

SPECIAL COMMITTEE ON COUNTY GOVERNANCE

Council of the County of Maui

MINUTES

May 9, 2016

Council Chamber, 8th Floor

CONVENE: 10:13 a.m.

PRESENT: Tony Takitani, Chair
Madge Schaefer, Vice-Chair
Pua Canto, Member
Kehau Filimoe`atu, Member
Paula Friel, Member
Kimo Haynes, Member
Tamara Paltin, Member
Ray Phillips, Member
Jonathan Starr, Member

EXCUSED: Dave DeLeon, Member
Kay Okamoto, Member

FACILITATOR: Lori Teragawachi

STAFF: Kimberley Willenbrink, Legislative Analyst
Sharon Brooks, Legislative Attorney
Clarita Balala, 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)

Seated in the gallery:

Councilmember Gladys C. Baisa

ADMIN.: Edward S. Kushi, First Deputy Corporation Counsel,
Department of the Corporation Counsel

OTHERS: Trinetta Furtado (Item 1(3))
Rosemary Robbins (Item 1(1))
Paul Janes-Brown (Item 1(3))
John Grant (Item 1(3))
(7) additional attendees

PRESS: *Akaku: Maui Community Television, Inc.*
Colleen Uechi, The Maui News

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CHAIR TAKITANI: . . .(*gavel*). . . Will the meeting of the Special Committee on County Governance come to order please. Can you please make sure your cell phones are off. I'd like to introduce the Committee Members present today. Madge Schaefer, Committee Vice-Chair, Pua Canto, Dave DeLeon is excused, Renee Kehau Filimoe`atu, Paula Friel, Kay Okamoto is also excused, Tamara Paltin, Ray Phillips, Jonathan Starr, and Kimo Haynes. Our Facilitator present today is Lori Teragawachi. Representing the lawyers in America, Ed Kushi, First Deputy Corporation Counsel. Our Committee Staff is Kimberley Willenbrink, Legislative Analyst; Sharon Brooks, Legislative Attorney; and Clarita Balala, Committee Secretary. In Hana we have Dawn Lono. On Lanai Denise Fernandez and Ella Alcon on Molokai. We'd like to proceed now with public testimony. Ms. Willenbrink?

MS. WILLENBRINK: Thank you, Chair. For individuals who will be testifying here in the Chamber, please sign up at the desk. If you will be testifying from one of the remote testimony locations specified on the meeting agenda except for Lanai, oops, Lanai's here today, please sign up with District Office Staff at that location. Testimony is limited to three minutes. At two and a half minutes I will let you know that you have 30 seconds to conclude. When you begin your testimony please state your name and the name of any organization you are representing. We have established a connection to the District Offices. To be fair we will rotate between the offices. Hana Office, is there anyone wishing to testify?

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

MS. WILLENBRINK: Thank you, Dawn. Molokai Office, is there anyone wishing to testify?

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

MS. WILLENBRINK: Thank you, Ella. Lanai Office, is there anyone wishing to testify?

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

MS. WILLENBRINK: Thank you, Denise. Chair, we have three people signed up to testify in the Chamber. The first person signed up is Trinetta Furtado.

. . .BEGIN PUBLIC TESTIMONY. . .

MS. FURTADO: Aloha mai kakou.

CHAIR TAKITANI: Aloha.

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MS. FURTADO: My name is Trinette Furtado. I am from Hamakualoa Haiku and I am testifying on Item No. CG-1(3), the Forms of County Governance. I would like to ask and move that this particular option, there's three options there, and I support option No. 1 and I say this because my actual gut feeling is to have no Mayor. I would like as a resident of Maui to see just a manager but I know that is not possible with the ohana and the kinds of very close and tight relationships we have here and many people are accustomed to having a Mayor. That being said the reason I support option No. 1 to me is it's very much like the system we seem to have now. We do have a Managing Director that should be managing the County and instead as we see with the kinds of lapses in trash services, with the kinds of things like the pCard investigation and issues that these things aren't being handled adequately enough and they aren't handled efficiently enough. And so I believe that we need to have a manager, we need to have somebody that can look at the qualifications and the experience of people that are coming up for department chairs, for department heads, for heads of huis, that will actually be tasked with coming out with an outcome and especially when we look at the budgets that we have for different departments. It is very crucial that we have people in those departments and heads of those departments that have the experience and the knowledge to do those particular things and not because they share some sort of special relationship with our head of state so to speak at the moment, our Mayor. I do support this because I am disappointed in our current structure as I have briefly mentioned and the practice of this appointing people based on our relationships, we know that Maui County, in fact all of Ka Pae Aina O Hawaii, this is what we thrive on, our relationships with each other and we need to keep these relationships pono. And if the current structure is not a pono structure and it is not working for all of us then it does not work for all us. If it's only working for a few of us that doesn't work, and so we really do need to look at something that will be positive, that will be efficient --

MS. WILLENBRINK: Thirty seconds.

MS. FURTADO: --that will be effective, and so I ask that you support option one. I am looking for quality and accountability. We already have enough of a bloated staff. We need to do something about it. So thank you for being here. Aloha.

CHAIR TAKITANI: Thank you. Any questions? Jonathan?

MEMBER STARR: Yeah. Mahalo for coming today. I was wondering whether you were aware in the discussion regarding having a Mayor that a Mayor is pretty much required by HRS for emergency powers and so on. So having a proposal without a Mayor would make it very difficult because a lot of State law and possibly even Federal would have to be changed.

MS. FURTADO: I understand that. As I was saying I support your, I support the option one, the temporary group had given. My own personal feelings are to do away with it. But I understand based on HRS, HAR rules that we do have to have some form of head and so looking at the three options that are here, to me option No. 1 would be the best.

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CHAIR TAKITANI: Paula?

MEMBER FRIEL: Aloha kakahiaka.

MS. FURTADO: Aloha.

MEMBER FRIEL: What is your name again? I'm sorry.

MS. FURTADO: I'm Trinette Furtado.

MEMBER FRIEL: Aloha, Trinette. Trinette, I have a question for you and you don't necessarily have to answer it. It's just something to think about and it is a, it's a challenging question and it's a question I pose to my friends. When we talk about doing away with the Mayor and appointing an executive officer who will be selected by the legislative committee. So I do understand and I hear that a lot of people are frustrated with the current system. Are you frustrated enough to the point that you're willing to relinquish your right to have a choice in who the person is in Executive Branch?

MS. FURTADO: Indeed, because the rights of the choices right now have been choices that are not serving the entirety of us all.

MEMBER FRIEL: Okay, thank you.

MS. FURTADO: Thank you.

CHAIR TAKITANI: Next.

MS. WILLENBRINK: The next person signed up to testify is Rosemary Robbins.

MS. ROBBINS: Good morning everybody. Rosemary Robbins, concerned citizen. Thank you again for all the hard work that you're putting into this. I did come down again, the folks on the 7th floor were wonderful about making records available to me. I came on Friday and read the 42-page resolution that's coming up and would like to speak on two of the departments involved in this. The first one I'd like to address is the Board of Water Supply. This is the board now, these are volunteer people in the community.

VICE-CHAIR SCHAEFER: Can you give us the page numbers?

MS. ROBBINS: Yes, Page 26.

VICE-CHAIR SCHAEFER: Thank you.

MS. ROBBINS: Thank you, I'm sorry I missed that. And the Board of Water Supply, nine members who will be appointed by the Mayor with the approval of the County Council, and the Director of the Department of Planning, and the Director of the Department of

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Public Works will both be non-voting ex officio members of the Board of Water Supply. So remember these are going to be two other environmental folks who are going to be there that will also have been appointed by the Mayor. Let's see, okay, so we hope that any influence they would have would be positive. Over on to Page 27, on the, Section 8-11.6., Powers and Duties. It talks in here about the administrator, the Director of the Department of Water Supply shall administer affairs of the Department of Water Supply and be responsible for the day-to-day management and control of oil and water...control of all water systems in the County. We've had some disruption about this, heavily fined for it recently. So we need to be careful about that. The revenues of the Department of Water Supply shall be such to make the Department of Water Supply self-supporting. I don't know, we're up to over 3 million and other hundreds of thousands in order to hire extra attorneys for stuff that didn't get done by the Director of Water Supply --

MS. WILLENBRINK: Thirty seconds.

MS. ROBBINS: --and the people under him. So can't forget that. That's fairly recent and has been ongoing for so long. So the second thing that I would like to talk about is the Environmental Management, it speaks in here on Page 31, that the Director of Environmental Management shall have had, we're talking about time passed before he or she comes into that capacity and administrative capacity or public service or private service --

MS. WILLENBRINK: Three minutes.

MS. ROBBINS: --doesn't say anything about knowing stuff about the environment. And it's been asked at this podium before the same way with the Water Director and the Deputy Water Director if they have to have an engineering proof. If it's aeronautical engineering how does that help? So I really think and it's because it has been said here more than once, that we need to make sure that we're zeroing in on what these specialties are and thank God there are higher institutions who have specialties in that, but most of them don't. So whoever the headhunters are that you might be working with to present to you the potential people please be very careful of that. We're paying a terrible price for not having done that. So thank you.

CHAIR TAKITANI: Thank you very much. Any questions? We appreciate the thought that you put into this and some of your comments. It's a little bit beyond our scope to make some of those changes. So if we don't do them, it's not because we're not listening. It's we don't have the power to do that.

MS. ROBBINS: You'll share that power with whoever has it?

CHAIR TAKITANI: Thank you. We'll send it to the Charter Commission.

MS. ROBBINS: Thank you.

CHAIR TAKITANI: Thank you very much.

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MS. WILLENBRINK: Our next person signed up to testify is Paul Janes-Brown.

MR. JANES-BROWN: Aloha, Mr. Chair.

CHAIR TAKITANI: Good morning.

MR. JANES-BROWN: Aloha Members of the Committee. I just wanted to come by to thank you. To thank you for your conscientiousness, for your seriousness, for your care in making the work that you've done be as thorough as it has been. I'm really proud of the work that you've done. It's a testament I think to our form of government when a group of citizens can come together and advise the government about ways in which it can change for the betterment of all the people, and you all have taken that responsibility extremely seriously and come up with a plan I think that really is excellent. The choices that you've given offer the Council the opportunity to make a real clear decision about how the future of our community is going to be governed. It's really exciting. My hope is that when it passes out of this Committee that the Policy and Intergovernmental Affairs Committee will put it back to the Council for the votes that are necessary to get it on the ballot in November so the people can have an opportunity to weigh in on this measure, and I'm really proud of you. I'm proud to have this opportunity --

MS. WILLENBRINK: Thirty seconds.

MR. JANES-BROWN: --to address you and thank you so much for everything that you've done.

CHAIR TAKITANI: Thank you. Any questions? Thank you very much.

MS. WILLENBRINK: Chair, the final person in the Chamber signed up to testify is John Grant.

MR. GRANT: Aloha. Thank you for letting me speak today.

CHAIR TAKITANI: Aloha.

MR. GRANT: I would second what Paul Janes-Brown said, you guys, citizens work for nothing here doing what you can to make it better for us. I wasn't going to speak but Mr. Starr made some comments that I, jarred me a little bit, I came from, 25 years ago from California, and I lived in a few cities that had managers and no Mayors so I can't quite understand how that worked, but you may, I'm sure you know more than I do about that, you've been doing a study on it. I think the main reason that people want a change is the Mayor that we have right now and the situation we have right now. I'm not going into personalities but the situation where we had a candidate for Council who was defeated and with no understanding, no knowledge, no basis or training was given the management of a department that's very important to the people. We can't have that. We need professional managers. I was a government employee for 30 years

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in California. I mean I know the fights you have to deal with every day. It's tough but just like everything else but like we can't just to do blatant things like that. That's why I'm interested in managers or a County manager in this case. Thank you for letting me speak and thank you for all the work you've done. Thank you, thank you.

CHAIR TAKITANI: Thank you. Any questions? Jonathan?

MEMBER STARR: Yeah. Thank you for your comments and just, Hawaii law refers to a Mayor in many areas where emergency response or declaration of emergency is called for. There also are quite a few agreements with Federal agencies that right now empower the Mayor to become emergency manager and coordinate with FEMA and other agencies. We, you know, we looked into different options. It was possible that if a proposal that moved forward did not have a Mayor that then the Legislature in the next session would in a way have to react to it and change HRS, but it's no surety that they would do so. And also, you know, it felt that the position of Mayor is really important in terms of having checks and balance with a veto and also as a voice of the County. I mean with that in mind, do you feel that the option where we have the three legs of government and checks and balances that we selected...

MR. GRANT: I think you succeeded where Solomon failed. You remember how Solomon cut the baby in half I think you, okay, I think you succeeded where Solomon failed. Thank you.

MEMBER STARR: Mahalo.

MR. GRANT: I personally don't think it makes a difference, you know, the executive that runs the show should be professional. If you have a Mayor who does the other stuff that's grand, but we need a professional person who continuity management, continuity of management. Thank you all very much and thank you all again for your work.

CHAIR TAKITANI: Thank you.

MS. WILLENBRINK: There's no one else waiting to testify in the Chamber.

CHAIR TAKITANI: Will the record reflect that we received testimony from Jim Smith please.

MS. WILLENBRINK: Okay. I'd like to check with the District Offices. Hana Office, is there anyone else wishing to testify?

MS. LONO: The Hana Office has no one waiting to testify.

MS. WILLENBRINK: Is there anyone waiting to testify in Molokai?

MS. ALCON: No one's here to testify.

MS. WILLENBRINK: And how about Lanai?

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MS. FERNANDEZ: There is no one waiting to testify at the Lanai Office.

MS. WILLENBRINK: Chair, it appears that there's no more testifiers.

CHAIR TAKITANI: Okay. If there's no objections, I'll now close public testimony.

MEMBERS VOICED NO OBJECTIONS.

. . .END OF PUBLIC TESTIMONY. . .

CG-1(1) RESOLUTION 15-155: ESTABLISHING A SPECIAL COMMITTEE ON COUNTY GOVERNANCE

CHAIR TAKITANI: I'd like to move on to Item No. 1, Resolution CG-1(1). Basically, what we need to do today is adopt the resolution and I know it's a little bit long. We've had, I think you've got it, you received the resolution a few days ago and I think today they handed out some other red-lined changes. So I guess what we can do at this point is open up the floor for discussion on the resolution. Jonathan?

MEMBER STARR: Yeah. First of all, I really want to express appreciation to Staff for the great work on this. I think it was really well done and I don't have any substantive issues. I'm curious about the revision on Page 5 of the Committee Report that was handed out today.

CHAIR TAKITANI: We're going to talk about the Committee Report later.

MEMBER STARR: Okay.

CHAIR TAKITANI: We'll talk about the resolution right now.

MEMBER STARR: Okay. Well this a statement in the Committee Report that this would be revised per Kushi, which I assume means our excellent Deputy Ed Kushi. So I was wondering if this was revised or needs to be revised?

CHAIR TAKITANI: Can you clarify? The resolution?

MEMBER STARR: Yeah.

CHAIR TAKITANI: I think it's been revised. Is that correct?

MEMBER STARR: I don't know.

CHAIR TAKITANI: You have a red-lined copy?

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MEMBER STARR: Yeah. It just said revised as per Kushi. So I just want to be sure that it was revised.

MS. WILLENBRINK: If I may? The entire resolution has been drafted and reviewed by our office and Mr. Kushi. What is in red is Mr. Kushi's suggested revisions, the rest of the revisions, let me explain, if you're taking something out, you put brackets around it, and if you put something in you underline. So that's where you'll see the revisions throughout.

MEMBER PALTIN: So the brackets...

CHAIR TAKITANI: Tamara?

MEMBER PALTIN: So the words in the brackets are gonna be not there?

CHAIR TAKITANI: Correct.

MEMBER PALTIN: Okay. Thanks.

VICE-CHAIR SCHAEFER: Mr. Chair?

CHAIR TAKITANI: Oh, Madge? Sorry.

VICE-CHAIR SCHAEFER: So are the items in red would it, I'm just giving it a cursory look, looks like it's just kind of cleanup, housekeeping and nothing substantial, no substantial changes from what we got on Friday?

CHAIR TAKITANI: That seems to be my reading, are you directing that to Mr. Kushi?

VICE-CHAIR SCHAEFER: Mr. Kuchi [sic].

MR. KUSHI: Mr. Chair, if I may?

CHAIR TAKITANI: Yes.

MR. KUSHI: I reviewed the original draft and I met with your Staff Friday, was it Friday? And as result we came up with this revised draft and as Kim stated the revisions identified in red are a result of our meeting. Madge is correct, a lot of 'em are just nonsubstantive but meaningful changes, but I guess the main question is in my mind, not only the Charter amendments, the amendments to the Charter, the wording, but the question that will be submitted to the ballot if at all, and that's on Page 40, you know, the ballot question. I think the Committee should focus on that question. As originally stated it was like three parts and we discussed it and rather than in three A, B, C, just one question I think is clearer. And there is some case law where you have multiple sections of one question and whether or not, you know, can they stand together or if the voters confused, you know, if A, B, C, you know, I like A and B, but I

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don't like C. So what do I do? So it's really one question so I think you should focus on that.

CHAIR TAKITANI: Thank you. We were going to after we talked about all the rest of it.

VICE-CHAIR SCHAEFER: I have a follow-up.

CHAIR TAKITANI: Sure.

VICE-CHAIR SCHAEFER: When, and I'm talking about on Page 40, the red changes, a Managing Director appointed by the County Council shall be responsible for the County's daily operations instead of an elected Mayor, the appointment and removal of department heads, the implementation of County policy provided that the elected Mayor shall continue to represent the County in intergovernmental affairs, approve or veto bills, and nominate members to County boards and commissions. My concern is in the third line it just, shall be responsible for the County's daily operations instead of an elected Mayor. It seems a little confusing when you, it's like the connection ought to be made a little differently, I'm just talking about grammatically, it seems awkward to me and maybe the continued, shall be responsible for the County's daily operations, the appointment and removal of department heads and the implementation of County policy. The elected Mayor shall continue to represent the County and intergovernmental affairs, approve or veto bills, just seems like it's a little clearer.

CHAIR TAKITANI: Your point is well taken. I also think...well, go ahead. Any other questions or comments on the on...are we...we have nothing else on the resolution in total? We're going to focus on the actual amendment?

VICE-CHAIR SCHAEFER: Well, it just says we went through.

CHAIR TAKITANI: Wait, so why don't we just, why don't we do that --

MEMBER FILIMOE`ATU: Point of order?

CHAIR TAKITANI: --afterwards.

MEMBER FILIMOE`ATU: Point of order.

CHAIR TAKITANI: Yes, ma'am?

MEMBER FILIMOE`ATU: Mr. Chair, I need, we need to remember that this resolution really is that coming from the Maui County Council as it says right here and I'm not sure that our changes would reflect what they would reflect. Is that correct?

CHAIR TAKITANI: No. This resolution is coming from us. The Charter amendment, this is what they asked us for, and the --

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MEMBER FILIMOE`ATU: Okay.

CHAIR TAKITANI: --Charter amendment is also what they asked us for. They're asking for a recommendation.

MEMBER FILIMOE`ATU: Well, I'm reading the first word, line where it says WHEREAS, the Maui County Council proposes the Revised Charter of County of Maui, as amended, be amended to provide, and it goes into this whole reso.

CHAIR TAKITANI: Correct.

MEMBER FILIMOE`ATU: Which says they are the ones that are doing this.

CHAIR TAKITANI: Ultimately.

MEMBER FILIMOE`ATU: Yeah. Okay.

CHAIR TAKITANI: But this reso comes from us.

MEMBER FILIMOE`ATU: So we're trying to tell the Council what they should do?

CHAIR TAKITANI: They've asked us for a recommendation.

MEMBER FILIMOE`ATU: Okay. Which we are providing them with?

CHAIR TAKITANI: Yes.

MEMBER FILIMOE`ATU: Okay.

VICE-CHAIR SCHAEFER: Mr. Chair?

CHAIR TAKITANI: Madge?

VICE-CHAIR SCHAEFER: If you wanna to go through page by page or whatever?

CHAIR TAKITANI: No.

VICE-CHAIR SCHAEFER: It's just that when I got to the last page looking...I hadn't gotten to the last page.

CHAIR TAKITANI: Okay.

VICE-CHAIR SCHAEFER: For the red changes.

CHAIR TAKITANI: Okay.

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VICE-CHAIR SCHAEFER: And that is what I'm suggesting is just a cleanup of the language, not a substantive change.

CHAIR TAKITANI: Well that is, and again no disrespect, we just trying to, I think that's going to be the crux of what we do today.

VICE-CHAIR SCHAEFER: Okay.

CHAIR TAKITANI: And I'd like to kind of make sure we take care of the rest of it first.

VICE-CHAIR SCHAEFER: Okay. Well they can work on the rewording maybe while we're --

CHAIR TAKITANI: Okay.

VICE-CHAIR SCHAEFER: --doing whatever you want to do.

CHAIR TAKITANI: Kehau?

MEMBER FILIMOE`ATU: So would you need a motion from this body to move forward with this resolution --

CHAIR TAKITANI: Yes.

MEMBER FILIMOE`ATU: --to the County?

CHAIR TAKITANI: Yes, we will.

MEMBER FILIMOE`ATU: I will move. So moved.

CHAIR TAKITANI: Not yet. We not ready yet.

MEMBER FILIMOE`ATU: Oh, not yet?

CHAIR TAKITANI: Yeah, yeah.

MEMBER FILIMOE`ATU: You can still have discussion on the motion because of the...

CHAIR TAKITANI: Well, we may as well talk a little bit.

MEMBER FILIMOE`ATU: Okay, you don't want that. Okay.

CHAIR TAKITANI: Easier, yeah, thank you. Tamara?

MEMBER PALTIN: I didn't have.

CHAIR TAKITANI: Oh, Kimo?

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MEMBER HAYNES: Question on Page 2, Section 3-8. Is that whole section being removed? Is that bracketed? The red brackets? Two, Section 3., 3-8.

MS. WILLENBRINK: I'll defer to Corporation Counsel.

MR. KUSHI: Yes, Member Haynes, it's being removed to the extent that it's not going to be revised. It's going to be left in the Charter. The revisions that were submitted to us, to me and Staff agreed, seem to be inconsistent, because if you read the section it's a restriction on Councilmembers and who can they boss around. Right now it, you cannot, they cannot say anything to any of the members appointed by the Mayor, employees. Now you have a Managing Director, and they can boss the Managing Director around. So in essence we left it as such, they can't touch Mayoral appointees and in a new situation what appointees do you have 'cause the Mayor's not going to appoint anybody. So we left it as such.

CHAIR TAKITANI: Kimo, you have a follow-up on that?

MEMBER HAYNES: Let me read it real quick.

VICE-CHAIR SCHAEFER: Mr. Chairman?

CHAIR TAKITANI: Hang on.

MEMBER HAYNES: Okay. So it is going to stay? I'm confused, I'm sorry, on the red bracket?

MR. KUSHI: It's not going to be revised.

MEMBER HAYNES: Okay.

MR. KUSHI: And Councilmembers still cannot.

MEMBER HAYNES: Just a change from deleting Mayor to Managing Director?

MR. KUSHI: No, it's going to be left as the Mayor.

MEMBER HAYNES: Okay. I'm sorry, that answers my question.

CHAIR TAKITANI: Tamara?

MS. WILLENBRINK: Brief recess, Chair.

CHAIR TAKITANI: How brief?

MS. WILLENBRINK: Very brief.

CHAIR TAKITANI: Very brief recess. . . .(gavel). . .

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RECESS: 10:41 a.m.

RECONVENE: 10:42 a.m.

CHAIR TAKITANI: . . .*(gavel)*. . . Will the Committee come back to order. Madge...oh wait, I'm sorry, Tamara?

MEMBER PALTIN: For me, I was under the impression that this section would continue on with the Councilmembers not directing the Managing Director's hirees or appointees, just because of, you know, the chain of command structure and micromanaging. If the Council tells a director to do one thing and it's not what the Managing Director is instructing them to do, that could create a problem, and if we're to hold the Managing Director ultimately accountable, then the directors need to answer to him and then the Council can give input to the Managing Director and it can follow that chain of command. But if we change that where, I mean if we leave it the same whereas, we know that the Mayor's not going to have any appointees, it seems not correct because of the micromanaging aspect and the two different bosses essentially. If the Council is allowed to tell the director what to do, they should do it through the process of chain of command which is talking to the Managing Director and allowing the Managing Director to actually manage rather than having any of the nine Council going to them and then each of the Councilmember could have a different request and it, to me it makes it very confusing that way. I would prefer to change the word Mayor to the Managing Director, personally.

CHAIR TAKITANI: So as, so I can understand it correctly, you like the changes that Staff made which does --

MEMBER PALTIN: The underline --

CHAIR TAKITANI: --I think what you said it does.

MEMBER PALTIN: --and the brackets in black --

CHAIR TAKITANI: Okay.

MEMBER PALTIN: --not the --

CHAIR TAKITANI: Not the red.

MEMBER PALTIN: --red brackets.

CHAIR TAKITANI: Thank you. Madge, followed by Jonathan.

VICE-CHAIR SCHAEFER: Alright my issue is with, well, it's a question, on Section 2 it says neither the Council nor its members shall give orders to any County employees or to

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County officers other than the Managing Director. The County officers, aren't all the boards and commissions that are appointed by the Mayor considered County officers?

CHAIR TAKITANI: I don't think so.

MR. KUSHI: Yes, they are.

CHAIR TAKITANI: Commission members?

MR. KUSHI: Yes.

CHAIR TAKITANI: Oh, okay.

MR. KUSHI: All of you.

VICE-CHAIR SCHAEFER: Everybody? So we become County officers.

CHAIR TAKITANI: Okay.

VICE-CHAIR SCHAEFER: So the Council gave us direction, this Committee direction. So I'm just wondering how that's handled under this?

CHAIR TAKITANI: The Council violated the Charter is that what you're saying?

VICE-CHAIR SCHAEFER: Well, if you read the way this reads the Council it says and that's why I wanted a clarification with the County officer issue. So, Mr. Kuchi [sic], you understand my point?

MR. KUSHI: Yeah, yeah, yeah. In a vague sense, yes. Council enacts policies either by resolution or by ordinance. They're not orders per se, they're law.

VICE-CHAIR SCHAEFER: Okay.

MR. KUSHI: So whatever the Council dictated this Committee to do, it's not like an order, it's a resolution. It's almost like an ordinance. So I don't think by doing that they violate the Charter.

VICE-CHAIR SCHAEFER: You know, leave it to an attorney to come up with that orders versus...

MR. KUSHI: This is more or less day to day bossing people around, telling them, you know, you do this or unless you do this you're fired.

VICE-CHAIR SCHAEFER: Okay. I understand the intent but technically you look at this it raised a question.

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MR. KUSHI: You may have a point and maybe, you know, you can try and sue the County Council but we'll defend them.

VICE-CHAIR SCHAEFER: No, if this an opportunity to clarify, that's all I'm suggesting.

CHAIR TAKITANI: Jonathan?

MEMBER STARR: Yes, it got a little confusing with the red bracket and so on. My understanding is what is happening in Section 3-8, is that 3-8, will remain precisely as it is now the way it's laid out at Pages 8 and 9 of the Charter book. In other words what it's saying is that neither the Council or its Members shall dictate the appointment or removal of any officer employee appointed by the Mayor, and then the second part is that neither the Council nor its Members shall give orders to any County employees or officers without saying that it's only the Mayor's appointment. So it would be all appointments made by anyone. Ed, could you tell me if I've got that right?

MR. KUSHI: Section 1 is correct, your interpretation, excuse me. Section 2, is, references...says they can't order anybody around except for people that are appointed by the Council, County Clerk's Office or Legislative Office.

MEMBER STARR: Managing Director?

MR. KUSHI: Possibly Auditor's Office, they're are all Legislative Branch appointees.

MEMBER STARR: And the Managing Director?

MR. KUSHI: No.

MEMBER STARR: Isn't that...

MR. KUSHI: Well, it's questionable, whether or not, you know, that's why I left it out, because, you know, following up with Tamara's question is that, you know, the Managing Director has nine bosses now. He would have nine bosses and don't tell me a quorum, or less than a quorum will not bring the Managing Director in this office and tell 'em I want this to happen. Don't tell me that's not going to happen.

MEMBER STARR: So is there...

MR. KUSHI: Because the Managing Director as you guys have structured it is at will by the, appointed by the Council, they have nine bosses. So I think leaving the Managing Director in this section is very inconsistent.

MEMBER CANTO: Chair?

CHAIR TAKITANI: Pua?

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MEMBER CANTO: Is he done?

CHAIR TAKITANI: Yes.

MEMBER CANTO: Are you done, Jonathan?

MEMBER STARR: I'm still a little confused, Chair.

CHAIR TAKITANI: He's contemplating, go ahead.

MEMBER STARR: Let me think about it while someone else ask questions.

MEMBER CANTO: Okay. I have, well, I want to propose something, right now we're jumping, we have 41 pages to look at and not all of 'em were touched by Mr. Kushi. If we could take Page 1 and start there and deliberate and get past it and move on. Right now we're going from every which way and I think I'd propose to go one page at a time and have Mr. Kushi explain why or why not.

CHAIR TAKITANI: Well there are a lot of...I don't think there's a whole lot of objections today.

MEMBER CANTO: There's five or six.

CHAIR TAKITANI: So I'm just trying to find the objections instead of going through all the pages.

MEMBER CANTO: Yeah.

CHAIR TAKITANI: And this is only on Page 2.

MEMBER CANTO: There's six pages with red lines on there and many with brackets.

CHAIR TAKITANI: Is there any objections to Page 1? Okay, let's go to Page 2. So, Kimo?

MEMBER HAYNES: I'm still confused, I thought the recommendation was to have the Managing Director reporting to the Chair of the Council, and in this, as written here this doesn't allow the Council to direct them or order them.

CHAIR TAKITANI: It depends who's your...if you read Mr. Kushi's amendment, all the Councilmembers can direct them. The way it was done by staff, no Councilmember can direct them. Is that fair? Mr. Kushi?

MR. KUSHI: That's the gist of it, Mr. Chair.

CHAIR TAKITANI: Yeah, and so Tamara's point is, wait a second, we supposed to be taking politics out of this thing. We're leaving it in with Mr. Kushi's amendment. We're condoning it and he's saying but you got to be consistent because they have a boss

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and the boss is the Council and if the Council cannot talk to their employee, something's not right.

MEMBER HAYNES: Right.

CHAIR TAKITANI: So what we got to decide, I believe, is Tamara's position versus the other position.

MEMBER HAYNES: But wasn't that already decided in the report, what TIG, the TIG report specified or recommended?

CHAIR TAKITANI: Refresh my memory. What part of it?

MEMBER HAYNES: In terms of who's, who does the Managing Director report to? Under that it was the head of, it was the Chair of the Council, and this takes it either the choices that I, as I understand it is he doesn't, he's not reporting to the Council at all or he's reporting to the entire body of the Council and I think neither one of those are consistent with what the recommendations were on the TIG report.

CHAIR TAKITANI: Okay. Let me see what it says. You have it? I don't see that. Do you have it?

MEMBER HAYNES: I think it was in the, I thought it was listed in the...

CHAIR TAKITANI: And then again, I'm looking at the cheat sheet sort of thing.

MEMBER HAYNES: Yah, was it in there?

VICE-CHAIR SCHAEFER: Matrix.

CHAIR TAKITANI: It's a contracted employee by written employment agreement selected by the Council, vetted by professional independent recruiting firm, narrow applicants, submit candidates to Council, final selection by Council, may include advisory, job description prepared by Department of Personnel Services with assistance, no term limit, powers are...performs responsible management, plans, directs, controls, I don't see anything that says that. Appointed and removed by the Mayor, no, I'm sorry, yeah, there's nothing. Not in the cheat sheet part of it.

VICE-CHAIR SCHAEFER: Mr. Chair?

CHAIR TAKITANI: Madge?

VICE-CHAIR SCHAEFER: So, Mr. Kuchi [sic], you said this is, this Section 3.8 is just silent now?

MR. KUSHI: It's what now?

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VICE-CHAIR SCHAEFER: It's silent on the issue of who can direct the Managing Director?

MR. KUSHI: Violet?

VICE-CHAIR SCHAEFER: Silent.

MR. KUSHI: Oh, silent, oh, yeah. We recommend that the section not be changed and just leave the restriction of the Council not dictating any appointments by the Mayor and leave the Managing Director silent because the Managing Director basically is an employee, appointee of the Council.

VICE-CHAIR SCHAEFER: Okay.

MR. KUSHI: So, you know, it came to our discussion wherein if the Managing Director, if the Council wants the Managing Director to do something and the Managing Director says no, okay, or if the Managing Director says yes, fire that department head, okay, then this would come into play. Then, you know, that department head or whoever's canned would have an action against the Managing Director as well as the Council because then, you know, they'll be supremely micromanaging. The way it is right now it says neither the Council or any of its Members in any manner shall dictate the appointment or removal of any officers appointed by the Managing Director.

VICE-CHAIR SCHAEFER: But I think further on as I recall from the matrix, it said that the removal and appointment would be confirmed by the Council.

MR. KUSHI: Not all of them, not all of them.

MEMBER HAYNES: Just the ones that are currently done by the Mayor.

MR. KUSHI: Right.

VICE-CHAIR SCHAEFER: Okay.

MR. KUSHI: Not all of them, I think just Corp. Counsel, Prosecutors, and Water Supply.

VICE-CHAIR SCHAEFER: Okay.

MR. KUSHI: Other ones are just appointed by the Managing Director, if I'm reading it right.

VICE-CHAIR SCHAEFER: You know, I can only relate to a practical point of view.

MR. KUSHI: Yes.

VICE-CHAIR SCHAEFER: And generally what happens is the Managing Director sits at every Council meeting, through every Council meeting from beginning to end, so gets a clear understanding of what the Council's thinking is on policies and issues as they formulate them. So the opportunity to direct is diminished by that because the

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Councilmember can't say, well the Council, my opinion of what the Council thought about this is and you should do this.

MEMBER CANTO: Chair? But you're assuming the Managing Director will sit in on every meeting.

VICE-CHAIR SCHAEFER: Yes. They do.

MEMBER CANTO: They do?

VICE-CHAIR SCHAEFER: Yes.

MEMBER CANTO: They?

VICE-CHAIR SCHAEFER: They, yes. Well, my experience they did. So it's pretty standard procedure the Managing Director on those every other Friday meetings is there for the whole meeting. Especially on policy issues they're there.

CHAIR TAKITANI: Does our Council meet only every other Friday? Oh yeah, are we talking about like committee meetings or just --

VICE-CHAIR SCHAEFER: No.

CHAIR TAKITANI: --Council?

VICE-CHAIR SCHAEFER: Council.

CHAIR TAKITANI: Regular Council meetings.

VICE-CHAIR SCHAEFER: Yeah.

CHAIR TAKITANI: Go ahead, Paula.

MEMBER FRIEL: Is it written in that they are required to be at every meeting? Or is it...

VICE-CHAIR SCHAEFER: No I'm just saying standard practice is that they attend every meeting because the Managing Director wants to be clued in on what's going on from every aspect and where every Councilmember is and a good Managing Director is going to know.

MEMBER FRIEL: Yeah, but as we learned from our research that not, we shouldn't assume, I mean that's why we're going back on the forth on this whole point right here is because we're being, you know, so if it's not written in we shouldn't assume they're going to be at every meeting. We'd hope that they will be but it's not written in.

VICE-CHAIR SCHAEFER: Well, you're not going to write in every standard practice but that's standard practice.

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CHAIR TAKITANI: Okay so we have a decision to make on this particular language right here. Go with Staff or Corp. Counsel?

MEMBER HAYNES: I'm still confused. So under this change the Managing Director is still under the Executive Branch. So if we don't modify 3.8 the Council has, can't talk to anybody in there right? So they could not direct or order the Managing Director, if we don't make any changes to this section?

MR. KUSHI: Mr. Chair? Kimo, let me try again.

CHAIR TAKITANI: No, they will be able to, the Council can direct because they're the appointing authority, 'cause it says that, No. 2 says the Council nor its Members shall give orders to any employees other than those appointed --

MEMBER HAYNES: Got it.

CHAIR TAKITANI: --pursuant to. Yeah. So they can.

MEMBER HAYNES: The light bulb went on. Thank you.

CHAIR TAKITANI: Yeah. Okay. Jonathan?

MS. WILLENBRINK: Chair?

MEMBER STARR: Yeah, I was confused by this but I'm happy with it. I think this just clarifies chain of command and doesn't allow interference with that.

MS. WILLENBRINK: Excuse me, Chair, may I make a suggestion?

CHAIR TAKITANI: Yes, Kim.

MS. WILLENBRINK: On Page 7, under Powers of the Mayor, it was suggested and if you agree upon it to leave No. 2 as No. 1. So giving the Mayor appointing his own staff. So my suggestion would be for this particular section, keep Section 1 as is and just make the revision to No. 2.

CHAIR TAKITANI: Well I, we're not there yet. What does the body want to do? You want to let the Council interfere or not, that's the question.

VICE-CHAIR SCHAEFER: Well, we let the Mayor interfere now, so.

MEMBER HAYNES: I don't think that's what I'm saying. I don't know if it's interfering but they do --

CHAIR TAKITANI: Dictate.

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MEMBER HAYNES: --have to direct or dictate.

CHAIR TAKITANI: Suggest.

MEMBER HAYNES: Direct is a good word. I would use that.

CHAIR TAKITANI: Direct?

MEMBER HAYNES: There you go so, yeah, I think that's what we're recommending here is that, at...to be able to direct the Managing Director sure.

CHAIR TAKITANI: Okay.

MEMBER HAYNES: To implement policies there has to be some direction.

CHAIR TAKITANI: Okay.

MEMBER HAYNES: But not pass that.

CHAIR TAKITANI: Ray?

MR. PHILLIPS: I think the question still is, is the Chair of Council the one who directs or are we as Mr. Kushi said, you know, do we have nine Council people who are directing, nine bosses? That's a big question.

CHAIR TAKITANI: It's a huge question.

MR. PHILLIPS: It's a huge question and --

CHAIR TAKITANI: It's kind of contrary to everything we're doing here.

MR. PHILLIPS: --definitely politics can get involved if we have nine people who are bosses.

CHAIR TAKITANI: Even if you have one we've noticed.

MR. PHILLIPS: Well, even so, even so, but you're hoping that Chief of Council is, you know, embodying the ideas that are passed on by the rest of the Councilmembers.

CHAIR TAKITANI: That's the politics of it right, you know, it takes five for the one to rise.

MR. PHILLIPS: But that's, I agree, Tony, but it's still no difference than the Mayor --

CHAIR TAKITANI: I agree.

MR. PHILLIPS: --doing the same task.

CHAIR TAKITANI: I exactly agree with you, it's no different.

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MR. PHILLIPS: Politics would be still involved.

CHAIR TAKITANI: Absolutely.

MR. PHILLIPS: Right. So do have an opinion taken from a consensus of nine people or an opinion taken from a consensus of one person?

CHAIR TAKITANI: Or an opinion taken from the Managing Director's, it's his call, and he can't be interfered with. You make your choice and you sort of live with it or remove 'em.

MR. PHILLIPS: Or remove the...

CHAIR TAKITANI: Yeah. Tamara?

MEMBER PALTIN: For me I just read over Section 3.8, as it exists in this Charter and I'm okay with that. That's what he was saying right just --

CHAIR TAKITANI: That's what he was saying, yes.

MEMBER PALTIN: --leaving 3.8, 1 and 2 as it is right now?

CHAIR TAKITANI: As is.

MEMBER PALTIN: I think that's okay.

CHAIR TAKITANI: Okay.

MEMBER PALTIN: I'll withdraw my...

CHAIR TAKITANI: Jonathan?

MEMBER STARR: Yeah, I'm fine with it too especially in the light that we're recommending to the Council and this is, relates to the Council's powers and if they want to change it that's up to them, but I think leaving it as it is in the existing Charter is probably the best move at this point.

CHAIR TAKITANI: Okay. Shall we move on? Page 3, do we want, are there any other...I'm a little bit hesitant to do it page by page.

VICE-CHAIR SCHAEFER: Yes.

CHAIR TAKITANI: If there's, do we have concerns any place else? And not the wording of the amendment, I'll do that last.

VICE-CHAIR SCHAEFER: Okay.

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MEMBER STARR: I'm good, Mr. Chair.

CHAIR TAKITANI: Anybody else? Kehau?

MEMBER FILIMOE`ATU: I'm good too as well. I think what we need to realize what has happened with this resolution or this piece of paper here it's been vetted several times. We've got our Council people helping us, our Staff people helping us and then now we're getting to the point where we got the legalese helping us. So I think we, if we have a problem with the red stuff which is what we got today then that's what we address and that's it.

CHAIR TAKITANI: Okay.

MEMBER FILIMOE`ATU: Other than that I would beg to...

CHAIR TAKITANI: Anybody get problems with some red stuff?

MEMBER FILIMOE`ATU: Yeah, I would beg to make sure we understand. I'm not an attorney so, you know, braddah here is trying to help us out, thank you very much, Mr. Kushi. That's why I wanted to move it.

CHAIR TAKITANI: Well, I want to make sure that we all agree on it.

VICE-CHAIR SCHAEFER: So, Mr. Chair?

CHAIR TAKITANI: Yes, Madge?

VICE-CHAIR SCHAEFER: There were, I mean there been substantial changes not only just in the red, so those issues when do we raise those you said?

CHAIR TAKITANI: Now.

VICE-CHAIR SCHAEFER: Now. Okay. Alright I do have.

CHAIR TAKITANI: But not the ultimate question, okay, not the Charter amendment.

VICE-CHAIR SCHAEFER: No, I understand.

CHAIR TAKITANI: Okay.

VICE-CHAIR SCHAEFER: I do have a question.

CHAIR TAKITANI: Okay.

VICE-CHAIR SCHAEFER: I just got to back and find it. It was regarding in the absence of the Mayor and where is that if I flip through it.

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

CHAIR TAKITANI: She's looking for it.

VICE-CHAIR SCHAEFER: Is it..

MS. WILLENBRINK: Are you talking about vacancy in office?

VICE-CHAIR SCHAEFER: Yes.

MS. WILLENBRINK: Begins on Page 9.

VICE-CHAIR SCHAEFER: I skipped right over it. Okay. Okay, this is an issue and may, perhaps it's not, no longer appropriate because it wasn't recommended or it wasn't included in the recommendations but we heard that people, the community felt that the Mayor should be elected. And the way the vacancy in office works, if the Mayor is unable or unwilling to serve, the Managing Director becomes the Mayor. And if the Mayor, if the Managing Director--which puts a peculiar twist on being Managing Director--the Managing Director is unwilling, then the Director of Finance. It seems like that ought to be if the vacancy occurs that it ought to roll to an elected.

CHAIR TAKITANI: Well, it seems that way but now all our one elected body has all the power. So they're trying not to I think give them the Mayor's power and the Council power.

VICE-CHAIR SCHAEFER: No, you're misunderstanding my point. My point is if the Mayor was unable to serve.

CHAIR TAKITANI: Correct.

VICE-CHAIR SCHAEFER: Okay. Who would be the Mayor for up to a year?

CHAIR TAKITANI: This one says Director of Finance.

VICE-CHAIR SCHAEFER: No, this one says the Managing Director. The Managing...

CHAIR TAKITANI: We take that out, that's a bracket.

VICE-CHAIR SCHAEFER: It says the Managing Director and of Finance, so is Managing out and...

CHAIR TAKITANI: No, let, Madge, let me read it. If the unexpired term is less than one year the Director of Finance shall act as Mayor. That's what it says.

VICE-CHAIR SCHAEFER: Okay. So not an elected?

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CHAIR TAKITANI: Correct. And what makes it difficult getting an elected person, the only place you're going to find an elected person is from the County Council and they're the one that appointed everybody anyway basically by appointing the Managing Director. So --

VICE-CHAIR SCHAEFER: Alright.

CHAIR TAKITANI: --I mean other than the Mayor you have nobody.

MEMBER PALTIN: And that's less than one year anyway right?

CHAIR TAKITANI: Yeah. It's less than one year.

VICE-CHAIR SCHAEFER: Alright, well I just thought I'd raise the concern.

CHAIR TAKITANI: Because what will happen it will create another vacancy in the Council and then you gotta kick all that in.

VICE-CHAIR SCHAEFER: Yeah, that's true. It would happen.

CHAIR TAKITANI: Jonathan?

MEMBER STARR: Yeah, it's similar to what we have now because now it would be, it's not an elected person either.

CHAIR TAKITANI: Correct.

MEMBER STARR: I have a comment also in this vacancy in office. Can I bring that up?

CHAIR TAKITANI: Go ahead.

MEMBER STARR: I, in our deliberations in the TIG I had felt that a Deputy Managing Director should be part of the process since there's likely going to be a need to for one in any case and also that would provide the best continuity. Currently, in the absence of the Managing Director the Corporation Counsel would be left with the duty of performing as the Managing Director. I was not in the majority in the TIG on that and I was happy to go along with the majority of that Committee and I'm willing to go along with it here. Though I think that is something that should be deliberated by the Council, the continuity in the absence of the Managing Director.

CHAIR TAKITANI: Okay. Any other concerns? Are we ready to talk about the actual amendment, Madge?

VICE-CHAIR SCHAEFER: Yeah.

CHAIR TAKITANI: Okay. Madge, propose...oh, Mr. Kushi?

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MR. KUSHI: Mr. Chair, one more thing and I think it's substantive. On Page 7 of the Resolution under Section 6-4, Office of Managing Director. You notice the red deletions and we talked to, I talked to Staff about this, we deleted boards and commissions on Subsections B, C, and D, because to my knowledge and my recollection, I don't think the, this Committee discussed the jurisdiction of the Managing Director over board and commission members. So that's why we took it out. You may want to discuss it.

CHAIR TAKITANI: I would believe that, that would be consistent with what the TIG recommended. Are you, is there something we don't know?

MR. KUSHI: No, I mean, I just...

CHAIR TAKITANI: I mean as I, as it's being recommended the Mayor continues to appoint all boards and commissions but that's just the appointing authority. Is there something beyond that?

MR. KUSHI: Appointing with confirmation by the Council, yeah.

MS. WILLENBRINK: It was an error.

CHAIR TAKITANI: What?

MS. WILLENBRINK: It was an error.

CHAIR TAKITANI: Oh. No, but are you bringing up something else?

MR. KUSHI: No, I'm just pointing it out and want to confirm it by this Committee.

CHAIR TAKITANI: Okay.

MR. KUSHI: Once, board and commissions are basically independent supposedly...

CHAIR TAKITANI: I'm assuming that it's now boards and commissions will be under the province of the Office of the Mayor. Is that what is...

MR. KUSHI: Administratively probably.

CHAIR TAKITANI: Administrative.

MR. KUSHI: But not, the Mayor has a voice but no votes, no vote on boards and commissions.

VICE-CHAIR SCHAEFER: Mr. Chair?

CHAIR TAKITANI: Madge?

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VICE-CHAIR SCHAEFER: So there's no evaluation of boards and commissions by anyone?

MEMBER PALTIN: They're mostly volunteer right?

VICE-CHAIR SCHAEFER: Yes, exactly, so --

CHAIR TAKITANI: I hope nobody's evaluating us.

VICE-CHAIR SCHAEFER: --evaluate the management and performance of each agency and department. So boards and commissions aren't doing it, they aren't being evaluated now, so.

CHAIR TAKITANI: I don't believe so.

VICE-CHAIR SCHAEFER: Yeah.

CHAIR TAKITANI: Jonathan?

VICE-CHAIR SCHAEFER: That makes sense.

MEMBER STARR: Apparently if a board or commission member really goes haywire, the Mayor can remove I believe. What would be the case under the proposal at...

MR. KUSHI: Right now as it exists, I think it's article 13-2 of the Charter, the Mayor can recommend removal --

MEMBER STARR: Okay.

MR. KUSHI: --and the Council, with Council approval for whatever reason, yeah.

MEMBER STARR: That's fine.

MR. KUSHI: And, Mr. Chair, that's it. I'd just like to point out that Staff did a good job in terms of identifying the Charter sections that need to be amended if this thing goes but again this is the first round. This is your Committee Report, it will go to the full Council for its deliberations and we'll have, I'm sure we'll have discussions at that level too. So, you know, I wouldn't get too bogged down in the technical aspects 'cause we'll be looking at it again anyway.

CHAIR TAKITANI: Thank you. Okay let's talk a little bit more about the language. Madge gave us what she considered to be a little bit clearer language and it basically took the comma out over there and made the sentences I believe read a little bit better as well.

VICE-CHAIR SCHAEFER: Does it have to be, is there some rule that says it has to be one long sentence or can it be more than one?

CHAIR TAKITANI: Mr. Kushi?

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MR. KUSHI: You know, I did this draft, I have no pride in authorship, you can rip it up or whatever you want. But again the issue is in ballot questions the people voting should know, should say yes or no to a question, not multiple questions. There are issues when you have a question with, you know, option A, option B, you know, and it just confuses the whole issue.

VICE-CHAIR SCHAEFER: Yes.

MR. KUSHI: And there's case law saying that, you know, some amendments, I believe in Big Island, the Supreme Court overturned the passage because you can't live with one or the other, they cannot be mutually exclusive, mutually...whatever the term is but so I think one question should be listed if at all.

MS. BROOKS: Chair, if I may?

CHAIR TAKITANI: Jonathan first and then...

VICE-CHAIR SCHAEFER: I wasn't finished.

CHAIR TAKITANI: Oh wait, I'm sorry. Wait, wait, I'm sorry, go ahead.

MS. BROOKS: Sorry. I did have occasion to look up the legality shall I say of a ballot question with subparts and there was a Supreme Court, there is a Supreme Court decision of Kahalekai v. Doi in 1979, which basically emphasized the need for the ballot question not to be misleading or deceptive but clear enough so that the voter will have notice what it means. Further, it did cite a case from out of State called State v. Brown, which basically says it's okay to have subparts in a ballot question as long as they're related to a single subject. So in our first, in Staff's first proposed version, the ballot question, it does list it in three subparts. So Mr. Kushi's point I believe is valid that it could be confusing to a voter, they might think that they have an option of A, B, or C, but that does not mean that you have to frame the question all, you know, one sentence. Although you could basically take your A and B in the original version and simply, rather than saying A or B, leave the A and B out but connect it with semicolons in one sentence. So if that's clearer rather than the language that Madge was having problems with, the instead of an elected Mayor, you could do that.

VICE-CHAIR SCHAEFER: This has grown to gigantic proportions, I was simply trying to grammatically do this a little differently. So let me give it a stab, okay, with Mr. Kuchi's [sic] looking over my shoulder so we make sure that's it's perfectly clear to the voter, okay. So a Managing Director appointed by the County Council shall be responsible for the County's daily operations, comma, the appointment and removal of department heads, comma, and the implementation of County policy, okay. The elected Mayor shall continue to represent the County in intergovernmental affairs, approve or veto bills, and nominate members to County boards and commissions.

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CHAIR TAKITANI: I think what you just read was A and B above.

VICE-CHAIR SCHAEFER: Yeah. Yeah. I just think it's grammatically clearer and I don't think it needs to be...

CHAIR TAKITANI: What is the purpose of C? Is that necessary?

MS. BROOKS: Chair, if I may? When staff put in C, it was with the idea that the ballot question would give what the new form of government would be in total, which would be those three parts. However, the idea behind the revised version would be that it gives basically the revision, the revisions only. So since we already have a County Council, and the recommendation would not be to change any of the powers of the County Council, at least Corporation Counsel thought it wasn't necessary to include them, but that was the thinking as to why they were included in the original version.

CHAIR TAKITANI: C, is that what you're talking about C?

MS. BROOKS: Yes.

CHAIR TAKITANI: Okay.

VICE-CHAIR SCHAEFER: So...

CHAIR TAKITANI: Jonathan? Oh, wait, go ahead, Madge, finish.

VICE-CHAIR SCHAEFER: Mr. Kuchi?

CHAIR TAKITANI: Kushi.

VICE-CHAIR SCHAEFER: Kushi, I'm sorry.

CHAIR TAKITANI: Kuchi is this, kuchi kuchi.

VICE-CHAIR SCHAEFER: Can I do that to him as an apology?

MR. KUSHI: Call me Ed. That's fine.

VICE-CHAIR SCHAEFER: So you changed, you modified one and two and put it down below. Is there any problem with using the language in, I'm sorry A and B, just using it in that way? It's...

CHAIR TAKITANI: It's fairly clear.

MR. KUSHI: No. But again, you know, the thought behind one question, one sentence so that the voters know that you can't choose A or B, you got to choose the entire...

VICE-CHAIR SCHAEFER: Okay and so that was the reason why they weren't --

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MR. KUSHI: Correct.

VICE-CHAIR SCHAEFER: --separate sentences. So wouldn't it serve the same purpose if you just put in a colon like you did in this?

MEMBER PALTIN: Semicolon.

VICE-CHAIR SCHAEFER: Actually, class, it's colon.

MR. KUSHI: Do whatever you need to do but as long as it's connected.

VICE-CHAIR SCHAEFER: Yes.

MR. KUSHI: And, Mr. Chair, talking about C about County policy we discussed that and, you know, it's always been our, my office's position that the County Council is the policy maker anyway. And they do it through ordinances or binding resolutions so I think it's just redundant to state it again.

VICE-CHAIR SCHAEFER: Well, I'm not talking about putting C back in.

CHAIR TAKITANI: No, he's just responding to my question.

MR. KUSHI: No, I'm making a comment to what he's talking about.

VICE-CHAIR SCHAEFER: Okay. So what I am proposing is the language in A with it including the semicolon and B become the question.

CHAIR TAKITANI: Jonathan?

MEMBER STARR: Yes I feel that the problem is that we have a long sentence that implements both Mayor and Managing Director and that makes it confusing. I'd like to suggest a way to clarify that in a very simple manner which is utilizing the revised wording. A Managing Director appointed by the County Council shall be responsible for County daily operations instead of an elected Mayor, period, and then the Managing Director will be responsible for the appointment and removal, et cetera, et cetera. So we're just adding, we're just stopping there after the word Mayor and then once again putting in Managing Director. I think that makes it pretty clear.

MR. KUSHI: Mr. Chair, not seeing the entire language, maybe you can take a break and have Staff type it up. You know, I've got a recommendation to make it short, why don't you just say, shall our Charter be amended to delete the Executive Branch? That's what you're doing here.

CHAIR TAKITANI: You know, I think what we got to keep in mind is it's not easy to put in one sentence what we're doing here. This is a big, big change and it needs to be as clear as possible.

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VICE-CHAIR SCHAEFER: Right, I agree.

CHAIR TAKITANI: And as honest as possible.

VICE-CHAIR SCHAEFER: Right.

CHAIR TAKITANI: And so I think by deleting reference to what you're doing to the Mayor's Office would not be accurate.

VICE-CHAIR SCHAEFER: Well, so can the Staff come back with the two questions, the two different formats? Isn't that what was just requested?

CHAIR TAKITANI: Mr. Kushi, is it, on Madge's suggestion of going back to the way it was written and removing the A, what are these things, paren, and B paren. Would it, is that any, it's equivalent in length to yours but I think it does read a little bit smoother.

MR. KUSHI: Mr. Chair, that's fine as long as you make a connection between the two sentences.

CHAIR TAKITANI: Yeah.

MR. KUSHI: With an and.

CHAIR TAKITANI: With a what?

MR. KUSHI: With an and.

CHAIR TAKITANI: And?

MR. KUSHI: Whatever it is, and whatever it is.

CHAIR TAKITANI: And, yeah, instead of the semi colon it should be an and, maybe.

MS. BROOKS: Chair, if I may? I think because of the length of each part if you have a semi colon and then an and, it would show the two portions with the connector.

VICE-CHAIR SCHAEFER: Yes.

CHAIR TAKITANI: Paula, are you, aren't you an English teacher?

MEMBER FRIEL: Yes I am, well more history but what you like me reword? It's the same thing, they're just trying to make it as clear and concise because this is going to be, if it does get pushed to be rushed onto the November ballot in five months a lot of people are really unaware about what's going on and...I have a loud voice so you couldn't even tell I don't have my mic. They're just trying to make it clearer, so that the people and the citizens who are voting can make the best choice possible because many who

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are going to come out are not aware of this issue or about what it really means, especially with the fact that you're still going to have a Mayor but the Mayor has no power and is pretty much just a figurehead is really going to be confusing. So they're trying to present all facets of this in the least, most direct way without being too wordy.

CHAIR TAKITANI: Okay. Kehau?

MEMBER FILIMOE`ATU: I agree there, and I think what needs to be, happen and that's why I don't like the words instead of an elected Mayor in the middle because you're saying that you're going to have this director instead of a Mayor. We know what the director's kuleana should be and it's listed there and then we also state the elected Mayor which we are going to have shall continue to blah, blah, blah. I think the confusion going be is instead when people are looking, oh, we going do this and he instead that. So you have two people right? Our recommendation goes with an elected Mayor and a Managing Director and those two are taken care in this last red stuff, just take up instead of an elected Mayor, put the two people there what they going do and that's what you voting for.

CHAIR TAKITANI: Yeah, that's what A and B says, if you take out the A and B.

MEMBER FILIMOE`ATU: Right 'cause you no like make choices, right?

CHAIR TAKITANI: We no like.

MEMBER FILIMOE`ATU: Yeah, you just like tag 'em with one semicolon, okay, good.

CHAIR TAKITANI: And, a semicolon and the word and.

VICE-CHAIR SCHAEFER: And.

MEMBER FILIMOE`ATU: Yeah, and the elected.

VICE-CHAIR SCHAEFER: And comma yes. Okay.

MEMBER FRIEL: Yeah, I looking at the grammar, I'm sorry.

MEMBER STARR: Mr. Chair? Can we have a short recess and let Staff prepare it and read it out to us when we come back?

CHAIR TAKITANI: I mean it's there.

VICE-CHAIR SCHAEFER: Yeah.

MEMBER STARR: Could Staff read it out then?

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MS. WILLENBRINK: A Managing Director, comma, appointed by the County Council, comma, responsible for the County's daily operations, comma, the appointment and removal of department heads, comma, and the implementation of County policy, semicolon, and an elected Mayor responsible for representing the County in intergovernmental affairs with the authority to approve or veto bills and nominate board and commission members, period.

VICE-CHAIR SCHAEFER: Perfect.

MEMBER FRIEL: Chairman? Mr. Chairman?

VICE-CHAIR SCHAEFER: Perfect.

MEMBER FILIMOE`ATU: I like that.

CHAIR TAKITANI: I think you can get rid of the comma after department heads. That's the way I learned grammar. Jonathan?

MEMBER STARR: Yeah. Is there any reason why we can't just separate it into two sentences? Keep them in one paragraph?

VICE-CHAIR SCHAEFER: One...why?

MEMBER STARR: For clarity.

CHAIR TAKITANI: Then you cannot put the word and in.

MEMBER STARR: Yeah, but...

MEMBER FRIEL: No, you'd put the...

MEMBER STARR: There shall be.

MEMBER FRIEL: After County policy you put a period.

CHAIR TAKITANI: Mr. Kushi, I defer to you on that question.

MR. KUSHI: Maybe after the first sentence you leave the semicolon and instead of and, you provided that an elected Mayor.

MEMBER STARR: Yeah.

CHAIR TAKITANI: Okay. Kehau?

MEMBER FILIMOE`ATU: I would agree with that but the thing is you don't want to separate it because remember this is one vote, one amendment, one initiative. When you start separating it out people will say I voted for this part this way. Then we going get this

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guy. Then the second sentence I voted for this part. Whatever you separate then it always gives a perception that you've got two votes or two options and he's, I'm correct. I go with Kushi, we'll go with that.

MEMBER STARR: Yeah.

MS. WILLENBRINK: Okay. Would you like me to read that again?

CHAIR TAKITANI: Wait, hang on. Kimo?

MEMBER HAYNES: I agree with that and we can put it in one sentence, makes sense. The question on the bottom part and you put shall be. What's the purpose of that? Is that just style or Managing Director appointed by the Council shall be, whereas the section above doesn't have shall be. Is that style or is that...

MEMBER FILIMOE`ATU: It gives a description of what that person can do or going do. That's...see that...

MEMBER HAYNES: I like that.

MEMBER FILIMOE`ATU: Well, the, I'm sorry, point of order.

MR. KUSHI: Sorry, Kimo, I'm not following.

CHAIR TAKITANI: What it is in your correction...

MEMBER FILIMOE`ATU: It's there?

VICE-CHAIR SCHAEFER: No, it's not in A.

MEMBER HAYNES: In the second line, a Managing Director, comma, appointed by the Council, the County Council, comma, shall be responsible. Whereas there's no shall be in the A and B above.

VICE-CHAIR SCHAEFER: I agree.

MR. KUSHI: Okay.

MEMBER HAYNES: It's great wordsmanship.

MR. KUSHI: Take it out.

MEMBER FILIMOE`ATU: You going take it out?

VICE-CHAIR SCHAEFER: No, we want it in.

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CHAIR TAKITANI: Wait the question to you was is it worth anything? Does it do anything different? I don't think it does.

MR. KUSHI: No, it doesn't.

VICE-CHAIR SCHAEFER: So are we, so can we, Mr. Chair, how about if I make a motion that has discussion so that we can finalize this because it's hopping around.

CHAIR TAKITANI: The motion is like this far away to accept the resolution.

VICE-CHAIR SCHAEFER: Okay. But does it now, does it include the word shall?

MEMBER FILIMOE`ATU: Yes.

CHAIR TAKITANI: No.

VICE-CHAIR SCHAEFER: Okay, so you're taking out...

CHAIR TAKITANI: We're using the language in A and B.

VICE-CHAIR SCHAEFER: Okay and I didn't do the comparison I just took your word for it.

CHAIR TAKITANI: Correct.

VICE-CHAIR SCHAEFER: And I should've looked at it because it says shall be.

CHAIR TAKITANI: It doesn't make any difference is what Corporation Counsel said.

VICE-CHAIR SCHAEFER: Okay. And it makes it maybe a little cleaner.

CHAIR TAKITANI: Not really. It just adds two words. Paula?

MEMBER FRIEL: My revision proposal is different from everybody else's.

CHAIR TAKITANI: Your what?

MEMBER FRIEL: My revision proposal if I may for rewording this thing grammatically easier would be a Managing Director appointed by the governor. The County Council shall be responsible for County's daily operations.

CHAIR TAKITANI: Appointed by the governor?

MEMBER FRIEL: I mean whatever, sorry, the responsible...I don't want to read the whole thing, take out, okay County's daily operations with the appointment and removal of department heads, the implementation of County policy. Instead and then so you would just change, take out the part that it says operations, instead of an elected

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Mayor, move him to the end of that statement and then say what his kuleana is, instead of going back and forth.

VICE-CHAIR SCHAEFER: That's what this says.

CHAIR TAKITANI: That's what A and B does.

VICE-CHAIR SCHAEFER: Yeah, that's what A and B says.

CHAIR TAKITANI: That's exactly what it does.

MEMBER FRIEL: But it's just making it a little bit more concise and you can still keep it in one sentence.

CHAIR TAKITANI: We did put it in one sentence.

MEMBER FRIEL: Is that what she read?

CHAIR TAKITANI: Yeah.

MEMBER FRIEL: I need it in writing.

CHAIR TAKITANI: Kehau?

MEMBER FILIMOE`ATU: I think when you're looking at a layperson out there, they're wanting to know why they're voting for this amendment and I think the shall be is indicative or gives good perception because we are now telling them that this Managing Director shall do this, this, this. Remember we already have a Managing Director. People are going to be confused why we're saying this when we already got one.

CHAIR TAKITANI: You guys want to add shall be?

MEMBER FILIMOE`ATU: I mean it was, I think it was put in for clarity that this person is going to be able or shall do this, this, this, this specifically.

CHAIR TAKITANI: You guys want to add shall be?

MEMBER PHILLIPS: Fine.

VICE-CHAIR SCHAEFER: Fine.

MEMBER PHILLIPS: We should.

CHAIR TAKITANI: Okay let's put shall be in there.

MEMBER PHILLIPS: Because you see shall or may.

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MEMBER FILIMOE`ATU: No gotta be shall.

MS. WILLENBRINK: Where?

CHAIR TAKITANI: What if we say just going try?

MS. WILLENBRINK: You want there shall be a Managing Director?

CHAIR TAKITANI: No, a Managing Director appointed by the County Council shall be responsible.

MS. WILLENBRINK: Okay.

MEMBER FILIMOE`ATU: For?

CHAIR TAKITANI: Et cetera, et cetera, et cetera.

MEMBER HAYNES: Ed's revision and taking out instead of an elected Mayor.

MS. WILLENBRINK: Oh I'm working off of A and B.

CHAIR TAKITANI: If you work off A and B instead of the bottom --

MEMBER HAYNES: Okay.

CHAIR TAKITANI: --it's easier.

MS. WILLENBRINK: A Managing Director appointed by the County Council shall be responsible for the County's daily operations, the appointment and removal of department heads, and the implementation of County policy. Now do you want me to keep and, or do you want me to say provided that there shall be an elected Mayor?

CHAIR TAKITANI: Provided that an elected Mayor responsible for representing the County.

MEMBER FRIEL: How about instead of an elected Mayor?

VICE-CHAIR SCHAEFER: No.

CHAIR TAKITANI: No.

VICE-CHAIR SCHAEFER: I think the and was...makes it very clear, and an elected mayor.

CHAIR TAKITANI: Yeah, I like and too.

MS. WILLENBRINK: Okay.

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VICE-CHAIR SCHAEFER: So...

MS. WILLENBRINK: I got it.

VICE-CHAIR SCHAEFER: An elected Mayor, yeah.

CHAIR TAKITANI: And as is right there, and then take out and that's a period. Okay. Now we'll take a...well, you know what, why don't we take a five-minute break for a restroom break. . . .(gavel). . .

RECESS: 11:34 a.m.

RECONVENE: 11:43 a.m.

CHAIR TAKITANI: . . .(gavel). . . Will the Committee please come back to order. I believe we now have a resolution that we've had a complete discussion on and I need a motion to ...what is the actual wording here?

VICE-CHAIR SCHAEFER: No, don't start that again.

MS. WILLENBRINK: The Chair will entertain a motion.

CHAIR TAKITANI: Wait, wait, wait. Okay. I'll entertain a motion to accept this resolution as the recommendation of the Committee.

VICE-CHAIR SCHAEFER: So moved.

MS. WILLENBRINK: As revised.

CHAIR TAKITANI: It dies for lack of a second. . . .(laughter). . .

MEMBER HAYNES: Second.

CHAIR TAKITANI: Oh, okay. Thank you. Any further discussion? Jonathan?

MEMBER STARR: Mr. Chair, should we utilize the suggested wording?

CHAIR TAKITANI: You know, I'm sorry, I'm sorry to interrupt. I was just joking about the thing dying, okay, just in case for the record.

MEMBER STARR: I believe there is suggested wording for the motion. Do I have that right, Kim?

MS. WILLENBRINK: Yes if you could include as revised?

CHAIR TAKITANI: Oh and revised, okay.

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MS. WILLENBRINK: Yes. And before you take the vote, may I just interject that a silent vote is a yes vote.

CHAIR TAKITANI: Thank you. Ray?

MEMBER PHILLIPS: Tony, should we reread it? So everybody's very clear.

CHAIR TAKITANI: Well, we voting on the entire resolution.

MR. PHILLIPS: Yeah, should we reread it.

CHAIR TAKITANI: And I don't want us to read this.

MR. PHILLIPS: No, oh, okay.

MS. WILLENBRINK: We have a motion on the floor. Do we have a second?

CHAIR TAKITANI: Yes, we did have a second, Kimo did.

MEMBER STARR: And, Mr. Chair, my, clear that the motion is to implement the recommended wording that's in the Committee Report, is that what we're talking about?

CHAIR TAKITANI: We're not talking about the Committee Report. We're talking about the resolution and at the end of the resolution there is the actual wording from our perspective. Remember now this is just a recommendation to the County Council. They can change this in any way, shape, manner or form, but this is our recommendation on what the wording for a Charter amendment should look like and the rest of it is the resolution showing that they asked us to take a look at it, they told us to make the Charter recommended changes, and then they asked us for a Charter, a ballot question.

MEMBER STARR: I'm still unclear about what the motion is. I think we need to have a motion that adopts the resolution including the Charter language.

VICE-CHAIR SCHAEFER: That's what we did.

CHAIR TAKITANI: That's all in the resolution. If we adopt this resolution, we're adopting the Charter language, the changes to the Charter, and the language that goes on the ballot.

MEMBER STARR: But I did not hear that stated as the motion, I just...

CHAIR TAKITANI: Well, that's not...go make the motion.

VICE-CHAIR SCHAEFER: No, there's a motion on the floor.

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MS. BROOKS: Chair, if I may?

CHAIR TAKITANI: Yes.

MS. BROOKS: The motion on the floor is that this Committee recommend to the Council that they adopt the resolution with the proposed Charter amendments.

MEMBER STARR: Thank you.

CHAIR TAKITANI: Okay. Any further discussion on this?

MEMBER PALTIN: Would it be possible to just read the proposed Charter amendment language?

CHAIR TAKITANI: No. What is possible is to read just like the ballot stuff?

MEMBER HAYNES: Yeah.

CHAIR TAKITANI: Okay. Can you ballot proposed language please?

MEMBER PALTIN: Yeah, that's what I was asking.

MS. WILLENBRINK: Shall the Charter be amended to establish the following structure of governance for the County of Maui, colon, a Managing Director appointed by the County Council shall be responsible for the County's daily operations, comma, the appointment and removal of department heads, comma, and the implementation of County policy, semicolon, and an elected Mayor shall be responsible for representing the County in intergovernmental affairs, comma, with the authority to approve or veto bills, comma, and nominate board and commission members, period.

CHAIR TAKITANI: Okay. No further discussion? All those in favor, please signify by raising your right hand.

MS. WILLENBRINK: It needs to be stated.

CHAIR TAKITANI: All those in favor, say "aye."

MEMBERS: Aye.

CHAIR TAKITANI: Opposed?

MEMBERS: No.

CHAIR TAKITANI: Okay. Motion carries.

MS. WILLENBRINK: Do you have the "noes?"

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CHAIR TAKITANI: You want roll call?

MS. WILLENBRINK: Yes, please. This is a pretty important one.

CHAIR TAKITANI: Okay. Pua Canto.

MS. WILLENBRINK: Pua Canto.

MEMBER CANTO: No.

MS. WILLENBRINK: Kehau Filimoe`atu.

MEMBER FILIMOE`ATU: Aye.

MS. WILLENBRINK: Paula Friel.

MEMBER FRIEL: No.

MS. WILLENBRINK: Kimo Haynes.

MEMBER HAYNES: Aye.

MS. WILLENBRINK: Tamara Paltin.

MEMBER PALTIN: Aye.

MS. WILLENBRINK: Ray Phillips.

MEMBER PHILLIPS: Aye.

MS. WILLENBRINK: Madge Schaefer.

VICE-CHAIR SCHAEFER: Aye.

MS. WILLENBRINK: Jonathan Starr.

MEMBER STARR: Aye.

MS. WILLENBRINK: Anthony Takitani.

CHAIR TAKITANI: No.

MS. WILLENBRINK: That is four "ayes" and six "noes."

CHAIR TAKITANI: No, no, no.

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MS. WILLENBRINK: I'm so sorry. . . .(laughter). . . I just blew it. Six "ayes" and three "noes." Thank you, Clarita.

VOTE: AYES: Vice-Chair Schaefer, and Members Filimoe`atu, Haynes, Paltin, Phillips, and Starr.

NOES: Chair Takitani, and Members Canto and Friel.

ABSTAIN: None.

ABSENT: None.

EXC.: Members DeLeon and Okamoto.

MOTION CARRIED.

ACTION: Recommending ADOPTION of the resolution, as revised.

CHAIR TAKITANI: Thank you very much. Another piece of business we have, do I have to accept something? Do I have to say some words to make that official?

MS. WILLENBRINK: No.

CHAIR TAKITANI: Okay. Thank you. You have on your desk our...it's not a proposed, our Committee Report. It is a proposed Committee Report. It says Special Committee on Governance and the last page it has all of our signatures. So I don't think we need to meet anymore and I don't want to have a meeting just for the purpose of signing this. There will be some changes made to this based upon some of the things we did today. So I am asking you to find the time within the next week. Is that reasonable, is that sufficient? Or this week, why don't we do it this week that when the Committee Report is finalized to come in and sign it or in the situation where people are from Molokai and Lanai can it be done electronically?

MS. WILLENBRINK: I don't know.

CHAIR TAKITANI: I think, you know, in this day and age if cannot something's wrong so I hope it can be done electronically and send the hardcopy back signed.

VICE-CHAIR SCHAEFER: Mr. Chair, are you talking about we're not going to discuss this today?

CHAIR TAKITANI: We can discuss it but I, yeah, we can. I don't think we're going to take action on it today.

VICE-CHAIR SCHAEFER: Okay, but discussing it so that there's any changes.

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CHAIR TAKITANI: Yeah.

VICE-CHAIR SCHAEFER: For instance, the, on Page 7...

CHAIR TAKITANI: Let me finish my stuff and then we can go discuss it.

VICE-CHAIR SCHAEFER: Okay.

CHAIR TAKITANI: And then and please be cognizant today 'cause you got to sort of, they told me in order to do this signature post meeting that you got to state your position and you cannot change your position. So if you're going to sign this, just sign it as a yes. Some of us will actually put I do not concur or maybe with reservation but we have to state our position today. Okay. Okay. Let's talk about its contents.

VICE-CHAIR SCHAEFER: Well, Mr. Chair, the first thing that I would ask is that the language be amended on Page 7 to what we just adopted.

CHAIR TAKITANI: Correct.

VICE-CHAIR SCHAEFER: So that would be changed.

CHAIR TAKITANI: Yeah.

MS. WILLENBRINK: What language?

VICE-CHAIR SCHAEFER: The revised Charter to the County of Maui, that language would be changed.

MS. WILLENBRINK: That's the title of the resolution.

VICE-CHAIR SCHAEFER: Okay.

CHAIR TAKITANI: Oh, yeah.

VICE-CHAIR SCHAEFER: Okay so the language isn't...I'm just flashing.

CHAIR TAKITANI: Yeah, we're not going change that, correct.

MS. WILLENBRINK: We do or don't need to change that?

CHAIR TAKITANI: We don't need to change that.

VICE-CHAIR SCHAEFER: So could we take a, just take a few minutes to read this, yeah?

CHAIR TAKITANI: Yeah, please.

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MS. WILLENBRINK: And while you're reading keep in mind that we have an extensive review process in our office, Sharon and I worked on this only so far so there will be revisions.

CHAIR TAKITANI: Yeah.

MS. WILLENBRINK: But it won't be to the substance but there may be things that are removed. This particular report is much longer than our normal reports are three pages or less.

[Long pause while Members review the draft Committee Report.]

MS. WILLENBRINK: At the bottom of Page 3, in the final paragraph talking about Mayor Alan Arakawa, Managing Director, Keith Regan and Paul Kailiponi, Chair of Cost of Government, a suggestion by Staff is to add Charmaine, former Mayor Charmaine Tavares because her testimony was significant and she did respond to Jonathan's questions.

CHAIR TAKITANI: Along those lines isn't everybody that testified here going to be someplace in, I mean don't they get verbatim of what is said?

MS. WILLENBRINK: Yes. Verbatim minutes are provided after, try to be within 30 days after each meeting and *Akaku* DVD is available.

CHAIR TAKITANI: Would the Council have all of this?

MS. WILLENBRINK: It's already being uploaded to our websites and the answer is yes.

MEMBER STARR: Mr. Chair?

CHAIR TAKITANI: Jonathan?

MEMBER STARR: Will the TIG report be attached?

CHAIR TAKITANI: Which report?

MEMBER STARR: The TIG report in its entirety.

CHAIR TAKITANI: I hope so.

MS. WILLENBRINK: Yes.

CHAIR TAKITANI: We haven't reached that one yet, 'cause I'd also like to if it's okay with the Committee, attach the minority report but if there is strong opposition to that I won't do that.

MEMBER HAYNES: I'm opposed to that.

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CHAIR TAKITANI: Why?

VICE-CHAIR SCHAEFER: Could we finish reading this?

CHAIR TAKITANI: Out of curiosity. Oh, I'm sorry.

VICE-CHAIR SCHAEFER: I'm sorry. I'm still reading.

[Long pause while Members continue to review the draft Committee Report.]

MEMBER STARR: Okay, can we proceed?

VICE-CHAIR SCHAEFER: No. I'm not finished. Sorry.

[Short pause while Vice-Chair Schaefer continues to review the draft Committee Report.]

VICE-CHAIR SCHAEFER: I'm sorry. You were waiting. I'm sorry.

CHAIR TAKITANI: Okay. Any discussion on the Committee Report?

VICE-CHAIR SCHAEFER: Yes.

CHAIR TAKITANI: Madge?

VICE-CHAIR SCHAEFER: On the...on Page 5, oh, wait a second. On Page 4, second paragraph, item where there's issues itemized, No. 3, directors qualifications, all the others are, have modifiers, transparency or lack of and I think on No. 3, lack of director's qualifications, the words lack of, should be added.

CHAIR TAKITANI: Got it.

VICE-CHAIR SCHAEFER: Okay, and on Page 5, Item 3, there is, okay, there is no real need to change the current form of governance because objective parameters indicate it is working well, e.g. the County has the highest municipal bond rating in the State. The Cost of Government report specifically calls out this issue and has a lengthy discussion and the bond rating has nothing to do with there being a Mayor or a County manager. It has to do with the economics...

CHAIR TAKITANI: You're arguing the point. The point that this paragraph makes is that it was a statement that was brought up by members. So I mean that's factual.

VICE-CHAIR SCHAEFER: But it's not factual.

CHAIR TAKITANI: No it may not be correct but it's factual that members of the Committee brought it up.

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VICE-CHAIR SCHAEFER: Alright, alright, but the Cost of...okay, and one more on Page 6, that should be changed to the correct verbiage, shall be responsible.

CHAIR TAKITANI: Correct.

VICE-CHAIR SCHAEFER: Okay. The Charter amendment.

CHAIR TAKITANI: The ballot question?

VICE-CHAIR SCHAEFER: Yeah, the ballot question.

CHAIR TAKITANI: Yeah, that will be amended.

VICE-CHAIR SCHAEFER: Okay.

CHAIR TAKITANI: Anything else?

VICE-CHAIR SCHAEFER: No that's it.

CHAIR TAKITANI: Anyone else?

MS. WILLENBRINK: You'll see the vote will change as well.

CHAIR TAKITANI: I'm sorry?

MS. WILLENBRINK: The vote will change, we put everyone in there but there are two people missing today.

CHAIR TAKITANI: Oh, okay. Okay so, the Committee Report will be prepared, will be circulated by about when? It's not going to be circulated. You got to come in except for those on Molokai or Lanai. Or can we circulate it and we can all do it electronically or?

MEMBER FRIEL: That was my question to her was if we're going to get an electronic copy of the fixed one?

CHAIR TAKITANI: Yeah.

MS. WILLENBRINK: If we take a brief recess I can clarify that.

CHAIR TAKITANI: Recess. ...(gavel)...

RECESS: 12:04 p.m.

RECONVENE: 12:10 p.m.

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CHAIR TAKITANI: ...*(gavel)*... Can we come back to order please. Okay, anymore discussion on the Committee Report? Okay, so the Committee Report will be available in a couple of days and we would ask that the Members from Maui, you'll be notified when it's done, come in and sign. And sorry for the inconvenience but it's time for us to help them out.

VICE-CHAIR SCHAEFER: Yes.

CHAIR TAKITANI: And for the Members on Molokai and Lanai we'll send you separate signature pages that you can sign okay. Tamara?

VICE-CHAIR SCHAEFER: Do you need a motion on this or?

CHAIR TAKITANI: I don't think so it's just a Committee Report. Usually Committee Reports I just sign it and it would go in but I thought in this particular instance it kind of would make more sense for all of us to sign.

VICE-CHAIR SCHAEFER: Okay. I just didn't know whether we needed that housekeeping item.

CHAIR TAKITANI: I don't think we need. Tamara?

MEMBER PALTIN: So just asking, we come to the County Building, what hours and where do we go?

CHAIR TAKITANI: They're going to call you or they're going to let you know that it's ready.

MEMBER PHILLIPS: Please call us.

CHAIR TAKITANI: And you work it out with them.

MEMBER PALTIN: Okay.

CHAIR TAKITANI: Okay.

MEMBER PALTIN: Okay. Thank you.

MS. WILLENBRINK: I'll call. I see how often people check their e-mail.

MEMBER PHILLIPS: Please call us.

CHAIR TAKITANI: Yeah, there you go.

MS. BROOKS: Chair, if I may?

CHAIR TAKITANI: Yes.

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MS. BROOKS: I just want to underline the importance of when you sign, you know, sign your name, if you are going to sign anything else with your name, then you need to say it now in the open meeting because you need to sign only your name otherwise.

MEMBER STARR: Could you repeat that please?

CHAIR TAKITANI: She's saying that if you're going to, I think it's kind of what I said earlier, that if you're going to sign anything other than just your straight name, if you're going to put I do not concur or with reservations, I think she's indicating that we need to somehow put it on public record now. So for the record I will be signing I do not concur. Yes, ma'am?

MEMBER FRIEL: May I say the same thing? I will be signing it but I do not concur.

CHAIR TAKITANI: Pua?

MEMBER CANTO: I will sign and again I do not concur. Thank you.

CHAIR TAKITANI: I don't know what we do for the other two members that aren't here. My speculation is they would probably sign a non-concurrence for the record but I can't speak for them. But I think they spoke enough for the last six months. Okay. Jonathan?

MEMBER STARR: Mr. Chair, can we take action to adjourn after the completion of the Committee Report?

CHAIR TAKITANI: I don't, what I do need before we even contemplate that is I do a need a motion to file the correspondence dated December 17, 2015. That's the thing that created us and if we don't file it and put it back it doesn't, the whole thing doesn't go back to the Council.

MEMBER STARR: Can I make that motion but with an effective date which is the date of the Committee Report being...

CHAIR TAKITANI: I think, Jonathan, I'm not going to call another meeting.

MEMBER STARR: Okay.

CHAIR TAKITANI: So...

VICE-CHAIR SCHAEFER: What if the Council wants us to?

CHAIR TAKITANI: I'm not going to call another meeting.

MEMBER STARR: Okay. What I'm saying, can we file it now and still have the Committee Report be executed as it was laid out to us?

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CHAIR TAKITANI: Can we file what now?

MEMBER STARR: The resolution and correspondence as you laid out in your suggested motion?

MS. WILLENBRINK: That is normally what begins the Committee Report, we just did it early so that you would have an opportunity to kind of see the framework.

VICE-CHAIR SCHAEFER: So, Mr. Chair?

CHAIR TAKITANI: Yes, ma'am?

VICE-CHAIR SCHAEFER: So when this report goes to the Council Committee and then to the Council it will be before this Committee is dead? Okay.

CHAIR TAKITANI: It will be somewhere around early June.

VICE-CHAIR SCHAEFER: Before they...well, what I'm saying is, no, I'm saying that the Committee, I think was the drop dead date for this Committee was in September, correct? June.

MS. WILLENBRINK: You have 180 days to make your decision and then there is something in the reso, or September 30th, whichever comes first.

VICE-CHAIR SCHAEFER: Okay.

MS. WILLENBRINK: But let me make another clarification. This is not going to the Committee, this is going directly to the Council who I'm fairly certain will refer it to the Committee because they don't generally have discussion on the Council floor and this is going to require extensive discussion.

VICE-CHAIR SCHAEFER: Okay. So my point is, Mr. Chair, you may, it would be appropriate for you to be at that Committee if you --

CHAIR TAKITANI: Probably.

VICE-CHAIR SCHAEFER: --so choose.

CHAIR TAKITANI: Yeah.

VICE-CHAIR SCHAEFER: So I would argue the point that we not dissolve or whatever that we stay --

CHAIR TAKITANI: We not going dissolve.

VICE-CHAIR SCHAEFER: --as a Committee. Okay. I want that clear so that when you speak or when any of us speak we are still members of the Committee.

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CHAIR TAKITANI: I'm fine with that.

VICE-CHAIR SCHAEFER: Okay.

CHAIR TAKITANI: Jonathan?

MEMBER STARR: So you're still entertaining a motion of...

CHAIR TAKITANI: Yes, I need a motion.

MEMBER STARR: I move that with the understanding that the Committee Report is being prepared and will be executed that correspondence dated December 17, 2015 be filed.

CHAIR TAKITANI: Thank you. I need a second now.

MEMBER PALTIN: Second.

CHAIR TAKITANI: Thank you, Tamara. Any discussion? All in favor?

MEMBERS: Aye.

CHAIR TAKITANI: Any opposed? Motion's carried.

VOTE: AYES: Chair Takitani, Vice-Chair Schaefer, and Members Canto, Filimoe`atu, Friel, Haynes, Paltin, Phillips, and Starr.

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Members DeLeon and Okamoto.

MOTION CARRIED.

ACTION: Recommending FILING of correspondence dated December 17, 2015.

MEMBER STARR: Mr. Chair?

CHAIR TAKITANI: Jonathan?

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MEMBER STARR: Before we finish up today there's something I need to say and that is that this has been an honor and a really interesting experience and primarily because of the quality and excellent work of the crew from Council Services and Corp. Counsel and other people that helped. And I always felt the Committee Members really stepped forward and I was proud to be a part of it and I want to thank everyone.

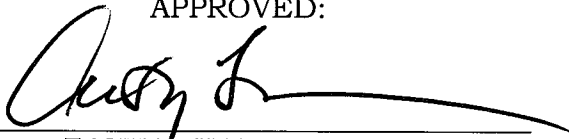
CHAIR TAKITANI: Thank you.

MS. WILLENBRINK: Mr. Chair? May I just read the two be it resolves so that it's clear? Be it resolved No. 2, that the Special Committee must finish its meetings and provide its written recommendations to the Council within 180 days following the date this resolution is adopted provided that the Council may extend that time by resolution. We are looking at a May 27th posting for the June 3rd meeting and we have gotten verification from Corp. Counsel that as long as it's posted prior to your 180 days that that meets the requirement. No. 3, that the Special Committee will remain constituted only until the Council proposes a County Governance Charter amendment to be placed on the 2016 General Election ballot or until September 30, 2016 whichever comes first.

CHAIR TAKITANI: Thank you. Any further discussion? On behalf of the Committee I'd like to thank the public that has stayed with this and have come out pretty steadily for all of our meetings. We appreciate your efforts. To the Staff, you guys have been awesome to work with. Thank you very, very much. Corporation Counsel, you guys are crackerjack. I think you guys should all get pay raises. . . .(laughter). . . I'd like to thank each of you for your hard work. Okay. We're adjourned. Thank you. . . .(gavel). . .

ADJOURN: 12:18 p.m.

APPROVED:



TONY TAKITANI, CHAIR
Special Committee on County
Governance

cg:min:160509:jp

Transcribed by: Jean Pokipala

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CERTIFICATE

I, Jean Pokipala, 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 31st day of May, 2016, in Kahului, Hawaii



Jean Pokipala