

POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE

Council of the County of Maui

MINUTES

March 14, 2016

Council Chamber, 8th Floor

CONVENE: 9:03 a.m.

PRESENT: Councilmember Michael P. Victorino, Chair
Councilmember Don Couch, Vice-Chair
Councilmember Gladys C. Baisa, Member
Councilmember Robert Carroll, Member (In 10:50 a.m.)
Councilmember Elle Cochran, Member
Councilmember Stacy Crivello, Member
Councilmember Don S. Guzman, Member (In 9:22 a.m.)
Councilmember Riki Hokama, Member

EXCUSED: Councilmember Mike White, Member

STAFF: Kimberley Willenbrink, Legislative Analyst
Tammy M. Frias, Committee Secretary
Ella Alcon, Council Aide, Molokai Council Office (via telephone conference bridge)
Denise Fernandez, Council Aide, Lanai Council Office (via telephone conference bridge)
Dawn Lono, Council Aide, Hana Council Office (via telephone conference bridge)

ADMIN.: Jacob W. Verkerke, Chief Technology Officer, Information Technology Services Division, Department of Management (Item PIA-42)
Karen L. Sherman, Information Systems Analyst VI, Information Technology Services Division, Department of Management (Item PIA-42)
Edward S. Kushi, Jr., First Deputy Corporation Counsel, Department of the Corporation Counsel

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

CHAIR VICTORINO: ...*(gavel)*... Good morning. The meeting of the Policy Intergovernmental Affairs Committee will come to order. Today is March 14, 2016, it's about three minutes after 9:00 and I apologize for a few minutes late start. First I will ask everyone to please and including myself, turn off our cell phones and/or put 'em on silent. Decorum will be followed in the Chamber. Okay. Thank you for reminding myself about that. This morning I'd like to introduce the Committee Members that are here at this time. First of all I'll start with myself the Chair, Michael Victorino; I have the Vice-Chair from South Maui, Mr. Don Couch.

VICE-CHAIR COUCH: Morning, Mr. Chair.

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CHAIR VICTORINO: Good morning. Our East Member, East Maui Member Mr. Carroll will be late. He ran into some problems with power outage out in Hana and he'll be coming in around 10:00. Our young lady from Upcountry, Ms. Gladys Baisa.

COUNCILMEMBER BAISA: Good morning, Chair.

CHAIR VICTORINO: Good morning. And our other young lady from West Maui, Ms. Elle Cochran.

COUNCILMEMBER COCHRAN: Aloha, good morning, Chair.

CHAIR VICTORINO: And finally the other young lady from the island of Molokai, Ms. Stacy Crivello.

COUNCILMEMBER CRIVELLO: Aloha, good morning, Chair.

CHAIR VICTORINO: Good morning. And our Member from the island of Lanai, Mr. Riki Hokama.

COUNCILMEMBER HOKAMA: Mr. Chairman.

CHAIR VICTORINO: Good morning. Mr. White, our Council Chair, is excused today. He's under the weather and we wish him well and a speedy recovery. And we will be waiting for Mr. Guzman who will be arriving a little bit later, our Vice-Chair. From the Administration we have today, we have Mr. Jacob Verkerke from our MIS.

MR. VERKERKE: Good morning, Chair.

CHAIR VICTORINO: And you have a wonderful young lady, I'll let you introduce her in a moment. Of course our Corporation Counsel, Mr. Ed Kushi, First Deputy Corporation Counsel.

MR. KUSHI: Good morning.

CHAIR VICTORINO: Good morning. And then our invaluable and efficient Staff, our Legislative Analyst, Kim Willenbrink.

MS. WILLENBRINK: Good morning, Chair.

CHAIR VICTORINO: And our Committee Secretary, Tammy Frias.

MS. FRIAS: Good morning, Chair.

CHAIR VICTORINO: I will at this time open up for public testimony. We only have two items on the agenda today. One of them is a presentation on cybersecurity which I think it's going to be very interesting and we've been asked to go into executive session for that presentation. So we will be looking to do the cybersecurity presentation in executive

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session. And then secondly we have the Charter amendment that requires the Council to approve all department heads. So we have two items, let's start with public testimony. Public testimony will be limited just to the items that's agendized today. If you wish to testify, please sign up in the desk located on the 8th floor lobby and at our District Offices listed on the agenda. First of all, I don't see anyone, has anyone signed up to testify in the gallery?

MS. WILLENBRINK: No, sir.

CHAIR VICTORINO: I don't see anyone so, okay. Let's move on to our District Offices. Good morning, Dawn Lono. Is there anyone wanting to testify?

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

CHAIR VICTORINO: Mahalo, Dawn. Denise Fernandez from our Lanai Office, Denise, is there anyone wishing to testify?

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

CHAIR VICTORINO: Thank you. And of course our lovely young lady from Molokai, Ella Alcon, Ella, is there anyone wishing to testify?

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

CHAIR VICTORINO: Thank you, ladies, and seeing no one here in the Chamber and in our District Offices, with no objections, I will close public testimony.

COUNCILMEMBERS: No objections.

CHAIR VICTORINO: Thank you. Thank you ladies, have a great day. Okay.

ITEM PIA-42: CYBERSECURITY (CC 13-226)

CHAIR VICTORINO: Our first agenda item will be Cybersecurity, PIA-42. The County...the Committee's in receipt of County Communication 13-226, from Councilmember Riki Hokama, relating to cybersecurity, including the County's role in cybersecurity and the current practices in dealing with cybersecurity issues. And so if there is no objections...oh well, mister, I'll let you, Mr. Verkerke, is there anything in open session that you would like to speak to as far as cybersecurity is concerned?

MR. VERKERKE: Thank you, Mr. Chair. I wanna express my appreciation for the opportunity to come before this Committee about twice a year and give you an update on the state of affairs in cybersecurity and the County's reaction and preparation for

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that. Our presentation today will include quite a few items that we'd like to only share with you in executive session so it would not really be meaningful to try and break that up today. Thank you.

CHAIR VICTORINO: Okay, and then the young lady that is with you, would you like to introduce her?

MR. VERKERKE: My bad.

CHAIR VICTORINO: Yes.

MR. VERKERKE: I have Karen Sherman, she is our Information Security and Privacy Officer for the County of Maui and she's been more than instrumental in helping the County deal with the threat that's out there.

CHAIR VICTORINO: Good morning, Ms. Sherman, and welcome. And I knew who you were but I wanted your superior to, well, I don't know if I call him your superior, that's a bad term, I'm sorry. But, you know, I wanted Mr. Verkerke to introduce you. Your bad, you're in trouble now. Okay, so is there any questions? And I guess my whole issue is if it's germane that executive session where most of the questions would come up, I would like to go as quickly as possible to that, but if you have any questions that...and I'll ask Corporation Counsel if he thinks we cross any lines to say hey we need to continue that discussion in executive session. Mr. Hokama?

COUNCILMEMBER HOKAMA: Thank you, Chairman. Mr. Verkerke, we thank you and Ms. Sherman's presence this morning. Are you working in consolidation or in some coordinated manner with the Risk Manager that is based in the Department of Corporation Counsel regarding this issue?

MR. VERKERKE: Mr. Hokama, we have conversations about cybersecurity insurance at different times, Risk Management takes the lead on that. As far as implementing measures to protect the IT environment and the County of Maui operations in general, we are dealing with the operational departments more so than Risk Management. Their focus is in slightly different area than ours is, so when necessary we have conversations but mostly in the technology area we take the lead.

COUNCILMEMBER HOKAMA: Okay. Thank you, Chairman.

CHAIR VICTORINO: Okay. Any other questions? Seeing none, then I would like to recommend and pursuant to Rule 17(b) of the Rules of the Council for today's meeting, testimony...oh shucks I'm reading the wrong section, I apologize, moving right along. The Chair would like to entertain a motion to convene the executive meeting for the Committee Item PIA-42 pursuant to sub-section 92-5(a)(4) of the Hawaii Revised Statute to consult with legal counsel on questions or issues pertaining to the powers, duties, privileges, and immunities, and liabilities of the County, the Council, and the Committee. Mr. Couch?

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VICE-CHAIR COUCH: Thank you, Mr. Chair. I move to go into executive session according to HRS 92-5(a)(4) and HRS 92-5(a)(6) to consider sensitive matters related to public safety or security.

COUNCILMEMBER BAISA: Second.

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

COUNCILMEMBERS: Aye.

CHAIR VICTORINO: Oppose? Let the record show six "ayes," and three excused, Mr. Carroll, Mr. Guzman, and Mr. White.

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

NOES: None.

EXC.: Councilmembers Carroll, Guzman, and White.

ABSENT: None.

ABSTAIN: None.

MOTION CARRIED

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

CHAIR VICTORINO: So at this time, I'll take a brief recess so we can get the Chambers ready for executive session. The Policy and Intergovernmental Affairs Committee is now in recess. . . .(gavel). . .

RECESS: 9:12 a.m.

RECONVENE: 10:41 a.m.

CHAIR VICTORINO: . . .(gavel). . . The meeting of the Policy and Intergovernmental Affairs Committee will reconvene. I would like at this time if with no objections to defer matter PIA-42, Cybersecurity. Any objections?

COUNCILMEMBERS: No objections.

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

CHAIR VICTORINO: Thank you very, very much.

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ACTION: DEFER pending further discussion.

ITEM PIA-10(7): PROPOSED CHARTER AMENDMENTS (COUNCIL APPROVAL OF MAYOR'S APPOINTMENT OF DEPARTMENT DIRECTORS) (CC 09-229, CC 15-305)

CHAIR VICTORINO: Now we'll move into PIA-10 which is the Proposed Charter Amendments. And this is, the Committee is in receipt of the following: County Communication 09-229, from Councilman Michael J. Molina, relating to proposed Charter amendments. We also have a County Communication 15-305, from Councilmember Riki Hokama, transmitting a proposed resolution entitled Proposing an Amendment to the Charter of the County of Maui (1983), as Amended, to Require that the Council Approve...Approval of Mayor's Appointments of Department Directors. The purpose of the proposed resolution is to put on the next General Election ballot the question of whether Sections 6-2, 8-1.2, 8.4-2, 8-5.2, 8-6.2, 8-8.2, and 8-10.2, and 8-14.2, and 8-15.5 of the Revised Charter of the County of Maui (1983), as amended, should the [sic] amended to require Council approval of the Mayor's appointments and removal of the County...and removal of County Department Directors. That was a mouthful if I even tried. So at this time if...I hope you all have your revised 2015 edition of the Charter of the County of Maui, the green book. I hope you all have a copy 'cause we'll be working off of that because, you know, all of those that I just described a moment ago you can refer to that. So at this time I will open the floor to the maker of the resolution, Mr. Hokama. Mr. Hokama, the floor is yours.

COUNCILMEMBER HOKAMA: Chairman, thank you very much for this consideration this morning. For me, Mr. Chairman, I continue to stand by my position I have taken more than five years ago when I at that point in time I also asked the Council to consider something very similar, to have the Council consider advice and consent powers. It's interesting here we are five years later and with the discussion on governance I felt that this was timely for us to bring this discussion also back. So for me, Mr. Chairman, I've been consistent on my position, I still support the election of a Mayor. I believe our people are matured enough, sophisticated enough, experienced enough to make a decision through their vote and I respect that. I don't consider them to be inadequate or uninformed or ineducated [sic] to not be able to make a informed decision. And so under that concept of my philosophy of a elected Mayor and seeing the powers especially for the Managing Director and the Director of Finance in their assignment to take over the Office of the Mayor under certain situations, I believe that it is very critical for us to expand the current advice and consent to include those, definitely those two positions since they are being afforded a opportunity to move to the top or expand the responsibilities of the top office. I also included in my proposal, Members, all other department heads and for me it was more of a matter of discussion with you to see if it made sense that we also look at all other directors like how the State does their directorships and basically how the City and County of Honolulu does their directorships. So I've placed in the proposal all other directors currently not under the Charter that has advice and consent and those that

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are required by specific commissions or boards that have the power of appointing that department head as well as the termination of that department head. So basically, Members, you know, this is part of how I think the Council can exercise its power in its vet-ment of those that are being nominated to see if they have the experience, the general knowledge of governance, and more importantly the ability to manage and direct personnel understanding the need of public finances and how public finances are generated and expended I think are key ingredients of what makes those people be able to serve the County in the County's best interest. So I've presented it and I will ask the Members to think about it and see if it still has merit enough for further consideration. Thank you, Chairman.

CHAIR VICTORINO: Thank you, Mr. Hokama. At this time I will allow each Councilmember an opportunity to give their opinion or view on it. If you have any specific questions, we have Mr. Kushi here and I think Mr. Hokama is well equipped to answer these questions and if not, if we need to address this to a certain entity or department or body that I need to get a response from, I'd be more than happy on behalf of the Committee to send out the letter to whomever you feel needs to help us address this situation. So with that being, I'll start with again our Vice-Chair and I'll just move down again just like I have all morning long. So, Mr. Couch?

VICE-CHAIR COUCH: Thank you, Mr. Chair. And I thank Mr. Hokama for bringing this up and for the most part I agree with him on what he's trying to do here. It just makes a little bit more sense. I do have a couple of questions and some concerns. First I think from Mr. Kushi's standpoint, are there any State statutes that may restrict us from doing that for all the department heads or are we okay, are we clear at the HRS level?

CHAIR VICTORINO: Mr. Kushi?

MR. KUSHI: To my knowledge I don't think there's any limiting State statute. You are trying to amend the Charter --

VICE-CHAIR COUCH: Right.

MR. KUSHI: --and the State statute the general powers of the counties would allow each body to create their own Charter and amend it as well, but I don't see any specific limitations. As Mr. Hokama says the State department heads are all confirmed by the Senate. City and County's, likewise, all department heads and I believe Big Island also.

VICE-CHAIR COUCH: Okay.

MR. KUSHI: The only one is similar to what our structure is is the County of Kauai but that may change also.

VICE-CHAIR COUCH: And they also, don't they have an elected prosecuting attorney I think?

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MR. KUSHI: I think elected prosecutor.

VICE-CHAIR COUCH: Right.

MR. KUSHI: But everybody else is appointed.

VICE-CHAIR COUCH: Okay, so that's good, I just wanted to make sure we're clear with that. You know I'm a little torn on the Managing Director portion because that's generally the person who would be Mayor's trusted individual that they wanna deal with the departments with. So, Mr. Chair, I have a little bit of an issue with the Managing Director part but I understand what Mr. Hokama's saying is they're number two on the list so I'm a little iffy on that one. It may be a situation where I'd be okay with it if two-thirds of the Council says no they don't want that person as the Managing Director. That's the only way to overturn, that would be a possibility. But for the rest I think it's a good idea. It may help alleviate some of the issues that the people that are looking towards changing the government, they may be able to, this might be a good compromise on that at this point. As we get into each different one we might have some tweaking that we may wanna do as far as the qualifications. I mean we now have a golden opportunity to see what kind of qualifications are necessary and we may wanna discuss that individually but for the most part I can concur with Mr. Hokama's direction here. And as I said the Managing Director, I have to really think about that and hear further discussion on that one. Thank you.

CHAIR VICTORINO: Okay, Mr. Couch, I thank you for your comments and your questions. That helped clear up a couple of matters. And I'd like to recognize the attendance of our East Member, East Maui Member, Mr. Carroll. Good morning, Mr. Carroll.

COUNCILMEMBER CARROLL: Good morning, Chair.

CHAIR VICTORINO: I understand there was some challenges with power out there again in Hana so you're forgiven. Thank you, Chair, I mean thank you, Mr. Carroll. Okay let me ask or ask another aspect before I let you go, Ms. Cochran. You know, one of the other suggestions that has been made and it'll fall along the lines of your approval process, Mr. Hokama, but instead of the Mayor going out and having a committee or whatever, scouring all over to get people, have a professional group, and I think what it was...what's her name that brought that up that they did that in the mainland in a couple...in one of her jurisdictions? Madge, Madge Schaffer if I'm correct, I think she brought that up. Where a professional group, you submit all your resumes, they have all the--what do you call that--criteria and qualification and requirements for the position and they make the recommendation and then the recommendation is then forward to the entity. And, you know, I've been very intrigued with that idea because in many cases in corporations that's what happens especially for higher management or middle management. They have these human resources or committees or professional agencies that go ahead and recommend based upon the qualifications and the requirements of the position itself. And so, and then still the approval would come back to the Council as far as that is concerned. So another little thought to be put out there just for thinking purposes, you know, Mr. Hokama, that's one of those

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that I've been bandering [sic] in my mind that, you know, it would then give us an opportunity to like you say, we have all the requirements and the criteria and so now instead of the Mayor trying to get a bunch of people, maybe having this professional group saying hey I'd recommend Riki, I'd recommend Stacy, and you know, they'd recommend and then the mayors can pick from there and then the Council have the final approval. Just another thought to be thrown out as one of the tweaks that we can discuss a little bit later. Anyhow, Ms. Cochran, I apologize, go ahead.

COUNCILMEMBER COCHRAN: No problem. Thank you, Chair. And thank you, Mr. Hokama, for bringing this forward, I appreciate it and I do concur and agree with what you're proposing here. I guess one of my questions in the, I guess, the heading of the reso itself the year 1983, is that, should it be this year 2015?

CHAIR VICTORINO: It is originally 1983, Ms. Cochran.

COUNCILMEMBER COCHRAN: Oh okay.

CHAIR VICTORINO: And it, and you notice I said revisions and...wait let me read what I...as amended. See 1983 as amended, you know, 'cause we've amended it through I don't know how many times in the past and 2015 was the last amendment. But our Charter was actually put in place, Mr. Hokama, if I'm correct in 1983 and we work off of that based upon the amended versions. Is that correct, Mr. Hokama?

COUNCILMEMBER HOKAMA: You know, Mr. Chairman, that has always been an interesting way that Ms. Cochran brought up because that's part of the confusion with the Charter is we keep referring to this older date. I don't know why we just don't call it the Charter of the County of Maui as amended 2015 or something.

CHAIR VICTORINO: But that's the way it's...

COUNCILMEMBER HOKAMA: No I understand, Chairman. You make a very good point but for me again it creates some area of confusion on what version are we really on. So I take that comment as something constructive and something we might wanna look at to adjust in the future, Mr. Chairman. But other than that I would say the way the current Charter is is basically pretty close to what was in the original Charter.

CHAIR VICTORINO: Right. The changes have been far and few between if I'm correct in saying that, Mr. Hokama.

COUNCILMEMBER HOKAMA: That's correct.

CHAIR VICTORINO: So anyhow miss...

COUNCILMEMBER COCHRAN: Yeah. Okay that was just something that I noticed and was curious why.

CHAIR VICTORINO: Yeah. Okay, okay, it's the angst that we still live with, sorry.

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COUNCILMEMBER COCHRAN: Yeah okay. And then jumping down the page, Section 6-2 and the bracketed omission, the including the Corporation Counsel and Prosecuting Attorney is being omitted from Item 3 and so meaning, I'm just trying to figure out meaning that these two bodies, these two positions will run with, will not be terminated I guess.

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

COUNCILMEMBER COCHRAN: Oh, okay so it doesn't break it down by title? In the end it just says all, oh okay.

CHAIR VICTORINO: Mr. Hokama? 'Cause you're the maker of the resolution.

COUNCILMEMBER HOKAMA: Yes, thank you. As in regards to Corporation Counsel --

CHAIR VICTORINO: Please.

COUNCILMEMBER HOKAMA: --Prosecuting Attorney, Director of Water Supply, there's already an existing process in the Charter of how those positions, even I believe Personnel Director is appointed and hired by Civil Service Commission. So already Charter has established a hiring process already specific departments and already the Council is required to confirm, review and confirm specifically Prosecuting Attorney, Corporation Counsel, and I believe Water Supply.

CHAIR VICTORINO: Director of Water. Yeah.

COUNCILMEMBER HOKAMA: Water Supply. But civil service is even under the purview of the commission itself, the Police Chief is hired and fired by the Police Commissioners as well as the Fire Chief by the Fire Public Safety Commission is given the authority by Charter. All others I'm proposing comes under the purview of the review and confirmation of Council. One thing that I did add and it was more for discussion is also should Council be part of a process in the termination of a director. You know, we can say no that should be left up to the Mayor and again part of the discussion we had in the past was to allow the Mayor some flexibility of developing a team that supported his vision and direction he wanted to take the County. I think we still need to give some ability of the top elected official for the Executive Branch to have some manner of finding a team that can support that vision that the people elected him to pursue. So, you know, that's why I've crafted this proposal in a way that still acknowledges that the Mayor should have a leadership team that supports his direction but also the need to be qualified to perform on behalf of the people itself. And I think that's the issue right now is the qualification of those that are given departmental charges. And so I've left it open, you know, if Members feel that we need to be a little bit more specific. Let's say for Public Works, as the example, either the Director or we shall say both the Director and the vice deputy must be a licensed engineer. That kind of qualification, we don't have it currently but that's something we could consider. I think for Water Supply we are required to have at least one of

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them to be an engineer for Water Department. We could make it so that both of them are required to be engineers depending upon again the level of expertise the Council feels is required in the performance of the Department to carry out its duties and responsibilities. But, you know, I leave that up to the Members. I mean if you want Parks Director to at least have X years and a degree in physical fitness and recreational...I mean, you know, that's some of the things that...how do these people qualify to do the jobs they're in. And for us that's part of the vet-ment of advice and consent responsibility. We will be asking those questions, why do you feel you are qualified to perform on behalf of the people in this position? And give them their fair opportunity like they do before other advice and consent bodies the chance to state their qualifications, their desire to serve, and why they should be confirmed. I think that's a very more open transparent process that I think the people then will have further confidence in their government. So that is part of why I present this proposal, Chairman.

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

COUNCILMEMBER COCHRAN: Yeah and thank you, Mr. Hokama, for bringing up that point also in regards to qualifications and I know Mr. Couch touched on it, but that definitely I know my office has been looking through the different departments and especially Public Works, DEM, these type like you mentioned to have certain qualifications. And I think it's extremely important having dealt with the departments, you know, in the past several years I think but it's not here in the Charter, so I would like to see that added in. I don't know if this document is the time and place but perhaps at another time. But in regards to the hiring and firing and I understand not taking away all, you know, having that check and balance but then not on every level giving the Mayor like you said some kind of control over who's in his department. But for me I think Mr. Guzman tried to push something through to make it more equal on both sides to do, have a say in the firing per se of a person. And I see there is a conflict, I mean unfortunately yeah we have concerns, well, who's your boss? You know, who has the power to fire you and thereby you're gonna be more siding towards that end of the, you know, the issue whether it's Corporation Counsel. I mean we've had our issues, different departments. You know, I hear it from the people in the trenches saying they wish they could do something a certain way but, you know, the above says do not or we cannot and they just gotta do what's been told because that's the boss. Which, you know, in a sense I guess you have to have that but I think it hinders some positive movement forward at times too. So I'm kinda in between on that one, still have to vet that one out and think it through, but I do see the negative impacts also in the way the process works today. But I understand so that's a tough one, Chair, for me to really hone down which way I wanna go, you know, definitely. But I see positives.

CHAIR VICTORINO: Well, there's goods and bads on everything, and so...

COUNCILMEMBER COCHRAN: Right yeah, yeah. So I have to weigh out, you know, what would really work out in the end all the way through.

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CHAIR VICTORINO: And again this is just the first round of discussions, you know. We're not gonna take any action today, but it's just to get the general consensus and feeling on what you think of Mr. Hokama's resolution. And if you have specific ideas or other alternatives like what I presented, you know, as an alternative, you know, where we can do and have a professional group find these qualified people and not be leaving it up to a special appointed group. And I understand what Mr. Hokama's saying is that you want to have your people there to share your dreams and your aspirations to make this County a better place. But again the challenge I face is if every four or eight years you get a different person in there and that eight years you'll definitely, will have a different person in there then the paradigm shift moves over from one direction to another. And that even in business sometimes is a really counterproductive, you know, move. And so, you know, some of these departments maybe one day in the not-too-distant-future and I don't wanna get stray off too far from Mr. Hokama's, but where they, you get a good person, that person is doing a great job and is doing it for the County of Maui, somehow that person can stay, not every time be reappointed by a new mayor and his administration or her administration, it don't make difference yeah? So anyhow, just thoughts and again everything is more conceptual right now, but I think Mr. Hokama because he's kinda honed in on what I think a lot of us feel. Now we just gotta kinda figure it out, you know? So I'll go to Ms. Baisa.

COUNCILMEMBER BAISA: Thank you very much, Chair. I'm excited that we're talking about this particularly in view of what is going on with the special committee that is looking at this subject. And I've been trying to pay close attention to what is going on there and if I haven't attended a meeting, then I've made sure that I have watched it on *Akaku* because I wanna keep track on, you know, the conversation and what they're thinking. I'm kinda amazed as I look in the gallery that there's no one here today. I really thought this would be a full gallery day because these are the subjects that are being tossed around and talked about big time. And one of the reasons why some people feel we should have a new form of government is because they feel that they'd like to see a different way to select department heads. And I think it's interesting that nobody's here. But anyway we're here and so we have an opportunity. I like the idea, basically I like the idea. I think it's really, really important that we find qualified people to head our departments. I look at what is in the Charter and even what is being proposed and I'm not happy with it because to say that you have to have three years, five years in administrative capacity either in public service or private business I don't think goes far enough. I think we need a little bit more in terms of qualifications. You know, just because I have five years in an administrative position or in public or private business doesn't mean that I can go down to Public Works and run that Department or I can go to Parks and Rec and run that Department. 'Cause basically I don't know diddly about any of that and I really feel that, you know, it would be wonderful if we had people who have experience in the area in that, you know, subject area. I really, you know, am a big fan and I was happy to hear Mr. Hokama bring it up about the idea of the Mayor having some, not some but really he's the chief executive of this County. I would hope that he would have or play a very strong role in who these department heads are and I'm sorry, Chair, but I do not agree with you with a professional hiring group. And I think one of the issues that comes up there is that you have professionals but they are not necessarily experienced in

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County government or in Maui County government. So I don't mind the system we're using as, in bringing the applicants forward but I would like to see stronger clarification of qualifications, and I don't have an objection with them coming to Council for final confirmation. Having participated in confirmation here of the folks that we do confirm, I found it a really enlightening experience, you know, to sit here and actually have the opportunity to discuss with the applicants, you know, what their strengths are. Our fears because we've been told by the public oh we're worried about this or that and so we have a chance right here on the floor to clear it up. And I found that really helpful particularly in the cases where I didn't know the applicants that well and in many cases I didn't. But by the time we were through with the interview, I knew them and I felt, you know, really happy with them. Personally what I've tried to do because we do get applicants or department directors that we don't have anything to do in their confirmation, we're told they've been hired, is that I have arranged personal time with them so that I can sit with them for a couple of hours and find out who they are and what makes them tick. And I have found that really, really helpful because then we establish kind of an understanding about who you are and who I am and I find that very helpful. The only position that unfortunately I'm the second person to say it but I feel it, I felt it when I looked at this was the Managing Director. However in order for me to say we don't need to do that I wanna make sure that the qualifications to be Managing Director maybe are a little more explicit so that, you know, we have standards and you gotta meet them if you wanna be the Managing Director. And in that case I'd be happy to give the Mayor a gimme because I've been an executive head of an organization, large organization. It's been very important to me who the deputy director is because that's my go-to person who is like we're joined at the hip and I would want them to implement what I want, so I have little bit of angst about that. But other than that I think this is, you know, something that is important. I think if we deal with it that the public that is so concerned about our form of government may be a little bit more reassured that, you know, there's better control of who gets these jobs. And the issue of termination that's a whole other, whole other situation and it might get a little dicey because of privacy issues and so I don't know. I think that's something that I'd like to hear a little bit more and think about a little bit more before we say we wanna be involved in termination. That's where I'm at, Chair, thank you.

CHAIR VICTORINO: Thank you, Ms. Baisa. And I don't always have 100 percent agreement on anything I say or do. My wife doesn't agree with me half the time so what the heck? But, you know, the reason for a professional group to get nominees down to what I call the selective process, it'll really make where I think any cloud of favoritism or even nepotism and all these other issues that come up or friends and supporters. I think that that somehow takes a lot of that out of the equation and that's why my suggestion was that. And I won't back off of that suggestion. You know, to keep it where I believe keep it on a professional level, you know? Now again the Mayor and the Council still make the final decisions but I'm just saying they would bring up the qualified people and they would be the ones to look at that and make sure that they were qualified. So I don't know, again this is a lot of talk and we're just getting this rolling so thank you, Ms. Baisa, I appreciate it. Mr. Carroll?

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COUNCILMEMBER CARROLL: Thank you, Chair. I support what Ms. Baisa said. Thank you.

CHAIR VICTORINO: Oh that was quick, thank you. Mr. Guzman?

COUNCILMEMBER GUZMAN: Thank you, Chair. I appreciate and I respect Mr. Hokama's presentation on the resolution. I do agree with him on the approvals for the directors. I think that the State does it, the Federal side does it as well and the Judiciary does it for approvals for judges. The requirements, I did put forth a I think last year some requirements for the Corporation Counsel and Prosecutor's Office...I mean position and I did it through an ordinance but it came back via Corporation Counsel opinion that it couldn't fly, it needed to be a Charter amendment. But I could pass that out later on. I think that the main issue here is if we're talking about the Managing Director, well, it's positioned in the Charter that if the Mayor is to be out of town or is not present, then the Managing Director is the Mayor. And so the Managing Director is also, when the Mayor's here, in charge of all the other departments. So I truly believe that his position as acting Mayor is so important that we should have that ability to say that yeah by two-thirds vote or a unanimous vote on the floor he shall be removed. Because he could, the Mayor could be off and the Managing Director could be doing something completely off the wall that we need to have the authority to at least question or at least look into and have that determination whether he's appropriate for the position at that very moment in time. Secondly I believe the Finance Director is the third in command if the Managing Director is not present and the Finance Director is in charge of all of our finances in the entire County. The importance of that position also dictates that we should have the ability by two-thirds vote or unanimous vote to remove that Finance Director if and when that Finance Director has gone rogue and completely needs to be removed but yet holds his alliances to the Mayor and the Mayor doesn't take steps to remove the Finance Director. I think also Corporation Counsel although this resolution doesn't address it, we too need to have that balance to avoid a shift in paradigm. A balance that says okay we also have that power to remove you if you get too, if your opinions or your allegiance gets too close to the Mayor's side because by Charter the Corporation Counsel is supposed to be in the neutral position. By being in that neutral position we therefore should have that same equal ability to remove the Corporation Counsel just like having two clients hiring one attorney. One client can, both clients, either one of them can fire the attorney so why not in this case we can't do that? The prosecuting attorney is elected throughout the State and we're the only County that appoints but the only person that can remove the Prosecutor is the Mayor. So why are we not given the equal opportunity to remove him because we are the voices of the people, we're elected by the people. So in, for an example like I said other jurisdictions elect their prosecutor so they have the people power, the people voices to elect him and to remove him. But in this case the Prosecutor is only, we're only approving him but we have no ability to remove him so you're taking the people's power out of the mix completely and we represent the people so we should have equal opportunity to remove the Prosecutor. I'm just talking about baseline what is logical, you know, I'm not being political, blah, blah, blah, this just makes sense. For what is in the resolution itself, yeah I think that we should have the power to approve. I'm not sure

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whether the other directors need to have that, go as far as having us have that power to terminate them but these are the directors that I've just mentioned that I believe that we as a Council should have that power to terminate because of their importance in the make-up in our government. So other than that I support the resolution with these changes that I've mentioned. Thank you.

CHAIR VICTORINO: Thank you. Ms. Crivello?

COUNCILMEMBER CRIVELLO: Thank you, Chair. I think this is a resolution that we all should take into consideration. I don't think we're taking anything away from the elected Mayor. I believe the elected Mayor still will be afforded her or his appointment and at the same time select who they, he or she feels can serve as department directors. And then as Council our role will be to solidify the appointment by the Mayor. I'm listening to testimonies from the County governance process, I believe they're looking for something so that there is a stronger balance I believe for us to have some measuring tools. At this time I'm not sure if we have or is it just the Mayor that has the who qualifies or who doesn't qualify. For any position one applies for there's a job description and there's also what may be required for that particular job description, and if we don't have or if we do have then the Council should have the opportunity to have oversight over that description with the elected Mayor. Because if we don't have, then we have an HR department that we should expand their work to work on the qualification or merits to consider should there be applicants as such. I believe in management you, depending on the type of work you do need at least one of your managers to have the subject matter expertise. If it's the Water Department, if it's engineering that needs that, but more important I feel that they need administrative skills and management skills because they have many supervisors under them. They work with the union, they work with the public and all those make our work easier especially when it comes to budget and what is truly required or how we're gonna improve. So to me I think the qualifications should be expanded more, that we have access to it. And getting back to the Managing Director, I don't have a problem with us also confirming the appointment from the Mayor, but I also feel that the process of evaluation though it may be a personnel matter, since Council is involved with the personnel in approving and appointing we should have access to the kind of evaluation process that is being done because often we don't know. And when we have complaints from the employees themselves we're not sure if there's a process of evaluation or what have you. So whatever the legalese minds can work for that would be, but I think too if we can be part of establishing and approving the qualifications, if one can be developed for us because how are we gonna decide if that appointment is, qualifies for that said position? I think that's important. I'm not sure about we having a say as far as to fire. We have a department that does auditing, we are aware of the budget that comes before us. We should be able to get quarterly or yearly reports from the department as far as what's going on. I think that's before us. Whether or not we should be the micromanagers I'm not sure. I don't think we're elected to be micromanagers, I think we're elected to make sure that our policies are followed through with each department as well as the fiduciary portion. So I support this as it stands. Perhaps, you know, the fact that we're including it, all of these

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departments, I think is good for us to have this discussion and probably get it ready for the voters to make the decision. Thank you.

CHAIR VICTORINO: Thank you, Ms. Crivello. Mr. Couch, you had something else you wanted to add?

VICE-CHAIR COUCH: I don't know how you're gonna, I mean how you wanna wrap this meeting up. Or are we still gonna be discussing it for a little while? 'Cause I've got some thoughts as well.

CHAIR VICTORINO: Well, I think all of us have thoughts. What I think I'd like to do at this point, I think another meeting for which you, if you have specific proposals you can bring them forward. I think that will be a good idea if that's alright with the Members. I think that's the best way I can approach this to be really fair. Because every one of you had great ideas and thoughts and, you know, whether you agreed or disagreed with your colleague, but I think all of them had some merit and so I think that would be something I'd like to see. And so that...and I'm not sure, I'm going to try to have, because of some nominees that are being time sensitive, I'm gonna say it that way. I may have to have a special meeting because of that, before we get into budget, or maybe right after we start budget maybe have a quick morning meeting to get that. I don't know if you wanna and I'm not sure if I wanna do that at that point or wait 'til we come back in May and then really have a full opportunity to vent [sic] everything. Also we'll know what the governance group is and where they're at at this point, you know? So they'll know that we concur with some of the changes or some of the ideas that they're bandering [sic] and we're incorporating it in our version as far as the Charter amendment, the resolution that you're proposing, Mr. Hokama. So with no objections, would you be amendable [sic] to that? And I can't tell you when but get your thoughts and your ideas and your suggestions and bring 'em forward. And you're saying yes, Mr. Hokama, but you have something else you wanna add?

COUNCILMEMBER HOKAMA: Chairman, I just wanna thank you and the Members for allowing the discussion today. I think it was very healthy to have the Members share thoughts on the proposal. And again this proposal is to encourage this discussion, Chairman. I know this is not the final draft, it wasn't intended to be, but it was to stimulate this discussion. And I would say some of the things that the Members brought up I thought was very worthy that I would ask them then to also consider one, do we wanna maintain this chartered form? Because some of the discussions tend to lead us to go back toward a board of supervisors type of structure, so is that something that we wanna consider? As well as on the termination or, you know, actions by the directors of our departments, we could also consider what I would call a resolution of no confidence.

UNIDENTIFIED SPEAKER: Resolution . . .(inaudible) . . .

COUNCILMEMBER HOKAMA: Of no confidence.

CHAIR VICTORINO: No confidence, yeah.

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COUNCILMEMBER HOKAMA: Other forms of government use that, especially those that have parliaments and once they pass that usually the prime minister resigns because there's a statement of no confidence in the government. That could be another way of stating Council's intention. But I agree with some of the earlier comments from my colleagues, we don't wanna get into micromanagement. We are the policymakers, we are not the operations supervisors. And yes we get the calls, we get the letters, we get the complaints from employees as well as the public, but I prefer that we keep very clearly the distinction between branches of government and the separation of powers. Because I think it's important for us to maintain that from a discipline standpoint, from a integrity of structure standpoint of governance and I would just ask the members if they could keep that in consideration as we move forward. Thank you, Chairman.

CHAIR VICTORINO: Thank you very, very much. And I think you've wrapped it all up and I think that I don't have to say much more to that. I think, you know, I appreciate what you've brought forward and I appreciate every one of your comments today, and again if you have specifics that you'd like to see us incorporate, the next meeting whenever that may be, probably June would be the opportunity. It gives you some time to work on your ideas and your changes that you'd like to see us make in the Charter. And I agree with you, Mr. Hokama, maybe we need to revise the form of Charter and even how it's made up and some of the ways that we present it. You know, take away the form of, you know, 1983 and going straight to as revised of 2015 or as amended latest version 2015, I don't know. The legal beagles like Ms. Crivello said, let the legal beagles think about the wording. But I think we can put that together. So with no objections, I will defer this matter.

COUNCILMEMBERS: No objections.

COUNCILMEMBERS VOICED NO OBJECTIONS (excused: MW).

ACTION: DEFER pending further discussion.

CHAIR VICTORINO: Thank you very much. I wanna thank you all for a very enlightening day. I think we were able to accomplish what I really wanted to accomplish in both subject matters and I think now it's a discussion now out there in the community. And now they can come to us and give their manao, give their ideas and let's take it from there. So with no further ado I will announce that we have IEM meeting this afternoon at 1:30 so please don't be late, those who are in that Committee. And with no objections, I'm going to adjourn the meeting. . . .(gavel) . . .

ADJOURN: 11:28 a.m.

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APPROVED:



MICHAEL P. VICTORINO, Chair
Policy and Intergovernmental Affairs Committee

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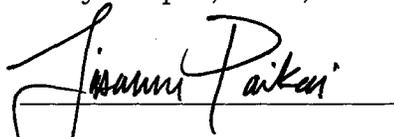
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CERTIFICATE

I, Lisanne Paikai, 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 4th day of April, 2016, in Kahului, Hawaii


Lisanne Paikai