, I guess wanting to testify...not guess, I'm sorry, wanting to testify on PIA-6 and she's testifying as an individual. Followed by Annette Niles. Good morning, my dear.

MS. MADDIGAN: Good morning.

CHAIR VICTORINO: Or I should say good afternoon.

MS. MADDIGAN: Good afternoon.

CHAIR VICTORINO: There you go.

MS. MADDIGAN: Thank you very much. It's already been very eloquently put forth by the previous testifiers that please don't cut our time. People do take their time and they're interested. I come from the top of Crater Road to come down here today and ask you to please don't stop people from being able to express what we need to express. Three minutes is already short enough. Sometimes because there's multiple people testifying for the same thing I know it gets very long and boring, but to cut someone

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short of finishing their testimony is really not very democratic or caring of your constituents and what their wishes are. So I'm going to cut it short and thank you very much for allowing me to be here. And please, consider this before you pass it. Thank you.

CHAIR VICTORINO: Thank you, Shelley. Any questions for clarification purposes from the testifier? Seeing none, thank you. The next individual is Annette Niles and she will also be speaking on PIA-6(3). Followed by Larry Shapiro.

MS. NILES: Hi.

CHAIR VICTORINO: Good afternoon, Ms. Niles.

MS. NILES: Good afternoon. Hi. I just, I don't want to repeat, you know, everybody's been saying and I agree with everybody, and we need that extra minute that we had and even more at times. You know not all the time but at times we get into heavy discussions and different things, so we really need that time. We work hard. I take my...get off from working, feeding animals, running down here just to get here to testify. So please, give us that time. Aloha.

CHAIR VICTORINO: Thank you, Annette. Any wish to clarify any testimony by the testifier? Seeing none, thank you, Annette.

MS. NILES: You're welcome.

CHAIR VICTORINO: Have a great day. Thank you for coming.

MS. NILES: You're welcome.

CHAIR VICTORINO: And the final testifier that signed up to this point, Zandra Amaral Cruise [sic].

MS. AMARAL CROUSE: Crouse.

CHAIR VICTORINO: Crouse. Crouse.

MS. AMARAL CROUSE: But don't call me a mouse please.

CHAIR VICTORINO: Sometimes we have these difficult...never mind, never mind. Testifying on 6, PIA-6(3).

MS. AMARAL CROUSE: One and three.

CHAIR VICTORINO: Oh yeah. Okay. One and three. You gotta practice your handwriting over here. I'm sorry.

MS. AMARAL CROUSE: Sorry guys. Hey, cuz --

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CHAIR VICTORINO: Okay. All right. Go ahead.

MS. AMARAL CROUSE: --be cool. Hello. Good afternoon. And congratulations to all of you. I'd like to first of all say thank you to brother Kanahele. He eloquently put it. This body that sits before us is about us, and as you like seeing yourselves on *Akaku*, to not only express your thoughts but so that your thoughts can be felt, so does the public. Reading a testimony into the records far, far demises the need for a citizen to stand before this body and to the audiences throughout three islands, Maui nui, so that they'll not only hear the words but they hear our passion not as politicians, as simple people who come out and speak on causes and areas that they care about. When there's issues regarding cattle, the cowmen are here. When there's issues involving veterans, seniors or education or hospitals, I am here. Whenever there is issues revolving the Hawaiian sovereignty, Hawaiians and the younger people and people that don't have half a chance, brother Kanahele is always there, not only here but throughout the community. So I ask you humbly, ask yourself why. This body is made up of predominantly Type A people, I know I'm one of them. We like getting things done expeditiously, but we have learned through several wars that getting things done without giving the people the right, the freedom, and the time to speak their case as they so choose without being told by governance. We have seen people suffer throughout the world, we continue to do that. I humbly ask instead of asking how you can cut the time of your citizens giving you oral testimony, ask yourself how can I as a Committee Chair, as a Council Chair increase my bodies. Can I teach them how to like Gladys Baisa so eloquently did through her years of service, getting people together in a group, one body, one talk, one speech but many people. But I humbly ask if it what the people...the people is what you care about, know that they are as passionate if not more than you are. Also let yourself know. I grew up in the time here in the Territory of Hawaii when people did not testify. Many of you, Gladys, Mike, Mr. Carroll, you know, Riki, through your dad, you know, Ms. Coelho, you know we couldn't get people to testify. And now that we have, why are we turning the clock back? I humbly ask all of you instead of looking at and sending resolutions from, for your Council to pass on how you can eliminate or prevent the...not prevent, eliminate the time of those speaking, ask yourselves how can we increase their comments. Because, Riki, your dad would be the first to stand here and not vote...against this. He was a man that stood up for the people as Mr. Molina did and everybody else of the old politicians. Yeah they might call us candidates or whatever from the old boys' school, hey, it's real, they cared about people, and it's by time this Council, this senate, this representatives and all of you politicians realize it's not about you guys, it's about the people of Hawaii and the United States of America. Mahalo. A hui hou. E malama pono. Mahalo.

CHAIR VICTORINO: Thank you. Any questions for the testifier? Seeing none, thank you very much. Okay. Ms. Cruise [sic] was the last testifier to...

VICE-CHAIR COUCH: Crouse.

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CHAIR VICTORINO: Crouse. Crouse. Not mouse, Crouse. Okay, I got. I got it. I got it. I tell you, families, real difficult sometimes.

MS. AMARAL CROUSE: Hey, cuz . . .*(inaudible)*. . .

CHAIR VICTORINO: All right, thank you. All righty, my dear. Okay. She was the last testifier to sign up in the gallery. I will check with our District Offices once more. Hana, David, do you have anyone wishing to testify?

MR. RAATZ: The Hana Office has no one waiting to testify.

CHAIR VICTORINO: Mahalo. Lanai, Denise, do you have anyone wishing to testify?

MS. FERNANDEZ: The Lanai Office has no one waiting to testify.

CHAIR VICTORINO: And, Lanai...Molokai, excuse me, Molokai, Ella, do you have one, anyone wishing to testify?

MS. ALCON: There's no one here on Molokai waiting to testify.

CHAIR VICTORINO: Thank you. Seeing no one in the gallery wanting to...oh, well yeah, you just jumped up. Go ahead. Come on down.

MR. SHAPIRO: I had submitted my...Chair, Larry Shapiro.

CHAIR VICTORINO: Oh. You know what, I apologize. I put your name...I apologize. Yes, Mr. Shapiro. And I did call you, didn't I?

MR. SHAPIRO: Maybe I spoke too quickly.

CHAIR VICTORINO: No, no, no, no, no, no. Come on, Mr. Shapiro. Sorry.

MR. SHAPIRO: Thank you.

CHAIR VICTORINO: Larry Shapiro. I'm sorry. I apologize. I lost your sheet but it's here somewhere. Go ahead.

MR. SHAPIRO: No problem. Thank you very much. Everyone has I think beautifully addressed the...and so eloquently addressed the issues here that I think are really important. Because I think as people have already said and I don't, I won't hopefully even take my three minutes, that the goal ought to be to encourage participation, not to discourage it. And when people take a lot of time out of their day and make the effort to come here and tell you what they think and their view of the issues, you know, they can't go on and on because you have business to conduct. But I think that this really sends a message that intentional or not, that you're really not that interested in hearing what people have to say. And I think that's really counterproductive, because if people go out of their way to come here during the

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workday and they may be nervous about speaking but they really want to tell you what they think, that they should have the opportunity to have the three minutes and a little bit of overtime to, just to wrap it up and to try to, you know, express themselves. I also want to mention that I've had the experience, this is I think maybe the second time I've actually come to speak with you, and one time I was very personally involved in an issue that was before you, where I spent a lot of time preparing some written testimony. And right before...and I submitted it in a timely manner, and right before the hearing, I called 'cause I never heard anything from anyone, I didn't know what happened to it, and I found out well, it was lost. It got put in your e-mail junk file of some sort. So there fortunately was another hearing and I went to a lot of effort again to make sure that my testimony that I had spent quite a bit time on actually reached you and the person assured me that it had. But I had a sense again that it went into a dark hole. I never heard any acknowledgement like, you know, thank you for taking the time to write to us, we've received it, we've distributed it to the Members, they've had an opportunity to look at it, we appreciate your interest. Nothing, just it went away. And I think that's something that maybe you guys might be able to address in some way to also encourage written testimony from folks who cannot come and speak to you directly. Thanks for the opportunity to share that with you.

CHAIR VICTORINO: Thank you, Mr. Shapiro. Any questions for the testifier? Seeing none, thank you, Mr. Shapiro. I appreciate you being here. And we have one more testifier, Ms. Lucienne de Naie speaking on PIA-6(3).

MS. de NAIE: Aloha. Aloha, Mr. Victorino.

CHAIR VICTORINO: Aloha.

MS. de NAIE: Aloha, members of the Council. My name is Lucienne de Naie, I'm testifying as a private individual. Pardon my appearance, I just came from planting native plants in Honokowai Valley, but I wanted to make it back here. I'm testifying because, you know, as a person who's come here many times to testify, I think it's important to realize that there's different aspects to testifying and hearing from the public. One aspect of course is just getting the pulse of our community and hearing what people have to say, and that's very important. And, you know, I like it, I don't like it, that can be brief. But another aspect of testimony is actually providing information that this Council may need, because, you know, many issues have layers of complexity and folks who had been involved with things for years, we've heard great things from some of our farmers and ranchers for instance. They're sharing information that we may not have 'cause we're not running cattle on our land, we're not trying to run a farm, and to ask them to sort of like, you know, make everything into, you know, three minutes or less, I just think that little extra thing is worth it. I think it's worth it to get the information that you folks need. You know personally I've been in that position where perhaps a development is proposed and the research has been done on the things that could be at risk is not complete. We saw this at Wailea 670. We were told yes, you know, there's 40 cultural sites there, there's more like 4,000, and it was citizens that came forward and said look, we think there's more, we think you ought to

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do more. And the Council listened and tried to put in protections for that. If people don't have like a level playing field because, you know, when you get a development that comes here and gives their side of the story, they can come up many times, they can rebut things. The public has their three minutes and hopefully one minute to conclude. So if you're really trying to provide information, I think that extra one minute is really an important facet. Thank you.

CHAIR VICTORINO: Thank you, Ms. de Naie. Any questions for the testifier? Seeing none, thank you very much, and thank you for your hard work out in Honokohau [sic] Valley. Okay. I see no more testifiers in the gallery and I've already checked with the District Offices. We haven't heard anything from them as far as any additional testifiers have we? Well let me ask them one more time. David out in Hana, do you have any testifiers wishing to testify?

MR. RAATZ: No, Mr. Chair, the Hana Office has no one waiting to testify.

CHAIR VICTORINO: Denise in Lanai, do you have anyone wishing to testify?

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

CHAIR VICTORINO: And, Ella in Molokai, do you have anyone wishing to testify?

MS. ALCON: There's no one here on Molokai waiting to testify.

CHAIR VICTORINO: Thank you. And one last chance for anyone who has not given testimony and wants to give testimony. Seeing no one coming to the podium, with no objections, I will close public testimony for today's agenda items.

COUNCILMEMBERS: No objections.

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

CHAIR VICTORINO: Thank you very, very much. Appreciate that. Let's get into the meat of our meeting today. First of all, this meeting is a replacement meeting for the holiday, the Martin Luther King holiday for which we were unable to have the regular PIA meeting.

MS. WILLENBRINK: Presidents' Day.

CHAIR VICTORINO: Okay. I'm being told it was Presidents' Day. But Presidents' Day hasn't come yet. Okay, thank you. I just, I was kind of trying to get ahead of myself on that one. Sorry. I apologize. So this is why we are having this meeting to be able to, two things, first and foremost is to finish up the--I lost my place over here--oh, to finish up what we had started as far as the Rules of the Council; secondly, to go through boards and commissions, nominations that have come down for replacement of boards and commissioners that have either resigned or have been lost through the passing of the

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member; and the third thing is to confirm or disapprove, to approve or disapprove the Corporation Counsel, the Prosecuting Attorney, and as well as the Director of Water Supply. So the purpose of this meeting was to have those completed if at all possible.

**ITEM PIA-2(2): NOMINATIONS TO BOARDS, COMMITTEES, AND COMMISSIONS**  
**(PUBLIC WORKS COMMISSION) (CC 15-23)**

CHAIR VICTORINO: So, Members, because we have such a heavy agenda today, I would like to get started first and foremost on the nominations to boards and committees and commissions, and the first one that we would like to start out today with is the Public Works Commission. And we have in, we are in receipt of a nomination of a Cynthia Santiago. And I was hoping Cynthia would be here but I do not see her. Well that being said, we'll ask Mr. Molina. Yeah, Mr. Molina, would you explain to not only us but the public the commission, Public Works Commission? Because it was a commission that was recently formed based upon eliminating a number of other commissions, so we consolidated in other words. Okay.

MR. MOLINA: Okay.

CHAIR VICTORINO: So, Mr. Molina, would you like to get started please.

MR. MOLINA: Sure. Thank you very much. Mr. Chairman and Committee members, good afternoon. As you had stated, Mr. Chairman, this commission was formed due to the abolishment of several commissions that were under the purview of the Public Works Department. And with the push from the Administration as well as your support, the County Council, consolidating some of these boards and commissions that were formerly in existence has actually freed up staff members to do other things and has realized some taxpaying savings for our taxpayers as well. So we'll, the Administration's hopeful we'll continue to move in this direction to look at other boards and commissions that possibly being either abolished or consolidated. But with that, with regards to the Public Works Commission, again, it is a mixture of all of the agenda items that were formerly part of these other commissions such as the Board of Code Appeals, the Naming of Parks, Streets, and Facilities as well. And in the case of the nominee today, Ms. Cynthia Santiago, she is currently the executive director for Ohana Makamae, and although she hasn't lived on Maui for a lot of years, she does have a lot of experience with, in regards to local history and certainly has shown a lot of enthusiasm to serve on this, in this capacity here on this particular commission. I'm not sure why she was unable to be here, but she does live out in Hana. I can only guess it may have been a, could possibly have been either a personal issue or maybe a traffic issue as to why she's not here. So with that being said, the Administration would be hopeful of your support of Ms. Santiago to serve in this capacity. And again, this would be to replace June Davis who will be, who has resigned from the commission due to medical reasons. Thank you, Mr. Chairman.

CHAIR VICTORINO: Thank you very much. And before we continue, I would like to make sure everyone understands that in this term, I have made a few changes to boards and

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commissions and requesting appointees for appearance here. First and foremost, I have been requesting the presence of any nominee to the boards and commissions that have relative or related matters to cultural matters, fiscal matters, or/and adjudication matters. And secondly, the other change that I've asked for is that now four Members are requesting the presence of any nominee at a meeting for which that nomination is on the agenda is being requested. So those are the two changes that I have basically asked for this coming term. Okay. So in this case because I understand the importance of the Public Works Commission, I did request Ms. Santiago to be here. She did say she was going to be able to attend. Have we heard anything that...any phone call or anything from the nominee?

UNIDENTIFIED SPEAKER: . . .*(inaudible)*. . .

CHAIR VICTORINO: Okay, thank you very much. Because this nominee in my mind, this nomination is very important, I'm going to ask for deferral and give this young lady one more chance to appear before us at our next meeting. Yes, Mr. Couch.

VICE-CHAIR COUCH: Thank you, Mr. Chair. The only concern I would have is the timing issue. If we don't do anything, if we don't act, what's the date, what's our cutoff date on acting on this?

CHAIR VICTORINO: Well the...go ahead, I'm sorry, Ms. Willenbrink, please.

MS. WILLENBRINK: February 21<sup>st</sup>.

CHAIR VICTORINO: So we still have one more meeting in between.

VICE-CHAIR COUCH: But then we still have a Council meeting as well to deal with.

CHAIR VICTORINO: We have a Council meeting...

VICE-CHAIR COUCH: We have to pass it...if we pass it out of here, it has to pass out of Council as well.

CHAIR VICTORINO: Yeah. We have the February 18<sup>th</sup> meeting. So the next, our next meeting would be February 4<sup>th</sup>. if I'm correct. So with the February 4<sup>th</sup> being the next scheduled PIA meeting then we'd have February 18<sup>th</sup> to pass it out. Okay. So the time frame works out pretty good. So with no objections, I would like to defer this nomination of Cynthia Santiago to the Public Works Commission.

COUNCILMEMBER HOKAMA: Chairman?

CHAIR VICTORINO: Yes, yes, Mr. Hokama.

COUNCILMEMBER HOKAMA: My understanding is Ms. Davis served a specific discipline of requirement by the ordinance. So I'm just asking, have you checked with...or Mr. Molina, that the new nominee can satisfy the ordinance requirement?

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CHAIR VICTORINO: Mr. Molina, would you like to address that? Please.

MR. MOLINA: Yes. Thank you, Chair. And thank you, Councilmember Hokama, for the question. We did check with her and we did advise her that these are the requirements of this commission, can you fulfill that, and she said although she hasn't...I think she moved to Maui in 2012, she has gotten herself as best as she can up to speed with local history, because part of the requirements of this commission is to look at naming parks and facilities as well which the capacity that Ms. Davis was filling in because of her knowledge of local history. So Ms. Santiago said she will do her best and make sure get up to speed on a lot of local history to help her become a, you know, member.

COUNCILMEMBER HOKAMA: I'm just --

CHAIR VICTORINO: Mr. Hokama.

COUNCILMEMBER HOKAMA: --recalling, Chairman --

CHAIR VICTORINO: Yes, sir.

COUNCILMEMBER HOKAMA: --I think we were more specific in the ordinance, instead of local history was must have some level of I guess the word would be expertise in the Hawaiian culture, I think is what we tried to ensure that we would protect. You know for many of our communities or areas, there's reasons why it is named a certain thing, whether it be like Koele because of the winds and whatnot, the historic. There's reasons why certain disciplines I guess is what Council tried to ensure to take into account, particularly our Hawaiian culture. And my understanding was Ms. Davis served that discipline well and she was strong in that area. And I would hope that Ms. Santiago also possesses those same skills and level of knowledge that the commission would require to make the best decisions possible.

CHAIR VICTORINO: Okay, thank you, Mr. Hokama. And maybe, Mr. Molina, you would take it into consideration and make sure that Ms. Santiago understands that. And if there's any doubt in anyone's mind, especially hers, that maybe, you know, a change if that's necessary would be made. So I will leave it. We have some time in-between. I will defer this matter to our next meeting which is February 4<sup>th</sup>, and I would hope at that point in time, number one, she'd be able to attend if she's still interested. And number two, that the Members would be able to question her specifically on those disciplines. Okay.

MR. MOLINA: Thank you, Mr. Chair. And the, on behalf of the Administration we will certainly support this deferral, 'cause for a position like this, I'll just say from a personal standpoint, it's important for the nominee to be here to answer these questions in regards to the requirements for the Public Works Commission. So and we will get in contact with Ms. Santiago as well.

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CHAIR VICTORINO: Thank you. Mr. Hokama, you're okay with that?

COUNCILMEMBER HOKAMA: Chairman, I think that is very gracious on the Administration's part, and again, it also with your consideration of another public meeting on this, gives the Members another chance of review. So thank you very much for the consideration.

CHAIR VICTORINO: No problem. Thank you, Mr. Hokama. Any other questions for the or from the Committee members? If not, then is there any objections for me to defer this matter?

COUNCILMEMBERS: No objections.

**COUNCILMEMBERS VOICED NO OBJECTIONS** (excused: DSG, MW).

CHAIR VICTORINO: Thank you very much.

**ACTION: DEFER pending further discussion.**

CHAIR VICTORINO: Okay. Moving right along.

VICE-CHAIR COUCH: Mr. Chair, if I may?

CHAIR VICTORINO: Yes.

VICE-CHAIR COUCH: Just to ease the Members' minds. What's happening with the first item on the agenda? The Affirmative Action Advisory Council.

CHAIR VICTORINO: Well, you know, I have my script here and I'm following it, so yeah, that, this is the next item. So --

VICE-CHAIR COUCH: Okay, thank you.

CHAIR VICTORINO: --hang on. 'Cause Ms. Santiago was coming in from Molokai...I mean Molokai, from Hana, I wanted to give her the first opportunity. So like you, sir, we adjust our schedules based upon the necessity, especially when we have people who come in from the outlying districts.

**ITEM PIA-2(1): NOMINATIONS TO BOARDS, COMMITTEES, AND COMMISSIONS**  
**(AFFIRMATIVE ACTION ADVISORY COUNCIL)** (CC 15-22)

CHAIR VICTORINO: So our next item is naming of to the boards and commissions, the Affirmative Action Council. This is PIA-2(1), and this is, the Committee is in receipt of County Communication 15-22, dated and received December 18, 2014, from the Mayor, transmitting a proposed resolution entitled Appointment of a Member to the

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Affirmative Action Advisory Council, along with a completed application form for the nominee. The purpose of the proposed resolution is to approve or disapprove the appointment of Diana DeLouise to the Affirmative Action Advisory Council, and for the term to be expiring on March 31, 2018. And this is to fill the vacancy due to the passing of Dottie Buck. And a lot of us who knew Dottie or Dorothy Buck know how much she had a passion for this area and we will sorely miss her. But with that in mind, you know, we needed to have someone replace her. So our prayers are for Dotty and her family. And we'd like at this time, Mr. Molina, would you explain the role of the Affirmative Action Council and provide any comments on the nomination of Ms. DeLouise.

MR. MOLINA: Okay, thank you very much, Mr. Chairman. First of all, on the nominee, Diana DeLouise, she was formerly employed by the County as a temporary clerk out in the County Clerk's Office. Her term expired in late November. And she sent in an application to serve on one of our boards and commissions. And she had really no specific preference but just a very, very strong desire to serve our community in whatever capacity. So we felt this might be a nice fit for her. She's certainly shown a lot of enthusiasm. And this committee does not meet as frequently as most of our other boards and commissions that meet once to twice a month. This committee will typically meet anywhere between two-to-four times a year, so we thought this might be a good fit for her. And she certainly has the time. As of our last contact with her, she is not employed as of the moment so she certainly has the time, which is the reason why if you note, see on her application, there's no information filled in as far as the business phone or business fax portion of the e-mail or excuse me, of the application. And we would like to offer to the Members if you would like to talk to her personally we do have her private phone number. We can assist in having you get in contact with her if you would like to speak with her. Thank you, Chairman.

CHAIR VICTORINO: Thank you. And let me inform the Committee that according to the website, the Affirmative Action Advisory Council met four times in 2014, three times in 2013, and twice in 2012. So, Members, you can see there's not a real scheduling issue I think for most people if you're serving on this particular Advisory Council. So at this point I will open the floor to questions for Mr. Molina on the application of Ms. DeLouise. Any questions for Mr. Molina? Seeing none, then I would like to make my recommendations, if I may?

COUNCILMEMBERS: Recommendation?

CHAIR VICTORINO: I would like to have a motion, I would like to entertain a motion to place the name of Diana DeLouise on Exhibit "B" for approval to the Affirmative Action Advisory Council for the term expiring March 31, 2018; and the filing of County Communication 15-22. Mr. Couch.

VICE-CHAIR COUCH: Thank you, Mr. Chair. I move to adopt, approve the resolution Appointment of a Member to the Affirmative Action Advisory Council by placing the name of Diana DeLouise to Exhibit "B", and then filing County Communication.



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MR. MOLINA: Yes, sir. Thank you, Mr. Chairman. Ms. Flordeline Vila is a resident of Lanai City and she is a, currently employed by the Four Seasons Resort on Lanai. And she expressed an interest in serving on this Commission. And we did ask her as well to assure us that she can get the time off from her employer to attend the meetings which are typically held on Maui once a month. She's also a former County employee as well. She formerly worked in the Parks and Recreation Department and also has a background in real estate. So we would like to ask for your consideration of Ms. Vila to serve on this Commission. Thank you, Mr. Chairman.

CHAIR VICTORINO: Thank you very much. And, Members, I will again make one more note with Ms. Vila's appointment. This appointment is only 'til March 31, 2016. So this is why I did not ask her to come over, because first of all, she has to come in from Lanai and secondly this is really just about a one-year appointment. I think we, you're talking about 13 months, and so based upon that expediency and wanting to get this one either approved or disapproved, I brought this forward without asking the nominee to come in. And I think she was unavailable also so that was another issue. So mister...I will open it to the Vice-Chair first and then Mr. Hokama since this is a resident of Lanai and I think you're familiar with Ms. Vila. Mr. Couch.

VICE-CHAIR COUCH: Thank you, Mr. Chair. I am also familiar with Ms. Vila --

CHAIR VICTORINO: Yes.

VICE-CHAIR COUCH: --so I'm fine with her, and I defer to Mr. Hokama for his comments.

CHAIR VICTORINO: Thank you. Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, thank you very much. I would ask the members of the Committee to support Ms. Vila, I will be doing so this afternoon. I think for those that have had the chance to get to know Ms. Vila knows that she's very active in our community, serves very strongly in her church, participates with her collective bargaining agent, the ILWU. And so I can tell you that she is someone who is very knowledgeable of what's going on in the community. She has a great network of residents that discuss things with her, and I think she would be very good to represent the Lanai perspective on the Public Works Commission. So I would ask for the Members' consideration of support this afternoon. Thank you.

CHAIR VICTORINO: Thank you, Mr. Hokama. Anyone else who would like to say or ask any questions in the regard of the either approval or disapproval of Ms. Vila to the Public Works Commission? Seeing none, I will close by saying I also know Ms. Vila very well through the years of working in the ILWU, and she's been an integral part, comes to many of the meetings here on Maui. And gotten to know her and the family very, very well. So I also concur with you, Mr. Hokama, she is a fairly good selection for this Commission. So without any further discussion, I will call for or I will entertain a motion to place the name of Flordeline Vila on Exhibit "B" for approval to the Public Works Commission, for the term expiring March 31, 2016; and the filing of County Communication 15-24. Mr. Couch.

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VICE-CHAIR COUCH: Thank you, Mr. Chair. I move to adopt the resolution the Appointment of a Member to the Public Works Commission for Term Ending on March 31, 2016, and placing the name of Flordeline Vila to Exhibit "B"; and file County Communication 15-24.

COUNCILMEMBER HOKAMA: Second.

CHAIR VICTORINO: It's been moved by Mr. Couch, seconded by Mr. Hokama to put on Exhibit "B" the name for approval of Ms. Flordeline Vila to the Public Works Commission. Any further discussion? Seeing none, all those in favor, signify by saying "aye".

COUNCILMEMBERS: Aye.

CHAIR VICTORINO: Opposed? Let the record show eight ayes, one excused, Mr. White--and until further notice I will not say that again--and no nays.

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

**NOES: None.**

**EXC.: Councilmember White.**

**ABSENT: None.**

**ABSTAIN: None.**

**MOTION CARRIED**

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

CHAIR VICTORINO: Thank you very much, Members. And congratulations to Ms. Vila. I look forward to seeing, working with her on that area, in that area.

**ITEM PIA-2(4): NOMINATIONS TO BOARDS, COMMITTEES, AND COMMISSIONS  
(COUNCIL ON AGING) (CC 15-25)**

CHAIR VICTORINO: Moving right along for the final Nominations to Boards, Committees, and Commissions (Council on Aging). This is PIA-2(4). The Committee is in receipt of County Communication 15-25, dated and received December 31, 2014, from the Acting Mayor, transmitting a proposed resolution entitled Appointment of a Member to the Council on Aging, along with the completed application form for the nominee. The purpose of the proposed resolution is to approve or disapprove the appointment of

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Ms. Valerie Janikowski--and if I did that wrong, I apologize--to the Council on Aging, for the term expiring March 31, 2019, to fill the vacancy due to the resignation of Garrett Toma. And again, like others, I would like to thank Mr. Toma for his service to the County of Maui and wish him continued success. Mr. Molina, would you first of all quickly explain the role of the Council on Aging and provide any comments on the nominee.

MR. MOLINA: Okay. Thank you, Mr. Chairman. First of all the Council on Aging typically their major topics involve senior citizens' issues ranging...I guess the issues that you have various programs that seniors can get involved with or various community service projects. But it's primarily centered on the concerns of our senior citizens. This particular commission or board meets every other month so roughly six times a year. And when it comes to the nominee, Ms. Janikowski is a registered nurse and is heavily involved in senior activities already there on Lanai. And I believe she works out of the Maui County Office on Aging on well. So her attendance would certainly not be a problem there, and she's certainly expressed an interest. And although she hasn't been a long-time Lanai resident she seems to have gotten involved in a lot of I guess senior issues there and is apparently very, somewhat well-known over there on the island. So the Administration would like to humbly ask for your consideration of Ms. Janikowski to this particular Council. Thank you.

CHAIR VICTORINO: No, I got that right, Janikowski. All right. Mr. Couch, would you like to make any comments? And then I will ask Mr. Hokama again because this is from the island of Lanai.

VICE-CHAIR COUCH: No, Mr. Chair. I defer to Mr. Hokama.

CHAIR VICTORINO: Thank you. Mr. Hokama.

COUNCILMEMBER HOKAMA: Thank you once again, Mr. Chairman and Committee members. Ms. Janikowski is...that was well done, Mr. Molina. That was a great, great comment of our nominee. I can tell you that, you know, it, for Lanaians it takes time to move from being a resident to a Lanaiian. You don't automatically become on Lanaiian because you move there. But this lady I can tell you has been embraced by our senior sector in our community, those that serve in the aging network. People like Ms. Nancy Tamashiro very much encourage this nominee to be confirmed by the Council. I can tell you the seniors love this lady, those that have continued to work in various agencies that, to bring service to the island of Lanai appreciate this lady's passion to take care of our island's kupuna. And so I'm happy this afternoon to ask for the Committee's full support of Valerie Janikowski to be the Lanai representative on the Council of Aging. Thank you, Mr. Chairman.

CHAIR VICTORINO: Thank you, Mr. Hokama. Is anyone...any other Committee members want to offer...yes, Ms. Crivello.

COUNCILMEMBER CRIVELLO: Thank you, Chair. I'd like to just extend my support for Valerie also. I've had the opportunity of working with her as a board member for Na



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MR. MOLINA: Thank you very much, Mr. Chairman and Committee members.

CHAIR VICTORINO: And if you would please follow up on that Ms. Santiago and see if at all possible she could be here or whatever. Okay?

MR. MOLINA: Okay. Will do, Mr. Chair.

CHAIR VICTORINO: I appreciate that. Thank you very much. Okay, moving right along.

**ITEM PIA-14: CONFIRMATION OF CORPORATION COUNSEL** (CC 15-26)

CHAIR VICTORINO: Now we move into Item No. 5, and we will start with PIA-14, Confirmation of the Corporation Counsel. And this Committee is in receipt of the following: County Communication 15-26, from the Mayor, transmitting a proposed resolution entitled Approving the Appointment of Patrick K. Wong as Corporation Counsel. The purpose of the proposed resolution is to approve the appointment of Patrick K. Wong as Corporation Counsel, pursuant to Sections 6-2(5) and 8-2.2 of the Charter. The correspondence was dated January 16, 2015, from the Department of Corporation Counsel, transmitting the resolution entitled--and this is the second part of it--the disapproval of the appointment of Patrick K. Wong as Corporation Counsel. The purpose of that proposed resolution, it was to disapprove the Mayor's appointment of Patrick K. Wong as the Corporation Counsel, as pursuant in Sections 6-2(5) and 8-2.2 of the Charter. Before I call upon Mr. Wong, I would like to explain to the public that the two resolutions listed on the agenda for the Corporation Counsel, the Prosecuting Attorney, and the Director of Water Supply, one resolution approves the appointment, the other disapproves of the appointment. This is necessary because the Charter provision calls upon specific action to be taken on one of the two resolutions needed to pass the significant requirements. And if you would like, Mr. Kushi, I'd like to make sure that I am saying that correctly or that I have explained it correctly as far as these resolutions and the nature of them. So, Mr. Kushi, would you like to add anything else or am I correct in my explanation of the two resolutions or the necessity of the two resolutions? Excuse me.

MR. KUSHI: Yes, Mr. Chair. Essentially you are correct. The Council acts by either an ordinance or resolution, and pursuant to Article 6-2, Paragraphs 3 and 5, as far as these three appointments are concerned, you need to look at it within 60 days and make a decision either way. If you don't make a decision either way they're automatically confirmed. So that's the need for the second resolution.

CHAIR VICTORINO: Thank you very much. And just for the public's information and the Committee's information, the deadline for approval or disapproval is March 6, 2015. So just so that everyone has that information available to them. I would also like to mention that we have received written testimony in support of all three nominees from the Director of Public Works, the Deputy Corporation Counsel Richelle Thomas, Thomson, I should say. Members, I would like to ask with your permission to bring

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down Acting Corporation Counsel Patrick Wong to join us on the floor at the Administration desk. No objections?

COUNCILMEMBERS: No objections.

CHAIR VICTORINO: Mr. Wong, please. Thank you, Mr. Wong, for being here. Would you like to take some time to share any of your experiences over the past four years as Corporation Counsel and why you would like to continue in this capacity?

MR. WONG: Sure, Chair. Thank you very much. Hard to summarize four years' worth of work in a short period of time, and I think I may bore you if I get into all the details. But to the viewing public and to those that are in the audience, I certainly appreciate the opportunity to represent the County in the capacity that I have for the last four years. I can tell you that I've taken the job seriously, that I have employed as much of my ability towards doing it the way I thought that the duties of the job requires me to dispatch in compliance with the Charter, and I'm not saying that it's an easy job or one that people are wanting to line up for. It's a very difficult task and it's challenging a lot. In fact, I think that the challenges arise as you know in most circumstances when we're in a circumstance with the push-and-pull between the Council and the Administration. Quite frankly, that is one of the questions that was asked of me during the first confirmation hearing and how would I deal with that. I think that over the four years, there's been a few instances where it has presented itself directly, and I think that in hindsight looking at the circumstances I think we handled it as professionally and as ethically as possible. I don't in hindsight, in all the presentations that I've made to this body and in all the circumstances that I've represented the County, I don't think I would do anything different that would I think cause me to believe that the method of operation for the Department of Corporation Counsel and for the position as Corporation Counsel should be changed at all. I think that I've learned a lot from this process. It's probably one of the most interesting jobs in the legal field. I'll tell you that I have discussed with colleagues the pros and cons of being in a position like this, and I'd say one of the primary pros is that we're confronted with just about every possible legal issue that any lawyer can be confronted with. That's not to say that we're all experts in those areas, it's simply put, we have a...I think First Deputy Kushi and I have a very strong staff. There is a great team of lawyers that work within the Department, and their representation of this body and this County to me only makes us look good. At the end of the day, it's a tough job and so you know I would do it again in a heartbeat because I think it's a very rewarding job. And although I had different views before I even joined the County on how things should occur and how the perception of the operation of County government and the largest law firm in the County of Maui, before I came in I had a different perception. I can tell you that being in the trenches as part of the operation leading the direction, providing the Department with guidance on what I think should be a representation of the best law firm in the County of Maui. And I've said that from time to time with our departments and interdepartmental meetings. And I truly believe that. I truly believe that we have the best set of lawyers that represents the County. Quite frankly, if I didn't believe that I don't think I would be sitting here wanting to re-up for another four years. So with that said, I think that my approach

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to managing the Department, my interaction with the different departments, the Administration, this body, and internally with the staff is just my style, it's hands-on, it's interactive. And I try to be as low key as possible. Quite frankly, I think the deputies that serve with us are quality attorneys. So with that said, I have no hesitation in saying that I'd like to continue to work with this group of people. Thank you, Chair.

CHAIR VICTORINO: Thank you, Mr. Wong. And I'd like to before I start opening the floor for questions from the Members, recognize Member White. Thank you for being here, our Chair.

COUNCILMEMBER WHITE: Good afternoon, Chair.

CHAIR VICTORINO: Thank you, sir. How I would like to do this is to give everybody an opportunity if they so desire to ask any question or, and/or make any comments about the nominee. So I will start with the Vice-Chair, but before I do, let me start by saying, Mr. Wong, I will thank you very much for the four years of service you have given this County. There are many, many times that I have been very impressed in how and your, you and your Department has handled certain cases affecting this County. So I want to thank you for that. But that is my personal feeling, that is my personal opinion, and my personal take on all of this. I will allow every Member to have their say. So at this point, I will start with the Vice-Chair of the Committee, Mr. Couch, and just work our way right down the, to Ms. Cochran, Ms. Baisa, Mr. Carroll, and right through the rest. So everyone has a chance. Mr. Couch?

VICE-CHAIR COUCH: Thank you, Mr. Chair. And thank you, Mr. Wong, for putting yourself up for another four years. I want to be frank with you, Mr. Chair. When Mr. Wong came up for the first confirmation, I had some concerns, some expressed by the community and some myself. And I must say that Mr. Wong has exceeded any expectations that I had on his abilities. He's been I think has done a bang-up job, and we, this County is in better-off condition, especially in some of the litigation stuff that we've had to deal with. And I couldn't ask for a better Corp. Counsel or better person to head our Corp. Counsel Department. So I'm in full support of Mr. Wong. Thank you.

CHAIR VICTORINO: Thank you, Mr. Couch. Ms. Cochran?

COUNCILMEMBER COCHRAN: Thank you, Chair. And thank you, Director Wong, for your service the past term. And, you know, my thing coming into the Council also was about mediation, you know, versus litigation. And you definitely have proven that out in my eyes that you will seek that first if there's a way to work things through with, you know, any issues. And I thank you for looking at that option first and then if it comes down to it then, you know, litigation. But thank you. Though throughout these, a lot of controversial items and things, you know, feelings have come to where I think for me--I don't want to speak for this body--have felt the Council needed its own counsel, and that being appointed by Mayor, Administration is that. And so it seemed sometimes in conflict of showing allegiance more so to Administration than to this

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body. And, you know, I still have those feelings but I want to say that I think you are very capable and competent in the position that you're in. And I know it's very difficult. So I want to commend you for wanting to, you know, be of service once again to this County and to this body and along with Administration. But, you know, I just want to make sure that it is, you know, fair and to all sides but in the bottom line to this community who we all are here for. So I trust that you do that and will continue. So I want to thank you. But, Chair, I have a question, I don't know who this would be directed to, but I don't recall having directors resign I guess in a sense and then have to come back for reappointment in consecutive Administration terms.

CHAIR VICTORINO: Well first of all --

COUNCILMEMBER COCHRAN: So is that --

CHAIR VICTORINO: --Ms. Cochran...

COUNCILMEMBER COCHRAN: --common?

CHAIR VICTORINO: No. First of all, Ms. Cochran, it's been a long time since we've had a reelected Administration, so that's been one of the challenges that we haven't had to deal with, because it's been new administrations since...what, Riki, '98? Yeah. It's been a while. Anyhow, anyhow. So and so they, when the new Administration, I mean when the Administration was reelected, these are the three that are, have to be reappointed. So the Mayor must nominate them again and we need to approve 'em. And in the meantime, if they accept the nomination they're the acting, and as they were when they first came on, they were the Acting Corporation Counsel. As I stated earlier, they are only in an acting capacity until we approve, disapprove or if we take no action then in 60 days they become approved by the Charter.

COUNCILMEMBER COCHRAN: Okay. Yeah, thank you.

CHAIR VICTORINO: Okay.

COUNCILMEMBER COCHRAN: Thank you for that clarification. And thank you once again, Mr. Wong, for your service.

CHAIR VICTORINO: Thank you, Ms. Cochran. Ms. Baisa?

COUNCILMEMBER BAISA: Thank you very much, Mr. Chair. Corporation Counsel Wong, thank you very much for your introductory report, your remarks. I want to say that four years ago when I sat here during your initial confirmation, I didn't know very much about you and listened very carefully to the public comments as well as to the comments of my colleagues, many of which obviously knew you much better than I did. But by the end of the interview, I felt very comfortable in supporting your nomination. And I want to share my experiences because I've had the opportunity in the last two years as Chair to work very closely with Mr. Wong. And I want to say that it's been very comforting to be in a position to have to make legal decisions or to take a

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course of action. Whenever I made that call to Mr. Wong's office or to his cell phone, he answered and he was there whether it was on the weekend or whether it was in the middle of the day, I got a call back, and I want to thank you for that. It was very comforting for me to know that whenever and wherever I needed you. You told me that when I took office and I thought yeah right, he'll be on the golf course, but you know what, he answered me every time and he was there to provide me with legal advice and to listen to my concerns or whatever I needed reassurance about. And if he wasn't able to be there or to answer my question, he would get the member of his staff who had the most expertise. Sometimes it was a personnel matter and he would very quickly get somebody who was an expert to come and help me with that. So I want to say that I really, really appreciate the attention. I appreciate the quality of advice. And I don't think you steered me wrong in any situation that I can think of. So I want to tell you how much I appreciate the service of yourself and the people that serve with you. And I have full confidence based on what I've learned in working with you one on one. I'm impressed with the creativity. I think I heard things during executive sessions that I had never heard before, because you have a creative spirit and you're always trying to find a way to get something done and looking for settlement. And it gives me a great deal of confidence in knowing that we have that ability and that you have that dedication. So I feel very comfortable, Mr. Chair. I give my full support to the nomination, and I will definitely feel that we're in good hands with Mr. Wong. Thank you.

CHAIR VICTORINO: Thank you, Madam Chair. Mr. Carroll?

COUNCILMEMBER CARROLL: Thank you, Chair. I also have worked with him for many years, and the nature of my Committee, a lot of the times we'd have something come up that was a fire and I would come and see him directly because I needed something right away. He was always responsive, he was always quick, and he never complained about gee, boy, you want something today, yeah. He knew it was important and he realized the need, and he always made sure that we had the information we needed. But even more importantly is the people under him. I've never had a complaint about those under him that have serviced us in this Council, in my Committee. I think that is a real testament to his leadership, that those under him that have served my Committee and the ones I've seen serve other committees have been more than adequate. They've been responsive, they've been right there when you needed them, and you know you could trust their decisions. And I think if nothing else I think that says more about the man than anything else I could think of. Thank you, Chair.

CHAIR VICTORINO: Thank you, Mr. Carroll. Mr. White?

COUNCILMEMBER WHITE: Thank you, Chair. You know I would agree with my colleagues that during our deliberations on litigated matters and a variety of other items, I find Mr. Wong's work to be very, very solid. I've really appreciated the way he has worked his way through some very complex bits of litigation. And so overall I have a very good feel for what Mr. Wong has done for the County. My one concern is similar to Ms. Cochran's that there in his efforts to protect the County, there seems to be, the challenge is when there are issues between the Administration and the Council. And I

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understand a bias towards the Administration, but it, but having that in situations where the Council is left without representation, it, I think that's something which I'm still a little bit uncomfortable with. And I also have some concerns or I've had some concerns about confidentiality in certain circumstances. But with those two, you know, with those two concerns, I do support Mr. Wong's reappointment. And I would like to ask for his support in looking for ways that we can be provided with unbiased counsel in times when we feel we're deserving of an opinion that might be seen differently by the Administration than the one we may be looking for. So with that I do support Mr. Wong's reappointment, and I appreciate the vast majority of the work that he's done for the County of Maui. Thank you, Chair.

CHAIR VICTORINO: Thank you, Chair White. Vice-Chair Guzman?

COUNCILMEMBER GUZMAN: Thank you, Chair. I've known Mr. Wong for more than 13 years I believe, and Mr. Wong is also the godfather of my youngest child, Andrew. I've known him before we were in politics. I knew a man that was very morally righteous and had a good character, very good to the people, would go out of his way to help anybody. But when I got elected, it was the first time in my life where both Pat and I were in a different arena aside from the judicial area where there was a judge to decide issues. And I think that there has been over the last two years some strain between the Council and the Administration on various matters that have come before us. And I believe that he's handled them very professionally. It was never personal. And I believe that we can move on and work forward to and for the betterment of our community. I too have my own mixed feelings and reservations about seeing the Mayor come down in some cases where we've had issues and having their little corner discussions over here with Mr. Wong and couple of his deputies, Corporation Counsel Deputies, and letters that I've sent to Corporation Counsel that were shared with the Mayor's Office and discussed with. And so communication, I've, I feel a little bit wary and cautious and have lost that ability to openly call you up on the phone and ask you things because I feel that there's an inherent bias, not only because of the politics but because the way the position is structured in the Charter, and the way that the Mayor has the ability to appoint. And when it comes to termination, the Mayor is the only one that can terminate. So how can and I guess in my mind, how can you serve as the attorney for the Council and the Mayor? And so I get confused on where things lie. And so it prevents me from openly speaking to you about issues. And so that's where I stand. I feel a little bit guarded. I don't feel like I have a Corporation Counsel. I still hope that I have a friend, and but friends can't talk about work stuff. So that's where I stand. I'm in support of his appointment, but I would like to build a better relationship and see less bias towards the Administration. Thank you, Chair.

CHAIR VICTORINO: Thank you, Mr. Guzman. Mr. Hokama?

COUNCILMEMBER HOKAMA: Chairman, thank you very much. I have a few questions for Mr. Wong, but before I pose those questions, Chairman, I would like to say that Council, what, with Mr. Wong's first nomination review, I can say for Council I was pleased because it was one of the very few times Council I felt was very deliberate, very focused on the confirmation process. I think we asked Mr. Wong some very important

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but difficult questions regarding various areas of the Charter, fiscal discipline, the issue that some of the Members have regarding Administration versus Legislative Branch. And Mr. Wong gave us answers that I felt was very forthright in his understanding of County at that point in time. And I think Mr. Wong would agree he sits here today a different person for Corporation Counsel through four years of County experience. It is, he is not where he was four years ago. Would you agree to that, Mr. Wong?

MR. WONG: Absolutely.

COUNCILMEMBER HOKAMA: So saying that, the first things I would like to say is that I believe what Mr. Wong expressed to us four years ago to get the confirmation approval, I can tell you in my four of years of working with him on a lot of litigation regarding the County that Mr. Wong has basically lived up to what he told the Council four years ago when he was confirmed. And we asked him a lot of hard questions. I think the question that begs to be asked again is how Mr. Wong in the future of this Administration, look at issues between the Council, the Legislative Branch and the Executive Branch. Because if you read the Charter, Mr. Wong is first and foremost the legal counsel of the County of Maui, and for me there's a reason why the next part of the language is important. What is the very next component after the County of Maui?

MR. WONG: Council.

COUNCILMEMBER HOKAMA: It is the Council, not the Mayor, not the departments, not the agencies, not the commissions. The very next component after the County is the Council. So for me, Mr. Wong by Charter has some obligation to take care of the Legislative Branch first under appropriate circumstances. And so I think what begs to be asked this afternoon, Mr. Chairman, to Mr. Wong is it a matter of first contact determines whether you would go with the Legislative Branch or the Executive Branch on an issue that we may have a disagreement on? So if we contact you first on issue A, you would represent us first before the Executive Branch? And if the Executive branch comes with you on issue B first, you would represent them and then recommend to us to get other counsel or vice versa?

CHAIR VICTORINO: Mr. Wong.

MR. WONG: And thank you, Member Hokama. You know, quite frankly I don't think I even go through that analysis on first contact or second contact, because I think I'm in constant contact with the Administration on various issues. As it relates to circumstances where there's a differing opinion between the Council and the Executive Branch, I can tell you that in the circumstances that pop into my head, I've tried to do what I'm obligated to do ethically and that is to try to be some form of a mediator between the two distinct differing opinions. And so this body understands in as much as you may feel from time to time that I may be taking the position of the Administration, quite frankly I'll suggest to you that the chief Administrator, Executive I think believes that I'm taking the opposite position when I'm in those meetings with

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the Administration. Because there are times and I'll say it as I've said to you that I'm arguing your viewpoint to the Administrator and convincing the Administration why your viewpoint is the correct one. And I'm trying to mediate a point where both parties can reach an agreement. The difficulty is closing that gap, and there are circumstances where I've tried to personally discuss with the Councilmember involved and the Administration, the Mayor and try to close that gap, and I will express to you that that's the most difficult part of this job as Corporation Counsel I believe for anyone that sits in this job is being able to properly represent both in a dual capacity and get both to come to a meeting of the minds. And in some circumstances, I can't do it, it just, the gap doesn't close. And then both parties are pretty much left to their options. And I think whether I represent a position to this body or to the Administration, I think my job is to give both the full breadth of what the options are and you as a client make that decision on which direction you want to go. We can and we have looked at...when I say we, I mean the Department looked at when there is a prospective conflict, we go back to our ethical rules, we look at what we're obligated to do in representation of a client, and quite frankly, First Deputy Kushi and I have these discussions where we put together teams to address proper representation on the varying views. The most difficult thing that I, I'll tell you that I'm confronted with is I'm the supervisor for everyone, and it's hard for me to have a subordinate believe if I'm involved in the topic it really brings with it a difficult scenario. So as much as I can I try to remove myself from that so I'm not the person making the ultimate decision, you're getting advice that I'm conferring or delivering that's developed by a deputy. Nine times out of ten that's the scenario. I'm telling you what the research has developed and what the analysis has been by a team approach. It's not, I'm not gun slinging it, it's not off the, off my hip. In as much as I think it's a tough position to be in, I don't have a problem making a tough call. And I'll offer this to all of you, I do know that in the Charter, County comes first, Council comes second, and then the rest follows. And in every circumstance, my obligation and my view is County comes first. And quite frankly, both the Legislative body and the Administration in my view periodically needs to be reminded County comes first and how does that work. How does that really work when I need to explain to a Member that the position taking is adverse to the County of Maui. I have that same difficulty when I'm explaining those circumstances to the Chief Executive wherein decisions that he's considering and/or contemplating, I need to say County comes first. It's a tough scenario. Government lawyering is not an easy job. People in the general community I think have a misperception about how difficult this job is. But lo and behold, there's deputies that sign up for the work that are willing to do it and that I think provide the body with the most up-to-date legal analysis that they're capable of providing, and it's quality work. I offer to you as I did back four years during the first confirmation, my obligation to do the best that I can in those very, very difficult situations.

COUNCILMEMBER HOKAMA: I appreciate that response, Mr. Wong. I would agree with you and I think all the Members here know the oath we took which was, you know, we will perform on behalf of the County of Maui. And I believe we all take that oath seriously. And we understand your comments clearly. But for me part of the question is again, for certain key appointments and that's why I believe the people have chosen it this way whereby you need both the Legislative and Administrative Branches to agree to

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hiring and firing of key personnel. So your position is by the Charter a key position...Water Director, Prosecuting Attorney, and we can debate whether others should or shouldn't be. But we definitely know that your position is a critical position by the people, and the people chose that both branches have to agree to hire and terminate. Our branch is more on the second half of the football game, we either confirm or disapprove or we agree to terminate or not. You know we never initiate, and that's a normal thing between our branch of government. You know the Administration proposes and the Council disposes. But saying that, that for me already confirms that the Administration know that policy is a matter of Council. County policy is a matter of Council legislation and that they are to implement County policy and not to make Administrative policy to contravene Legislative policy. And so I say that because I think at times that's why we get into this family disagreements. But I would agree with you, Mr. Wong, that at the end of the day, it is one policy, one County, and that's Maui County.

MR. WONG: Right.

COUNCILMEMBER HOKAMA: So thank you for that. I would say that you fulfilled your agreement with us regarding your views of special counsel, so I want to thank you for that, including having us have the opportunity of special counsel regarding even the bond counsel. And so I believe you have fulfilled what you told us, that you would come back to Council for appropriate review and approvals. You have done that. And what family at time doesn't disagree? So I can tell you I've disagreed with you at times but what family doesn't. I think it's healthy, disagreements, because it made me think harder to come up with a better resolution. So, you know, I don't have a problem with disagreements, Mr. Wong. I would say that your style in litigation that I've worked with you has been for me very reassuring, because you look at things that most attorneys may not look at. And I like that view of being innovative, creative to save the taxpayers of this County unnecessary additional financial burdens. But also saying that, Mr. Wong, I know because I work with you a lot but I think, you know, for some, some people like scorecards or report cards, so what would you grade your Department? 'Cause I know your success in litigation, I know your success in settlements, but before I say what I would have graded, how would you grade yourself?

MR. WONG: It's a very...

COUNCILMEMBER HOKAMA: I know it's a hard question, Mr. Wong, you know.

CHAIR VICTORINO: Sounds like a trick question to me.

COUNCILMEMBER HOKAMA: No, but it's not...no, I'm not trying to trick the gentleman at all.

CHAIR VICTORINO: Okay.

COUNCILMEMBER HOKAMA: Because I think one way we are going to help, if we confirm Mr. Wong and he comes --

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CHAIR VICTORINO: Yeah.

COUNCILMEMBER HOKAMA: --he's going to come before us in budget, it's good to understand his current understanding, his philosophy. Because it's going to come out in his budgetary requests, it's going to come out in assignment of deputies to key committees of the Council and various other matters that...I'm not trying to trick the gentleman. I think he has an opportunity if he wants to share with us in an open meeting. I don't have a problem because it's personal to go into exec. session if need be, but if Mr. Wong is comfortable I would just like to know how he would rate himself.

CHAIR VICTORINO: Mr. Wong, would you...I'll give you that option, if, you know, if you want to into executive session I'll call an executive session, but I'll give you an option in the public.

MR. WONG: Chair, thank you for that opportunity. Actually I don't mind having an open and frank discussion of that. Quite frankly, there's...it's a very good question, Member Hokama, and I'll offer to you that there's a collective of deputies that are viewing this. And I've posed the exact same question to them as it relates to their own performance. And the reflection that they have gone through is very telling. And what I'll tell you is that I too upon reflection self-judge and self-critique on a regular and consistent basis, almost daily. Sometimes it's overly critical, and what I'll suggest is this, if I had to grade my performance thinking that my performance is truly a reflection on the Department as a whole and on the performance of my deputies, I don't think I've really given any deputy anything currently less than an A. I think that everyone performs at a top level. My obligation as the way I see it as the point of the spear is to lead by example, and I'm not going to tell you that I'm deserving of an A but I think it's certainly A work. And if anyone in the general community or in the different departments feel any different I think I would be surprised, because my performance has been based on a direct interaction with just about every department, not just the operational level but in all aspects. And part of it is I think the lawyering business is a service-oriented business. And my philosophy has always been that there's many lawyers out there that can provide a service, you can purchase your product from Foodland or Safeway. Do you go to the cheapest place, or do you go to the reliable place, or do you go to a place where you can believe you're getting the best product? I always thought that if you provide good service in a reliable way that you'll get repeat customers, and that's in the private practice. I carry that in my view to this office in service orientation. Some of the deputies in my Department are and have been labeled customer service operators, because they need to deal with very difficult people in the community, and quite frankly, I think they do a bang-up job dealing with those people. It's not always the case, but that's a reflection I think on my views on how we need to provide as much responsiveness to the general public. So if I had to and I was forced to I cannot say that we would be deserving of anything less than an A.

COUNCILMEMBER HOKAMA: And I appreciate your explanation to your unofficial grade, if I can call it that, Mr. Wong. But I appreciate your review. And I, and working with you I can say that you've always continued to improve. You know I mean we all know we

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can do our job a little better, so, you know, the desire to do it better, I can still see that fire in you, in your belly, so that I appreciate. One last question, Mr. Chairman, before I give up. Just so we understand, I have no doubt in my mind, but what does good standing before the Supreme Court really mean?

MR. WONG: That there's no disciplinary action issued by the Office of Disciplinary Counsel, and quite frankly I think I fit that directly. And it's easy to verify by a call to the Office of Disciplinary Counsel.

COUNCILMEMBER HOKAMA: Okay, thank you for that, Mr. Wong. Chairman, thank you for my opportunity.

CHAIR VICTORINO: Thank you, Mr. Hokama. Ms. Crivello?

COUNCILMEMBER CRIVELLO: Thank you, Chair. Thank you, Mr. Wong. I'd like to, you know, this is my first opportunity to be part of this appointment process, and I'd like to start off by thanking my colleagues and my predecessors who made the appointment. You know I, my first term I was tasked with some very complicated issues that had come before my Committee, and the end results, you know, what we've come out with is through the dedication of your deputies that you've assigned to my Committee and even those that paid me a visit to help me to have a better understanding and clarification. So I would agree that your staff is a strong staff, and gave me reassurance as a first-time Member without the legalese expertise that your staff carry. But they made it easy for me to understand, and I know I requested a lot of their time because I did not want to put things back on the backburner again where it's been for years and years. And I know that they've probably burn the midnight oil. And that comes from your leadership. So you even stepped into our meetings when I met with the Department and staff and tried to dissect the maze that was before us, so I can appreciate that. The other opportunity I had was to observe I think how Mr. Hokama said is that you demonstrated the importance of saving our taxpayers money, the dollars. The litigation process that we go through during the executive sessions, that's what I hear from you, and that tells me that your kuleana to the County is of value and it's not something that you take very lightly, you know. And your deputies have so much confidence that when they're going before the judge or the courts, they feel very confident that they've got it. And so that helps on my part as one who has to be fiducially responsible to our taxpayers. That being said, I sometimes think that God, he's so cautious. You know it's like bang the door down, let us get through, you know, and I can understand. And what you've mentioned in your opening statement that you've had your challenges with your I guess representation, and I think sometimes our Charter, the way we're governed by our Charter gives us much challenges. And you're into the heart of it. And so I hope you're able to I guess, you know, have a better clearing for us to say that it's less of a conflict as far as when the family have their feuds, you know, it be easier to calm us down and try to find a solution that we can have a better understanding on that. So I appreciate that you have the good standing of the supreme, of the courts or what have you. And again, I really, you know, I think I've expressed it to you, I really appreciate the deputies that, your staff, I truly do. They're accessible and I get an explanation,

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may, I may not like the answer but I get an explanation. And there's a constant interaction, so, you know, kudos to you for that with your staff. I think our County, we're in good hands with your leadership. And, you know, I don't have to say I too had concerns about the conflicts that some of the issues that we've dealt with but we've, we're moving on. And if I have the opportunity to reappoint you or appoint you, slash, you have my support. Thank you.

MR. WONG: Thank you.

CHAIR VICTORINO: Thank you. Any further comments or questions for the nominee? Seeing none, I would like to make my recommendation.

COUNCILMEMBERS: Recommendation?

CHAIR VICTORINO: Thank you. Members, with no further discussion, I will entertain a motion to adopt the proposed resolution entitled Approving the Appointment of Patrick K. Wong as Corporation Counsel; and the filing of County Communication 15-26.

VICE-CHAIR COUCH: Thank you, Mr. Chair. It's with great honor that I move to adopt Approving the Appointment of Patrick K. Wong as the Corporation Counsel; and filing of County Communication 15-26.

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

CHAIR VICTORINO: It was, been moved by Mr. Couch, seconded by Ms. Baisa to approve the appointment of Patrick K. Wong as Corporation Counsel; and the filing of County Communication 15-26. Any further discussion?

VICE-CHAIR COUCH: Can I have a short recess?

CHAIR VICTORINO: We'll...one-minute recess, subject to the Chair. . . .*(gavel)*. . .

**RECESS: 3:25 p.m.**

**RECONVENE: 3:26 p.m.**

CHAIR VICTORINO: . . .*(gavel)*. . . The meeting of the Policy and Intergovernmental Affairs Committee will reconvene. Any further discussion? Yes, Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, thank you. I am speaking in favor of the motion --

CHAIR VICTORINO: Okay.

COUNCILMEMBER HOKAMA: --in support of the motion.

CHAIR VICTORINO: Thank you.

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COUNCILMEMBER HOKAMA: Just quickly, Chairman, what I would like to add that we didn't really talk about is in my support for Mr. Wong, part of my reasoning is I feel we are going in the right direction from a legal standpoint regarding the County of Maui. And part of my support of Mr. Wong for this Administration is the continuation and consistency that I think is important for the community to know how the County is going to be approaching issues in the future. I think that the path that Mr. Wong has taken us over the last few years is a proven path, a successful path on how the County will look at whether it be legal litigation claims or just general legal policy. I think it's important that the community knows that our faith in Mr. Wong is now based also on experience besides the additional four years of leadership we expect from, in our legal department. So for me it's one of consistency and continued leadership in the direction that I feel is at this point in time the right direction for the County of Maui. Thank you.

CHAIR VICTORINO: Thank you, Mr. Hokama. You have something else you want to add? Go ahead, Mr. Couch. I mean, you know, I think you know it's like...you have something you'd like to add, Ms. Willenbrink?

MS. WILLENBRINK: Brief recess.

CHAIR VICTORINO: We need another recess. Okay. Recess subject to the call of the Chair.  
...*(gavel)*...

**RECESS: 3:28 p.m.**

**RECONVENE: 3:29 p.m.**

CHAIR VICTORINO: ...*(gavel)*... The meeting of the Policy and Intergovernmental Affairs Committee will reconvene. So I will now call for the vote as...oh wait. Mr. Couch.

VICE-CHAIR COUCH: Thank you, Mr. Chair. And to echo Mr. Hokama's words, I also wanted to say that not only is it Mr. Wong and it's his choice of staff and all his Corporation Counsel. So this is a vote of confidence for him and his whole staff. He's done...they've done a bang-up job in the four years I've been here. So I just wanted to add that.

CHAIR VICTORINO: Is there anyone else that would like to add anything? I would like to take the...yes? Recess. ...*(gavel)*...

**RECESS: 3:30 p.m.**

**RECONVENE: 3:31 p.m.**

CHAIR VICTORINO: The meeting of the Policy and Intergovernmental Affairs Committee will come back to order. And hopefully no more recesses. Without any further discussion,

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I would like to call for the question. All those in favor of the appointment of Patrick K. Wong to the Corporation Counsel, signify by saying "aye".

COUNCILMEMBERS: Aye.

CHAIR VICTORINO: Opposed? Let the record show nine ayes, no noes.

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

**NOES:           None.**

**EXC.:           None.**

**ABSENT:       None.**

**ABSTAIN:      None.**

**MOTION CARRIED**

**ACTION:        Recommending ADOPTION of resolution entitled "APPROVING THE APPOINTMENT OF PATRICK K. WONG AS THE CORPORATION COUNSEL", and FILING of communication.**

CHAIR VICTORINO: And thank you and congratulations. Let's give you a big hand. Thank you very much for that.

MR. WONG: Thank you, Chair.

CHAIR VICTORINO: Okay. Now that that's done, I would like to entertain a motion to file County Communication 15-26 which was the disapproving of the appointment of Patrick K. Wong as Corporation Counsel.

VICE-CHAIR COUCH: That was included in my main motion.

CHAIR VICTORINO: No, it wasn't.

VICE-CHAIR COUCH: I did say filing of Communication 15-26.

CHAIR VICTORINO: No, for the disapproving.

VICE-CHAIR COUCH: Oh, I'm sorry. You said...

CHAIR VICTORINO: Listen to me now, please. Disapproving. Disapproving.



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**MOTION CARRIED**

**ACTION:     Recommending FILING of correspondence dated January 16, 2015  
              (disapproving resolution).**

CHAIR VICTORINO: And at this point I definitely need a recess. So let us ask for everyone to be back by no later than 3:45. This meeting now stands in recess. . . .*(gavel)*. . .

**RECESS:     3:34 p.m.**

**RECONVENE:  4:06 p.m.**

CHAIR VICTORINO: . . .*(gavel)*. . . The meeting of the Policy and Intergovernmental Affairs Committee will reconvene.

**ITEM PIA-15:  CONFIRMATION OF PROSECUTING ATTORNEY** (CC 15-27)

**ITEM PIA-16:  CONFIRMATION OF DIRECTOR OF WATER SUPPLY** (CC 15-28)

CHAIR VICTORINO: At this time, I would like to pass out some information that has come to my attention moments ago, and for the purpose of the matter before us, which was County Communication PIA-15. . .or I should say County Communication 15-27, PIA-15 and PIA-16, I would like to move to the end of calendar with your permission. But please pass that out because that way they'll understand why my request or what my request means, please.

COUNCILMEMBER COCHRAN: No objections. Oh. . .sorry.

CHAIR VICTORINO: . . .*(inaudible)*. . . Yeah. Receive this first and then, then you'll understand why I'm doing what I'm doing. . . Tammy, will you help her, please and even, even. . .please, 'cause there's three stacks to be given out. So each one of you take a stack for expediency purposes. Okay, thank you. Go ahead right down the line, please. And by the way, since we're back in session, Mr. Kim, I would like to extend our condolences to the loss of your mother-in-law. . .the matriarch of the Nobriga family, and Barbara Nobriga passed away on. . .

MR. KIM: Sunday morning.

CHAIR VICTORINO: . . .yeah, Sunday morning, January 18<sup>th</sup>, and from us here we know the Nobriga family has been an integral part of this community for many, many, many years and the loss of the matriarch I know is, is heavy. So my condolences and I think I share, I think the rest of the Council shares the same sentiment, our condolences to the loss of your mother-in-law and Catherine's mother, Ms. Barbara Nobriga. Okay.

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So with no objections, I'd like to move PIA-15 and PIA-16 to end of calendar. Any objections?

COUNCILMEMBERS: No objections.

**COUNCILMEMBERS VOICED NO OBJECTIONS.**

CHAIR VICTORINO: No objections? Okay, thank you. So we'll move that to end of calendar. And I will give you some time after we get through the other two items, I will give you time to complete the overview of the material you have received, yeah.

**ACTION: DEFER items to end of calendar.**

**ITEM PIA-6(1): AMENDMENTS TO THE RULES OF THE COUNCIL** (CC 13-45, MISC)

CHAIR VICTORINO: Then I would like to move on to PIA-6(1). And...okay. All right. Okay. Okay. PIA-6(1) is Amendments to the Rules of the Council. The Committee is in receipt of County Communication 13-45, from the Council Chair, regarding...relating, I should say, to the amendments of the Rules of the Council; a miscellaneous correspondence, dated January 5, 2015, from the Deputy County Clerk, transmitting the matter relating to the Rules of the Council; and a correspondence dated January 16 from myself, transmitting the proposed resolution Amending the Rules of the Council, attaching Resolution 15-4, as adopted by the Council at the Council meeting of January 2, 2015. We'll be working off the January 16 document and its revisions approved that, at our last meeting noted in Ramseyer form. First of all, the Rules that were left out are up on the TV, on the TV screen, and Ms. Willenbrink will add or delete any further revisions in the track changes. Before we begin, may I direct your attention to the correspondence dated January 20, 2015, from the Department of Corporation Counsel, responding to our request for an opinion relating to Rule 25. The correspondence states that it would be more appropriate to cite HRS section if we include Rule 25 rather than inserting the entire proposed, proposal in the Rules. So at this point, I will call upon the proposer of the change, Mr. Couch, if you would like to begin.

VICE-CHAIR COUCH: So you're going with Rule 25 first?

CHAIR VICTORINO: Well, because that's what you brought forward so.

VICE-CHAIR COUCH: Okay. I had several but 25 is fine. I am fine with that if Corp. Counsel agrees to that. Members, we just passed out my proposed language for Rule 25, but it pretty much mirrors HRS 92-3.5 regarding interactive conference technology. So if the Members are fine with just referring or if Corp. Counsel I guess and they say so in their letter to us, I would still like to add Rule 25 and refer to the HRS saying that we can have meetings by interactive conference technology. And just say --

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CHAIR VICTORINO: In pursuance...

VICE-CHAIR COUCH: --meetings held pursuant to HRS 93 dash, 92-3.5. So that's essentially...

CHAIR VICTORINO: Your motion?

VICE-CHAIR COUCH: Sure. If we're gonna...if...do you want to discuss it first or do you want to go through the...

CHAIR VICTORINO: Well just let's make the motion --

VICE-CHAIR COUCH: Okay.

CHAIR VICTORINO: --because I think it's pretty clear-cut where we want to go with this, and let the Members go from there. But go ahead, why don't you make the motion. We'll...

VICE-CHAIR COUCH: So I move to add Rule 25 by saying meetings may be held by interactive conferences technology, shall be held in accordance with Section 92-3.5 of the Hawaii Revised Statutes.

CHAIR VICTORINO: Okay, hang on. Let Ms. Willenbrink get caught up with that one.

COUNCILMEMBER BAISA: Second.

CHAIR VICTORINO: It's been moved by Mr. Couch and seconded by Ms. Baisa.

MS. WILLENBRINK: Meetings may be held by interactive...

CHAIR VICTORINO: Can you read that again, please.

VICE-CHAIR COUCH: Meetings held, may be held by interactive conference technology and shall be held in accordance with Section 92-3.5 of the Hawaii Revised Statutes.

CHAIR VICTORINO: Okay. Mr. Kushi, you have any comments? I know you, you're the one that sent us the letter. Any comments as far as that is concerned? Section 92-...

VICE-CHAIR COUCH: Ninety-two.

CHAIR VICTORINO: ...3.5.

MS. WILLENBRINK: Thank you very much.

CHAIR VICTORINO: Of the Hawaii...

MR. KUSHI: Mr. Chair, that would work.

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CHAIR VICTORINO: I'm sorry, go ahead. I'm sorry.

MR. KUSHI: Yes, Mr. Chair, that would work if it cites the relevant State statute.

CHAIR VICTORINO: Okay. Any more discussion? Yes, Mr. Couch.

VICE-CHAIR COUCH: So, Members, you have before you the language that's in ninety...essentially 92-3.5. In 92-3.5 it mentions board and we, in here it says Council, so that's I think the only difference is those two. Basically it's saying that if we have a meeting we can in certain circumstances not necessarily be here. If for instance somebody knows that they're going to be off at a meeting somewhere else or something's going on that they're going to be gone and not physically present that they can if there's enough notice given attend the meeting via either interactive phone or interactive video. And if for whatever reason we lose the phone audio portion essentially the meeting has to end. But I think we can put in a little bit of extra language so that not necessarily the meeting has to end but if it's okay with the person who we lost communication with that the meeting could continue. But aside from that it's already allowed for in HRS so I'm thinking that we could make that as one of the Rules to allow for it here. And I think it warrants some discussion one way or the other.

CHAIR VICTORINO: Well, I think that was something that Corporation Counsel had wanted to have addressed. Mr. Kushi, you know this idea...it's hard when you have, you know...Mr. Kushi, I'm sorry. It, the discussion matter or the question is being brought up again, when you have video conferencing or even, probably yeah, video conferencing is the one there was concern with, right, Mr. ...

VICE-CHAIR COUCH: No, actually the HRS says when a meeting held by interactive conference technology shall be terminated when audio communication cannot be maintained with all locations where the meeting has been noticed.

CHAIR VICTORINO: Okay. So I guess the question begs to be asked if that was to happen and Mr. Couch is saying that he believes that we can continue the meeting so long as that person who was calling in or whatever had, consents to that. And you had a different take on it if I recall correctly the last meeting. So I just want clarification on that matter. So if communication is terminated does the meeting have to stop at that point or with the permission of the participant the meeting could continue on?

VICE-CHAIR COUCH: Mr. Chair, before he answers, that's not quite what I asked.

CHAIR VICTORINO: Okay well what did you ask?

VICE-CHAIR COUCH: The law says that it has to terminate. I was asking if we can add language to say it's okay if we have permission from the guy. That's kind of what we're...

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CHAIR VICTORINO: Well, I don't think so. I think then we're trying to make the law a little lesser than the State and I think we're going to have a problem, but I'll let Mr. Kushi answer that one. Please. Mr. Kushi, you heard the question.

MR. KUSHI: Yes. If I understand the question and situation, Mr. Couch is right in that the law says it has to stop when you lose audio connection.

VICE-CHAIR COUCH: Correct.

MR. KUSHI: There's a definition of what interactive conferencing is and I forgot to write it down, but in any event, if you're saying that to extend or expand the State statute by Council Rules, I would highly recommend against it because then you may be challenged by OIP or whoever it is.

VICE-CHAIR COUCH: And I understand that, Mr. Chair, I just don't know what the difference is if one of us gets up and leaves the meeting here. It's obviously that they're going to leave and they've either told you or have, you know, if we have quorum we're still going with the meeting even if somebody gets up and walks out of the meeting. So and I realize that the State statute, maybe we have to talk to the State Legislators and add that provision in there if your concern is that we're superseding a State statute.

MR. KUSHI: Well you're expanding the State statute to allow that something is not permitted. In terms of your comparison to Chamber activity, if one of you should leave right now, if there's still a quorum your meeting can continue. But at least a quorum is there. Pursuant to this State statute, I'm just assuming that that absent person not in the County building is needed to constitute a quorum.

VICE-CHAIR COUCH: Actually no, it says here even if a quorum of the Council or Committee is appropriate and is physically present in one location. So essentially they're saying even with quorum if we lose audio the meeting's over --

MR. KUSHI: Okay.

VICE-CHAIR COUCH: --if we can't get it back in 15 minutes.

MR. KUSHI: The other problem or situation may be that there may be people at the remote location, they will lose communication and they would be cut off from the meeting. So not only the Councilmember at the remote location but the public who shows up at the remote location will be cut off.

VICE-CHAIR COUCH: Okay. So then it's up to us as Members to, if we want to be able to do this we have to understand that if the audio communication is lost then --

CHAIR VICTORINO: The meeting ceases at --

VICE-CHAIR COUCH: --the meeting ceases.

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CHAIR VICTORINO: --that point in time.

VICE-CHAIR COUCH: So we have to decide if we want to be able to do that, so that's where we're at.

CHAIR VICTORINO: Okay. So that, just so everybody knows that's the real crux of this --

VICE-CHAIR COUCH: Yep.

CHAIR VICTORINO: --okay. Mr. Hokama, I know you wanted to say something. Go ahead please.

COUNCILMEMBER HOKAMA: Chairman, thank you. I won't support the motion.

CHAIR VICTORINO: Okay.

COUNCILMEMBER HOKAMA: I feel that the people through the Charter expect its Members to be present at the Chambers. So I for one won't support this interactive proposal. The Charter also provides for emergencies and what we declare as public calamities, as the Charter uses the word calamity, that phone meetings can be conducted, we can pass emergency ordinances for public purpose, and it has only a, you know, 61-day validity and then the Council must either reaffirm its emergency action or rescind it. So I think it's pretty clear what the people expect of us, they expect us to physically be at that one, at that site of, that we select for. You know, what I believe it's been the people's choice in '68 when we went to a Charter form of government. And I still believe that that's the way we should do business in this County. Thank you.

CHAIR VICTORINO: Thank you. Any other further discussion? Yes, Ms. Crivello?

COUNCILMEMBER CRIVELLO: Thank you, Chair. I can say for the remote area on Molokai that we don't have the best broadband services if we're talking about having, according to the Charter to hold meetings in the County building or other publicly owned place. There's very few places that have reliable broadband services. So if we're talking about interactive telephone services, even that is questionable on its reliability. So at this stage, I cannot support that. And I feel too that I think the people expect us to be here even if I would just love to be at home, you know. Yeah.

CHAIR VICTORINO: Thank you, Ms. Crivello. Any other statements? Ms. Baisa?

COUNCILMEMBER BAISA: Well as you know, I support this, and the reason I do is...and I would support it though with maybe a little bit more language about what is eligible and what is not eligible. You know to me if you take a vacation and you're not here well that's your choice and you went. But to me if you are required to attend some meeting off-island or if you are ill and I mean probably mobility impaired, because if you're, if it's just that you can't walk to be here or can't move to be here but if you're

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clear in your mind and there's nothing wrong with you, I think that we do less of a service to our community by not voting than we would be participating.

CHAIR VICTORINO: Thank you. Mr. Carroll?

COUNCILMEMBER CARROLL: Thank you, Chair. I think this is far reaching and I think we're going, looking at the future. If you think about it, Mr. Hokama is not going to be here a lot and it's for good reason and it's making Maui County stronger and all of our counties stronger. We have yourself that attends meetings that represent the different aspects of the County's. As we get into the, this century, we're going to find more and more that to be able to represent our people it's required for us to go to places, Washington D.C., different areas in the United States, in order to be--what's the word--to be able to truly represent our people in a way they should be represented. We need to be able to do these things. Mr. Hokama needs to be able to go. You need to be able to go, the Vice-Chair of the Council, some Councilmembers. I plan on doing things in Honolulu that would be advantageous to the people of Maui County. So I think we really need to look to the future as we're looking at this. It needs to be worked out. It's something that we don't want to be postponing meetings because it's something in Hana, or postponing because it's something on Molokai and they're not there, or Wailuku or any of the other districts where it's necessary. We need to really address this. We need to try it, we need to get it in place, we need to do it. In doing it, eh, it might be rough at first, it might be hard, we might have to make changes, but if we don't get into, do the best we can now with what we have and try to make it work, I think we can. And I think this is what we're really going to have to do in the future. And it's again, to serve the people that need to be served, the people of Maui County. Thank you, Chair.

CHAIR VICTORINO: Thank you, Mr. Carroll. Mr. White?

COUNCILMEMBER WHITE: Thank you, Chair. I think Mr. Couch has pointed out the weakness of the State statute in that it means the meeting has to be cancelled if you lose communication of, from one point only. So until we can get that fixed in the State law and I think that's certainly something that should be looked at, I can't support getting too excited about this Rule until that's fixed.

CHAIR VICTORINO: Thank you. Mr. Guzman?

COUNCILMEMBER GUZMAN: Nothing further.

CHAIR VICTORINO: Nothing further. Ms. Cochran?

COUNCILMEMBER COCHRAN: Chair, thank you. And yeah, that 15 minutes thing is sort of scary in the sense that we're in the middle of say something we're doing that with this meeting and we got disconnected, I don't know, God forbid we'd have to just cancel everything and start all over another time. It'd make a lot of hardship. I mean as much as I'd like to not have to drive over the Pali and perhaps set up shop in West Maui somewhere convenient for myself and the constituents, I'd love that. So I think

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it's something that I definitely can support in that sense, but I think our technology right now is just not up to speed as our outlying islands have voiced also. And, you know, IT infrastructure is coming through my Committee so hopefully we can get things beefed up. And in the meantime, this, you know, disconnection won't just kill an entire discussion and meeting in progress. So I see the benefits but then again I do see the hardships that can occur. So, Chair, at this time, I guess I'm not fully in support. Thank you.

CHAIR VICTORINO: And I think what I would like to close out with saying, although I agree that it is good to have that opportunity, Mr. Carroll and Mr. Couch, and the travel that we do, if we could because of that still be interactive and communicate and be a part of meetings back here. That would be nice also. Sometime the time zone may make that very restrictive but that's another issue and another conversation. But I think the other thing that still worries me, Mr. Couch, is the idea about the interactive if we lose communication. And until that's corrected, I agree with Mr. White, you know, I don't want something of that nature to be holding us back. And let's say we do it two or three times and each time something happens and we gotta stop the meeting and start all over again. I don't think we're doing the public a service at that point in time. And so I believe this warrants some more discussion when we would have what I call a reliable methodology of communication. I mean we have still problems with our outlying districts right now by phone and other, you know, so I mean there is still some challenges. So I too cannot support this with that aspect in mind. You know I do believe that if the State can change the rule or can modify it, I'd be more willing to support something of this nature. Mr. Couch.

VICE-CHAIR COUCH: And thank you, Members, for all those comments. I do agree that if we can get the State to back down on that. So I will work on that. But I want to point out that we had an instance where two Members were incapacitated physically but not mentally...

COUNCILMEMBER BAISA: Portegees can only talk. Hello.

VICE-CHAIR COUCH: Yeah, I know. I won't go any further than that. But I would think that even with this restriction I would think at least an attempt at a meeting is better than no meeting at all, and we had to have at a couple times no meeting at all. So consider that as well. I'd be, I mean I can count that maybe we'll come back and see if we can get the State to work on it, but I really think that we need to in instances like we had which we probably won't have very often but where we had two Members out, who couldn't be here could be here on phone and in fact watched all the meetings that we had on TV but weren't allowed to vote on certain things, I think we need to be able to allow for that at some time. So I mean I'm willing to withdraw this motion because obviously it's not going to go anywhere. But I will work on it and come up, see if we can deal with the State, at the same time come up with some requirements here to allow for a meeting like that maybe in emergency situations like that where we know that they're going to be out for several weeks.

CHAIR VICTORINO: Extended periods of time.

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VICE-CHAIR COUCH: Yeah, extended periods of time. So I'm willing to do that. In fact I'll withdraw my motion right now. But in, if, in that case I need to move that we remove Rule 25 from the Rules of the Council, Page 2. I need to move that we remove that. Or is that a nonsubstantive...

CHAIR VICTORINO: If you withdraw the motion...

VICE-CHAIR COUCH: The table of contents says we have a Rule --

CHAIR VICTORINO: Oh, okay.

VICE-CHAIR COUCH: --25.

CHAIR VICTORINO: Okay. We can...

VICE-CHAIR COUCH: I think we don't need a motion for that, we just need to remove that out of our table.

CHAIR VICTORINO: Remove it. Yeah, we'll...yeah, okay. Let's do that then. Yeah. We'll just remove 25 entirely.

VICE-CHAIR COUCH: Yeah, just like that.

CHAIR VICTORINO: Okay.

VICE-CHAIR COUCH: Okay.

CHAIR VICTORINO: Okay. Any objections to removing Rule 25? Just the wording, Rule 25?

COUNCILMEMBERS: No objections.

**COUNCILMEMBERS VOICED NO OBJECTIONS.**

CHAIR VICTORINO: Okay, no objections. Moving along. Mr. Couch, you had one more right, one more amendment you wanted to bring forward.

VICE-CHAIR COUCH: Yeah. And that is on Page 6 [sic] of the old one. I'm not quite sure, I think it's the same 6, Page 6 [sic], but it's Rule 4, I'm sorry, 5(B)(16).

CHAIR VICTORINO: Right, okay. Go ahead.

VICE-CHAIR COUCH: Where it says approve a change in zoning for which protests are filed, and we talked about this at the organizational meeting. I've passed out the way the law was changed here. I don't need, I don't think we need to put all this language in. I think what we can say is approve a change in zoning for which protests are filed in

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accordance to Maui County Code Section 19.15.040(B). So that would be my motion. I believe that's okay if Mr. Kushi...

CHAIR VICTORINO: Well before we go on, do I have a second?

COUNCILMEMBER CARROLL: Second.

CHAIR VICTORINO: Okay. It's been seconded by Mr. Carroll. The motion has been made by...to amend...to add, right?

VICE-CHAIR COUCH: No, to amend 16.

CHAIR VICTORINO: To amend 16. Okay.

VICE-CHAIR COUCH: Five(B)(16).

CHAIR VICTORINO: Five(B)(16). Mr. Kushi. It's been moved by Mr. Couch and seconded by Mr. Carroll. Sorry. Go ahead, Mr. Kushi.

MR. KUSHI: What is that Rule again, Mr. Couch? Five(B)...

VICE-CHAIR COUCH: Five(B)(16).

MR. KUSHI: So you're saying to cite the correct...

VICE-CHAIR COUCH: To approve a change in zoning pursuant to, or subject to Section 19.150...510.040, Maui County Code, (B).

MR. KUSHI: Yes.

VICE-CHAIR COUCH: And that way the strict criteria that's laid out here will match. Because this language here that's currently in existence matches the old language.

MR. KUSHI: Correct.

VICE-CHAIR COUCH: And that old language doesn't exist anymore.

MR. KUSHI: So it's pursuant to Ordinance 4102 which was --

VICE-CHAIR COUCH: Okay. Four one zero two, that's fine.

CHAIR VICTORINO: Four one zero two, okay.

MR. KUSHI: --we just passed just recently.

VICE-CHAIR COUCH: Yes.

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CHAIR VICTORINO: So 4102 now.

VICE-CHAIR COUCH: Ordinance 4102.

CHAIR VICTORINO: Okay.

VICE-CHAIR COUCH: Can you say that in Maui County Code, pursuant to an ordinance?  
Or is it...I would think it would be pursuant to a chapter.

MR. KUSHI: Pursuant to the ordinance...I mean pursuant to the section of the Maui County  
Code.

VICE-CHAIR COUCH: Right. Which is 19.510.040(B).

MR. KUSHI: I'm just saying that for your reference.

VICE-CHAIR COUCH: Gotcha.

CHAIR VICTORINO: Okay. You got it?

MR. KUSHI: And I'm assuming your Staff has checked it out.

UNIDENTIFIED SPEAKER: Yes.

CHAIR VICTORINO: (B), right? No, no, no. Go back.

VICE-CHAIR COUCH: Nineteen...where she...

CHAIR VICTORINO: You lost it.

VICE-CHAIR COUCH: Yeah.

UNIDENTIFIED SPEAKER: Approve a change in zoning in --

VICE-CHAIR COUCH: Section --

UNIDENTIFIED SPEAKER: --section...

VICE-CHAIR COUCH: --19.510.040(B).

CHAIR VICTORINO: (B). Gotta put (B).

VICE-CHAIR COUCH: Parenthesis B.

CHAIR VICTORINO: Yeah, parenthesis B. Okay. 'Cause I knew something was missing  
when I'm reading that.



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VICE-CHAIR COUCH: You're ready?

CHAIR VICTORINO: Yeah. Mr. Couch.

VICE-CHAIR COUCH: Okay. Mr. Chair, I move to adopt the Rules of the Council as amended.

COUNCILMEMBER CARROLL: Second.

CHAIR VICTORINO: It's been moved by Mr. Couch, seconded by Mr. Carroll. Any further discussion?

VICE-CHAIR COUCH: Yes.

CHAIR VICTORINO: Yes, Mr. Couch.

VICE-CHAIR COUCH: You have to make the motion to do the discussion. Mr. Chair, we had some, we have quite a bit of testimony regarding the one-minute thing. I just wanted to...

CHAIR VICTORINO: We're going to cover that next.

VICE-CHAIR COUCH: Oh yeah. 'Cause he did it...

CHAIR VICTORINO: That's . . . *(inaudible)* . . . Yes.

VICE-CHAIR COUCH: Yeah, he did a motion.

CHAIR VICTORINO: Yes. Thank you.

VICE-CHAIR COUCH: A whole separate item. Okay, thank you.

CHAIR VICTORINO: Thank you very much, Mr. Couch. Any other discussion?

MS. WILLENBRINK: Chair?

CHAIR VICTORINO: Okay. That's it?

MS. WILLENBRINK: You did call for nonsubstantive revisions --

CHAIR VICTORINO: Yes, I did.

MS. WILLENBRINK: --and you're fine with that?

CHAIR VICTORINO: Yes, I did. I did. Yes. Yes, we did. Okay. Okay, moving on to PIA-6.

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VICE-CHAIR COUCH: We have to take the vote.

CHAIR VICTORINO: Oh, I thought we did.

VICE-CHAIR COUCH: Nope.

CHAIR VICTORINO: Oh, oh, sorry. All those in favor, please signify by saying "aye".

COUNCILMEMBERS: Aye.

CHAIR VICTORINO: All those opposed? Let the record show nine ayes, no noes.

<b>VOTE:</b>	<b>AYES:</b>	<b>Chair Victorino, Vice-Chair Couch, and Councilmembers Baisa, Carroll, Cochran, Crivello, Guzman, Hokama and White.</b>
	<b>NOES:</b>	<b>None.</b>
	<b>EXC.:</b>	<b>None.</b>
	<b>ABSENT:</b>	<b>None.</b>
	<b>ABSTAIN:</b>	<b>None.</b>

**MOTION CARRIED**

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

CHAIR VICTORINO: Thank you very much. I guess I'm just pushing the day along. Okay, sorry about that.

**ITEM PIA-6(3): AMENDMENTS TO THE RULES OF THE COUNCIL (AMENDMENT TO RULE 17(B) ORAL TESTIMONY) (CC 13-45)**

CHAIR VICTORINO: Okay, Item No. 9 is PIA-6(3) amending the Rule 17(B), oral testimony. The Committee is in receipt of correspondence dated February 11, 2014, from Councilmember Riki Hokama, transmitting a proposed resolution entitled Amending the Rules of the Council Relating to Oral Testimony. The purpose of the proposed resolution was to amend the Rules of the Council to limit public testimony to three minutes. Mr. Hokama, would you like to as the maker of the or as the make, or the maker of the resolution, yeah, say the proposed resolution I should say, do you have any comments?

COUNCILMEMBER HOKAMA: Chairman, thank you. And I appreciated those that gave their thoughts, their opinions in their testimony today and those that also wrote testimony. It's appreciated. I think that what we tend to forget is and I put the

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proposal up after of course a long contentious issue before the body. And there comes another perspective that we need to also think about, because part of the complaints that I got was we took the time like many people to share their thoughts with us, but testimony took so long they never got the chance to speak 'cause they had to go home after many hours of waiting their turn. So, you know, my thing is we should look at it in a big, more big perspective of those that would like more time, those that would just like a time to speak, and what is, you know, an appropriate time. Every county approaches it differently. City and County, the City Council of Honolulu gives them one minute for oral testimony, and they supplement it with written testimony. And they seem to be able to conduct the people's business with one-minute testimony. I think Big Island has a three-minutes. But what I wanted to share with our community at this point is that we've always had a three-minute limitation on public oral testimony. What we've also had is a presiding officer ability to decide whether or not to grant additional minute for conclusion. That has become taken as no, that's our four minutes. It was never four minutes. So let's get the record corrected. It's been always three-minutes oral testimony and if granted by the presiding officer you have up to one minute to conclude. Not you got four minutes then you're going to start your concluding. But I think we need to look at the whole picture, because there are those that waited and waited and waited and never got their turn to speak. And so for me it's again a, something I think we should talk about while I'm currently very supportive of the existing Rule that the Council passed in its organizational meeting earlier this month, and I will support that Rule and continue to move forward in my conducting of my Committee's agenda. Thank you, Chairman.

CHAIR VICTORINO: Thank you. And just for the public's information and those that are still present in the gallery, Rule 17(B)(2) currently says each testifier shall be allowed to speak three minutes on each item. If approved by the presiding officer and announced prior to any oral testimony being taken, the testifiers shall be allowed one minute to conclude their testimony on the item. The time limits for testimony at public hearings, Council, or committee meeting may be modified, and if modified, it should be initiated by the presiding officer and approved by the majority of the voting members of the Council or the committee as in the case may be; provided that the modification would apply equally to all testifiers on all items. That is Rule 17(B)(2). Okay. So that's the present Rule at the moment that exists. Is there any more questions or discussion as far as the Rule is concerned? 'Cause I don't have a motion on the floor right now for any change. Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, so, you know, hearing your comment, I have no issue to file this item --

CHAIR VICTORINO: Okay.

COUNCILMEMBER HOKAMA: --'cause I'm satisfied with the current Rule that we've adopted.

CHAIR VICTORINO: Okay. So do we have a motion to file?

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COUNCILMEMBER HOKAMA: I'll make that motion, Chairman. . . .*(inaudible)*. . .

VICE-CHAIR COUCH: Second.

CHAIR VICTORINO: It's been moved by Mr. Hokama to file this communication and seconded by Mr. Couch. Any more discussion? Seeing none, all those in favor to file the communication, signify by saying "aye".

COUNCILMEMBERS: Aye.

CHAIR VICTORINO: Opposed? Thank you very, very much. And let the record show nine ayes and no noes.

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

**NOES:       None.**

**EXC.:       None.**

**ABSENT:    None.**

**ABSTAIN:   None.**

**MOTION CARRIED**

**ACTION:     Recommending FILING of correspondence dated February 11, 2014.**

CHAIR VICTORINO: Okay. Thank you very much. Okay. Now, I'm going to take a quick recess because we need to set up. Let's give everyone...if you can, please, you know how I like to give you a recess but then people take long time to come back. Can you all promise me you'll be back by ten of 5:00? No, you're not promising? I see heads shaking no. Okay, five minutes, be back by ten to 5:00, no later, I'm going to get started. Okay, please. . . .*(gavel)*. . .

**RECESS:     4:43 p.m.**

**RECONVENE: 4:58 p.m.**

CHAIR VICTORINO: . . .*(gavel)*. . . The meeting of the Policy and Intergovernmental Affairs Committee will reconvene.

**ITEM PIA-15:   CONFIRMATION OF PROSECUTING ATTORNEY** (CC 15-27)

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CHAIR VICTORINO: We were to. . .at this point I had deferred to end of calendar, and this is the end of calendar, the matter of the appointment or the, yes, the, the reappointment of our Prosecuting Attorney, Mr. J.D. Kim and. . .you all have received information that was provided to me at the last minute and I forwarded it to you based upon information and a recommendation by those who had given it out, who had forwarded it to me. And so with that in mind and knowing this information is in your hands and we need time to digest it, I will be recommending deferral of this matter, to be brought back on our February 4, 2015 meeting. That is my recommendation.

COUNCILMEMBERS: No objections.

**COUNCILMEMBERS VOICED NO OBJECTIONS** (excused: DSG).

CHAIR VICTORINO: Okay. Thank you very much. So then we will finish up with our last matter--and that was for Item PIA-15, it is deferred to the next meeting, February 4<sup>th</sup>, 2015.

**ACTION: DEFER pending further discussion.**

**ITEM PIA-16: CONFIRMATION OF DIRECTOR OF WATER SUPPLY** (CC 15-28)

CHAIR VICTORINO: Our last piece of business this evening is the confirmation of the Director of Water Supply. The Committee is in receipt of the following: County Communication 15-8, from the Mayor, transmitting a proposed resolution entitled Approving the Appointment of David Taylor as the Director of the Department of Water Supply. The purpose of the proposed resolution is to approve the appointment of David Taylor as the Director of the Department of Water Supply, pursuant to Section 8-11.5 of the Charter. Correspondence dated January 16, 2015, from the Department of Corporation Counsel, transmitting also a proposed resolution entitled the disapproving of the appointment of David Taylor as the Director of Water Supply, of the Department of Water Supply. The purpose of that resolution was to disapprove the Mayor's appointment of David Taylor as the Director of Water Supply, pursuant to Section 8-11.5 of the Charter. Members, I would like to ask Acting Director David Taylor to join us on the floor at the Administration desk. Mr. Taylor. Thank you for your patience. I apologize for the long delay. Mr. Taylor, I would like to ask you, would you like to share some of your experiences over the past four years as the Director of Water Supply and why you would like to continue in that capacity.

MR. TAYLOR: Thank you for the opportunity, Mr. Chair, and thank you, Members. You know when you asked Corporation Counsel that question, I started thinking about my answer, and it took me back to when I was 16 years old and I remember reading Windsurf Magazine, the Maui issue. Every year there'd be a Maui issue, and I used to just look at the longingly saying, you know, maybe one day I'll be able to vacation there. And instead I've gotten to spend my entire professional life here. And I feel honored and privileged to be given this opportunity as a professional engineer, the fact that this community and the Mayor and the Council has trusted me to take on the,

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probably one of the most difficult problems facing Maui County, and from a personal standpoint to be able to spend my whole adult life here in Maui. So for me I am really beyond honored and privileged to have been given this opportunity. Over the last four years I think the Members of this Council know my primary objective was to untangle the knot that was the Department of Water Supply. How much water do we need, where are we going to get it from, how much is it going to cost. I think watching for years the fact that no one seemed to know how to get started was my, I guess my charge when I took this job four years ago. When I sat here four years ago, I laid out to this body how I was planning on proceeding to identify what the problems were, quantify them, put them all together, and come up with some action plans. I think staff, we've done a good job doing that, we've worked with Council, especially with Chair Victorino chairing the Water Resources Committee has given us a lot of opportunity to share a lot of our plans with this body. And I think we've really moved this issue forward a lot over four years to where at least everyone who's paid attention understands what the problems are. It's not just we're out of water, you know, we've really torn it down to what all the weak links of the chains are, what it's going to take to fix them, how much it's going to cost, different options for doing so, and started implementation. There's a lot yet to do, there's a lot of unanswered questions that have to be dealt with on a policy issue. I think we're in a great stage now to take those on. So I think we've come a long way. I think we charted some courses to the future. And it would be my honor to continue to lead this Department to try to take the next step over the next four years to bring these a lot closer to fruition. Thank you, Mr. Chair.

CHAIR VICTORINO: Thank you very much, Mr. Taylor. And before I open the floor to the Members for their questions and comments, I will say that in the eight years that I've been on the Water Resources Committee, six of 'em as its Chair, you did and in many cases bring a breath of fresh air to the Department. You know you took all of the components and brought it publicly so that we and the public have a much better understanding on what needed to be done and the fiscal aspect of getting it done. I think that's one of the things that was missing for a long time. We all knew we needed water and we needed to fix this, but there wasn't the actual fiscal component put in. And I want to thank you for that, because I think it has made not only myself and the Committee members and I think all of us in this room and I shouldn't speak for anybody else, I'll speak for myself, at least much more aware of what that fiscal 800-pound gorilla if you want to use for lack of a better term is all about. And we have grappled with this trying not to raise rates, trying not to raise development fees and all these other issues and still try to achieve something. And it may come to a head that we have to take the bull by the horn to get the job done and make those fiscal decisions to improve the system, especially systems like Upcountry who, and other areas that in the near future I've been reading now we're having water breaks here, water main breaks here and there. And I do not want to become Oahu which has one or two major ones almost every day. And when they have major breaks, I'm talking 18-, 24-inch mains that break. I mean flooding, flooding condominiums, flooding homes, flooding businesses. I don't want to wait 'til then, gentlemen, ladies. We need to get this done now. So anyhow, I thank you, Mr. Taylor. You have done a yeoman's job in that respect. I may not always agreed with your rationale, I may not

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have agreed with some of the things you brought forward, but I give you credit in the sense that you have made the public and the Council much more aware of the challenges we face, the fiscal as well as the infrastructure challenges and the work that needs to be done in the not-too-distant future. So I thank you very, very much, Mr. Taylor, in that respect, and, you know, all the other areas that you have been a part of. So, Mr. Couch, I'll start with you.

VICE-CHAIR COUCH: Thank you, Mr. Chair. And I wanted to somewhat echo your comments. I've had the pleasure of working with Mr. Taylor on the ninth floor for almost four years and know him to be a very detailed engineer, and I haven't found him when we were up there to have his numbers wrong. So I was pleased to confirm his appointment last time, you know, four years ago, and true to his word he gave us exactly what it's going to take for us to fix the water system. You know whether or not we chose to go along with that, that's a different story, but he gave us, he said this is it, this is your choice, he's just a numbers guy and he can do the numbers whatever way we want to do. I'm glad we have somebody who speaks honestly and frankly to us like that, and I encourage more directors to be as open and upfront because it, you know, helps us make the right decisions. So I am in full support of his confirmation. Thank you.

CHAIR VICTORINO: Thank you. Ms. Cochran?

COUNCILMEMBER COCHRAN: Thank you, Chair. And thank you, Director Taylor, for being here. I've had the misfortunate I guess of not being on the Water Committee for the past two years so I haven't had all that intimate interaction with you lately but looking forward to this term with water issues and concerns of this County. And I just have to say, yes, as I think Chair Victorino mentioned, don't see eye to eye all the time, don't agree all the time, but I believe that you pretty much tell it like it is and lay out the different options and give, you know, the layout who's responsible for what and how we want to do it together. It's going to come with a cost and are we willing to go there and create those types of fees or and what have you. So I thank you. I know it's a tall order, and I believe you're doing a pretty good job. And I, your, I'm looking forward again like I said for the next term to get some good things done through the Committee and working in direct relationship with yourself and your staff and what have you. So let's relieve that Upcountry water meter list. Thank you, Director Taylor, for your service. And yeah, maybe we'll see you in the water. Aloha.

CHAIR VICTORINO: Thank you. And thank you for reminding me. Thank you, Mr. Taylor, for at least getting it started. I thought we'd never get started. Ms. Baisa, who is now the new Water Resources Committee Chair.

COUNCILMEMBER BAISA: Yeah, I hope that I get some condolences.

CHAIR VICTORINO: No, you're not.

COUNCILMEMBER BAISA: But --

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CHAIR VICTORINO: Go ahead, Madam Chair.

COUNCILMEMBER BAISA: --thank you very much, Mr. Chair. And thank you for the opportunity to make a few remarks. Number one, of course I am overwhelmed and terrified of this new job because the Water Committee is a very difficult Committee, and I want to thank you for your eight years of hanging in there. And I know it's frustrating because Mr. Taylor is very good with facts and figures and he'll come out and tell you this is what we have to do, but the will to do it is another story. It's very, very difficult for us to sit here and say oh my God, we gotta charge that much for a meter and oh my God, we gotta raise the rates this much. And the whole community is up in arms because everybody says we don't want you to raise anything; however, we do want the Water Department to perform a miracle and we want lots of water and we want it where we want it and we want it when we want it. And so this is a very, very tough Committee to deal with because of the sensitivity. And, you know, water in my opinion is probably the number one thing that we have to deal with because it's the key to everything else that we want to do. And so like I said, I'm kind of terrified about taking over the leadership of this Committee, but I've had some very, very successful meetings and productive meetings with Mr. Taylor. He's very knowledgeable. He's going to provide that technical background that I lack. My strength is in the fact that I know the community, I've worked in it for many years, and I know how to work in the community. But and I know how important it is that we work with our constituents so they understand what we're doing. But I don't have that knowledge and he brings that. It just flows out of him like an encyclopedia in my days of course, now it's the Internet, you know, nobody talks about encyclopedias any day. I think, I don't even know if anybody has one anymore. But, you know, he knows all this stuff and it just comes out of him. He knows what to do, he knows the numbers, he can tell you exactly from a technical viewpoint what is needed. So I will try to work very closely with him. Like I said, we've had several very productive meetings. I'm very excited about the agenda we're putting together for the Water Committee this year, and we had one this morning and we have another one next week. And my commitment to the Council working with Mr. Taylor is we are not going to bring agenda items to the Council Water Committee until we are fairly certain that we have done enough groundwork and enough background work so that we can put some substantial proposals on the table. And I think we all agree that that's where we need to go. It's not easy, it takes time, it takes a lot of work and Mr. Taylor's willing to do that. And I really enjoy kind of working with him because we come from opposite ends of the spectrum in idealism. He's a real practical person that says well, we gotta have the money and we gotta think about this law and that law, where I'm saying come on, we need to deal with this, this is number one, people Upcountry are tired of waiting, we need to give people hope, you know, on and on. So we balance well. And so I hope that my colleagues, let's confirm him so that he'll be here to suffer with me for the next two years. It's a four-year confirmation but you only have to put up with me for two. So I hope that I'll have the privilege of working with you, Dave. I think you provide an incredible amount of work, energy, and expertise. And we'll find a way to get through this. We're gonna do it. Yes we can. Thank you.

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CHAIR VICTORINO: Thank you, Ms. Baisa. Mr. Carroll? Nothing? Okay, thank you. Mr. White?

COUNCILMEMBER WHITE: Thank you, Chair. And I echo Ms. Baisa's comments. We've got a Department that has I think gotten very much back in order, back in shape under his leadership, and we all know that there's still a lot of work to be done. But I'm hoping that the foundation has been laid so that we can move forward in ways that will help us solve the Upcountry water meter waiting list challenge. Hopefully more rapidly because it is something that we all feel a little embarrassed about. But I think that...well, I'm just going to count on Mr. Taylor to keep working his way through it and see if there are ways that that process can be sped up. And I think we also have some continuing challenges throughout the County with the County's expectation for private individuals to make significant water facility upgrades on their own because they're applying for a Building Permit. And I realize that that's the way it's been done but it's something that I think we need as a Council to take a different look at. And so I look to Mr. Taylor to provide the leadership to address those two issues that I think are ones that have been around a bit too long. And I think we all realize that we're going to have to be willing to provide the resources to make things happen. And so I'll look forward to the work that Ms. Baisa and Mr. Taylor will do in the Water Committee to help build on that foundation that's been done for the last four years under your leadership, Chair, and the Director's leadership. So thank you, Chair.

CHAIR VICTORINO: Thank you, Mr. Chair. I appreciate that. Mr. Hokama?

COUNCILMEMBER HOKAMA: Thank you, Mr. Chairman. Mr. Taylor, I do have a few questions for you. You have stated more than once and I appreciate your position, that Lanai is viewed differently because one, the County does not own the water system, so I understand that component from what the Charter charges you with regarding the County's water systems. But I would like to ask you at this point in time since we are going to review the Lanai Community Plan and they have their own water component, what do you believe is your role in providing comments on that Community Plan and on those areas that deal with the water resources of Lanai?

MR. TAYLOR: Thank you. That's something, you know, we've struggled with from the beginning, I think the Department has struggled with since long before I got there. And I've directed some changes of how we do that. Rather, what used to happen is the group that reviewed those used to basically make comments sort of from their expertise on our letterhead, and when I got here and I looked at those, I felt that those comments were really more things that either the Department of Health, Safe Drinking Water Branch or the State Water Commission should be making on their letterhead. So what I've directed staff to do is to comment factually on things on Lanai, based on information that's published either by the Department of Health, Safe Drinking Water Branch or by the State Water Commission. So rather than taking a position, this is the position of the Department of Water Supply, I've directed them not to do that, but to feel free to say here's the request for a Change in Zoning or an SMA or something, here is what the State Water Commission says about the aquifer in that area or the water situation in that area, to be very clear that we are passing information based on

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our knowledge but we are not adding our opinions. So that's the sort of fine line that I've directed staff to take with, in that role with Lanai.

COUNCILMEMBER HOKAMA: I bring it up because my understanding of the Charter and I'll refer to 8-11.2(2), the Department is charged to protect and manage the water resources in the County, including the location and sources of water supply within the County. So I assume Lanai is included within that parameters, particularly since we have, we've complied with County ordinance and we have an adopted Water Use and Development Plan which is a County requirement, not a State, not Federal, but a County requirement. So Lanai is in, to me at this point, in compliance with fulfilling our Water Use and Development Plans and how we're going to adjust depending on source availability and sustainable yield. I think you still have a role in protecting the residents of Lanai of this County through those areas, Mr. Taylor, as a Director, because part of it is also again interpreting whether we're in compliance with the water, with the Community Plan under the water use portion. I think you have some jurisdictional say on what happens on that island, not in the day-to-day operations of the water company but in the overall policy that the County has set for anybody that provides potable within the boundaries of this County. I think you should have a say because some of, well it might not be Lanai but West Maui aquifers, I mean there's more than the County pulling from the aquifer, so you should be at least aware of what the other people who drawing from the, through one, various straws are impacting your ability to serve our residential people from the County's water system. So I bring that up because as we start the review of the various community plans, I believe in Ms. Baisa's comment and your Department's own motto, water is everything. And so for me, Lanai is going to be the first plan up and I need for the Department to give us good comment, good advice so that we can make the best decision on Lanai, because part of the proposal was based on a desalination plant that is not going forward. And if that's not going forward then I would feel that from a water policy standpoint, I would be very open to hearing your comments from a policy standpoint, on maybe what the Council should be considering best for the island of Lanai so that we can protect our resources best under County, whatever is under County jurisdiction. We control the zoning so we have a say. We control the policy so we have a say. But I would appreciate that, you know, when appropriate you would give this Committee and our community advice and options, because for us one aquifer, one water company, it's the whole show. It's a two-edged sword for us, it's going to either save us or kill us, but that's the situation on Lanai. And, you know, again, if you feel desal is okay, it's going to be run through a PUC process and that whatever is the final rates is appropriate, you know, I would appreciate if you think that is a fair rate proposal for the, our people. I still think you can provide service to our community, Mr. Taylor, without going beyond what you feel is appropriate. And again, I'm not talking about operations, I'm talking about solid water policy for the County that would also include Lanai. Your thoughts on that?

CHAIR VICTORINO: Mr. Taylor.

MR. TAYLOR: Thank you, Mr. Chair. I think what you're referring to and what I was saying are very similar. What I was alluding to is if something, if a project comes in and

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they're saying we're going to use 100,000 gallons a day, you know, our staff would comment they're proposing to use 100,000 gallons a day, the aquifer is currently at, you know, 68 percent of its yield, this will put it to there. They're not adding their own opinion, they're just taking the facts, doing some analysis without any ideology or opinion and then sharing that in the comments, and that is completely within the realm of what I've told them to feel free to do.

COUNCILMEMBER HOKAMA: No, those kinds, yeah, I would, that's the kind of things I would appreciate. Especially if you say, you know, if this goes forward, certain things don't change, parts of the Water Use and Development Plan that has been adopted for Lanai is going to kick in because of the availability that is less than we had projected so now they're in a different water situation. And we're going to make them implement the approved Water Use and Development Plan for the island because it's prioritized who gets the water.

MR. TAYLOR: Agreed. And thank you for helping me clarify that. Is again I consider that sort of factual analysis, not ideology and opinion of the Department. So the staff is free to again, share their technical analysis based on those facts and not, you know, make up our own policy. So I think what you're thinking and what I've asked them to do are very similar.

COUNCILMEMBER HOKAMA: Okay. Right, because to me that's your kuleana, yeah, that's not Department of Health or CWRM or whatever, that's, in my understanding the Charter has made you responsible for the water use plans, development plans, so that's why I bring it up. And I appreciate your responses because I think some of the people on Lanai will be reassured that the County is not totally not paying attention to what's going on Lanai, so I appreciate your responses. Thank you, Mr. Chairman.

CHAIR VICTORINO: Thank you. Ms. Crivello?

COUNCILMEMBER CRIVELLO: Thank you, Chair. Thank you, Mr. Taylor, for your work and the work of your Department. I guess for me even before I became on Council I've heard all the, the mantra about Upcountry and the meter shortages or availability or no availability. But I've noticed under your management that there's movement that's happening. At least there's this very open discussion that's going on, and, you know, for Maui County I think we all can appreciate that. I'd like to just note that I think we just...and I know you'll always say it's going to cost money, but, you know, water is public trust and what have you and yet we hear the cries of residents not being able to afford the infrastructure or the water meter and then it affects affordable homes for our families, for our local families to be able to build. So I'm hoping some way we can with the Water Committee of course, find some means that we can be of more service in transmitting the source of life which is our water, right. And I feel that, I'm hoping you'll be open to all of that in, in, should we approve your appointment. I think our residents already have enough challenges when it comes to water, sewer. I mean I'd like to see if we can come up with something that it can be separated for some reason or other and how our billing. I mean I have families on Molokai that may refuse to water their yard because their sewage costs is exorbitant for them. So I think those

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are the kind of things. And the other part I'd like to make comment on is I don't get a very strong or I don't always get an up-to-date respond for my inquiries from your, from you directly 'cause I've gone to you. Of course then we have the directive that we cannot, we have to go through another means to talk to our department heads. But there are a couple issues that still hanging out there that I've inquired about in regards to Molokai. But all in all I know it's not an easy job. And because you manage and operate our water systems, on our island I appreciate our workers, you know, they really work their butts off for the Water Department. I would like to ask, what are your plans in updating or development of water resources for the island if there is a need?

MR. TAYLOR: You're referring to the island of Molokai?

COUNCILMEMBER CRIVELLO: Yes. I'm sorry.

CHAIR VICTORINO: Mr. Taylor.

MR. TAYLOR: Thank you. Molokai is a really unique and interesting situation that may be much, much easier than anything on Maui and may end up being much, much harder. Let me explain really briefly. The Kualapuu Aquifer which is where our main well is has a sustainable yield of 5 million gallons a day according to the State Water Commission, but the entire aquifer is already designated by the Commission meaning everyone has their allocation. I don't recall ours exactly, it's maybe 500 or 600 thousand gallons which is about what our metered water usage is right now. So we're sort of at the limit of our allocation. The last 12 months the, 12-month moving average of the Kualapuu Aquifer has been 1.5 million gallons out of the 5. It's about 29 percent. Department of Hawaiian Home Lands has the reservation on all that allocation but they're clearly not using it, because it's only being pumped at 29 percent of its capacity. I have been inquiring with the State Water Commission about a number of issues. I've had discussions with them and things like that and sent them some letters. Why is it designated when it's only at 29 percent? Is Department of Hawaiian Home Lands, are they ever going to use it, are they water banking it forever, can I get half a million of that 'cause I could use it? Our well is capable of pumping a million gallons a day, so this could be solved with just some paperwork as far as I'm concerned. If the State Water Commission or DHHL or some cooperative effort could just transfer a few hundred thousand gallons of just paper allocation to us, we already have the facilities there to pump it. So that doesn't solve all the distribution problems, you know, into town for everyone's fire flow and things like that, but there's actually enough water in the aquifer, we have enough pumping capacity installed in the aquifer to pump all we need probably for at least the next decade or more. But we don't have the allocation and no one's using it. So I am trying to figure out what it takes to, you know, either get it undesignated or get a better piece of that. There's enough water and unless DHHL is planning on using it, no one else is. So I don't have an easy answer. I might have an easy answer if someone is willing to just give us a few hundred thousand gallons of paper capacity, we're ready to pump it. So it's a really unique situation that doesn't exist anywhere else in our County. So we're dealing with that really differently than a lot of the things

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I put on for this Committee because it's a very different situation. Plenty of water, plenty of infrastructure, don't have bureaucratic allowance.

COUNCILMEMBER CRIVELLO: Another question in regards to the Kualapuu Aquifer, how's the salinity levels?

MR. TAYLOR: Those are still well within drinking water standards.

COUNCILMEMBER CRIVELLO: Okay. Okay. Thank you.

MR. TAYLOR: And salinity is one of the things that the State Water Commission looks at to set sustainable yield. It's not just volume, it's volume and quality.

COUNCILMEMBER CRIVELLO: Right. Right. Yeah. 'Cause couple years ago I believe the County or CWRM did identify that as a problem with the salinity level with the aquifer. Okay. Well, I thank you, and I hope I can get some respond to some of the issues that I've inquired from you. Thank you.

CHAIR VICTORINO: Thank you very much, Ms. Crivello. Any other discussion or questions for the Acting Director?

COUNCILMEMBER COCHRAN: Chair?

CHAIR VICTORINO: Yes, Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you. In closing, Director Taylor, what are your thoughts, I'm hearing stirrings, you know, the Na Wai Eha suit that had gone through here on this side of West Maui but on my side, the other West Side, upper northwest area. People are talking about perhaps getting that area designated as you're talking about, and thereby having allocations for users. So how would that in your sense affect County's usage currently, if at all? Or how, and also how would that, how do designations occur with diversions? Like how much are you able to divert versus how much are you willing, able to draw from wells out of a particular aquifer once it's designated?

MR. TAYLOR: Yeah.

CHAIR VICTORINO: Mr. Taylor.

MR. TAYLOR: Member Cochran, this is a subject probably a little too broad to get into here. There's a difference between designation and interim instream flow standards. There's designation of groundwater, there can be designation of surface water. Usually the State Water Commission deals with surface water with interim instream flow standards, meaning they say under these conditions, the stream must flow this amount. It's not as much a designation as saying you can take what you want as long as you leave this in the stream. That is fundamentally different than designation where they essentially make a pie chart of the water and say who the end users are.

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So far as I know right now, the State Water Commission has not made any move to actually implement any of that in West Maui. If they do there's a number of different aquifers and surface water systems and we're a user, we would get involved like we normally do. But as of right now, I'm not aware of any movement by them to do that. They've got US Geological Survey out there doing various stream flow data gathering jobs and they're gathering data. Obviously they're gonna, thinking about doing something in the future. When they have a critical mass of data to do that, I suppose they'll probably do that, but I don't think, I haven't heard any rumblings that they're working on that yet.

COUNCILMEMBER COCHRAN: Right. Okay. Well, we'll discuss more in Water Committee. But thank you, David Taylor, for your service. Thank you. Thank you, Chair.

CHAIR VICTORINO: Thank you. And I'll close by saying, you know, Mr. Taylor, you have interesting dynamics ahead of you. And Ms. Baisa has mentioned a number of them and you guys are going to start working on at our next Committee meeting. I will say this, you know, you've always been willing to be open and honest with all of us as far as what needed to be done and what the costs of getting that job done. I think that's very important. I think one of the other aspects is sources, and I think that's something that I in particular have been somewhat disappointed and it's not all your fault because I know your hands are tied. But, you know, when we got Hamakuapoko back online with an eight-one vote from this Council, you know, water meters are being given out but at a very slow pace because of the concern that you have and the Upcountry residents have. Also other wells that were up there that, you know, we've asked and I've never seen any results from, and, you know, we'll get more into details as the year goes on. But source is very important because without source especially for the Upcountry system, you know, we'll continue chugging along. So I agree with you, you know, money's a part of this whole equation, and now Ms. Baisa will come up with the miracle that everybody's been waiting for and we'll have it all done, you know. But I'm proud to say that you've been really good about working together with all of us, whether it's Mr. Hokama in Lanai or Ms. Crivello in Molokai with different aspects, different ownerships and other challenges, and I'll give you that, and here on Maui the different dynamics on the different systems. Although we really have only three systems, they are so different in its setup and its consumption as well as the compression of usage by the end users, and that makes it so difficult on you. So but I support what you've been doing. So if there's no other comments or questions, I would like to make my recommendation, please.

VICE-CHAIR COUCH: Recommendation.

CHAIR VICTORINO: Oh, gotta turn the page. Okay. I would like to make a motion, I would like to entertain a motion to adopt the proposed resolution entitled approving the appointment of David Taylor as the Director of Water, of the Department of Water Supply; and filing the County Communication 15-28; and to file County Communication--excuse me, I lost that page, okay, hang on--County communication dated January 16, 2015.

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VICE-CHAIR COUCH: Ready?

CHAIR VICTORINO: Yeah. Mr. Couch.

VICE-CHAIR COUCH: Thank you. Mr. Chair, and again I'm very happy to move to adopt the resolution entitled Approving the Appointment of David Taylor as the Director of the Department of Water Supply; and filing of County Communication 15-28; and communication dated January 16, 2015.

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

CHAIR VICTORINO: It's been moved by Mr. Couch, seconded by Ms. Baisa. Any more discussion? Seeing none, all those in favor, signify by saying "aye".

COUNCILMEMBERS: Aye.

CHAIR VICTORINO: Opposed? Let the record show eight ayes, one excused, Mr. Guzman.

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

**NOES:           None.**

**EXC.:           Councilmember Guzman.**

**ABSENT:       None.**

**ABSTAIN:      None.**

**MOTION CARRIED**

**ACTION:        Recommending ADOPTION of resolution entitled "APPROVING THE APPOINTMENT OF DAVID TAYLOR AS THE DIRECTOR OF THE DEPARTMENT OF WATER SUPPLY"; FILING of correspondence dated January 16, 2015 (disapproving resolution); and FILING of communication.**

CHAIR VICTORINO: Congratulations, Mr. Taylor, for another four years. And you only have me and Ms. Baisa for two, so don't worry about it. Anyhow, I guess that concludes--do we have anything else?--I think that concludes the business of the day. My apologies to the public and to my Members for some of the, the recesses that were necessitated and some of the challenges that we will be facing. I apologize for that. I will say when, you know, when you get things brought to you at the last minute, then they catch you off-guard. I've learned a valuable lesson. Let your gut tell you what to do and not let somebody else tell you what to do. Thank you, Mr. Hokama, for that advice.

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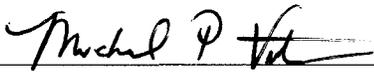
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So with that being said, the meeting of the Policy and Intergovernmental Affairs Committee, January 22<sup>nd</sup>, 2015 is now adjourned. . . .(gavel). . .

**ADJOURN:** 5:39 p.m.

APPROVED:



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MICHAEL P. VICTORINO, Chair  
Policy and Intergovernmental Affairs  
Committee

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Transcribed by: Daniel Schoenbeck

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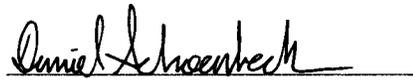
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CERTIFICATE

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

DATED the 14<sup>th</sup> day of February, 2015, in Kula, Hawaii



Daniel Schoenbeck