

**POLICY, ECONOMIC DEVELOPMENT, AND AGRICULTURE
COMMITTEE**

Council of the County of Maui

MINUTES

July 3, 2018

Council Chamber, 8th Floor

RECONVENE: 9:27 a.m.

PRESENT: Councilmember Yuki Lei K. Sugimura, Chair
Councilmember Stacy Crivello, Vice-Chair
Councilmember Alika Atay
Councilmember Elle Cochran (out 11:09 a.m.; in 11:35 a.m.)
Councilmember Don S. Guzman (in 9:38 a.m.; out 10:47 a.m.; in 11:09 a.m.;
out 11:46)
Councilmember Kelly T. King

EXCUSED: Councilmember Robert Carroll
Councilmember Riki Hokama
Councilmember Mike White

STAFF: Shelly Espeleta, Legislative Analyst
Clarita Balala, Committee Secretary

Kate Griffiths, Executive Assistant to Councilmember Kelly T.
King
Trinette Furtado, Executive Assistant to Councilmember Alika
Atay
Aiden Velasco, Intern, to Councilmember Don S. Guzman

ADMIN.: Edward S. Kushi, Jr., First Deputy Corporation Counsel,
Department of the Corporation Counsel
David Underwood, Director, Department of Personnel Services

Seated in the gallery:
Jack Kulp, Deputy Director, Department of Finance

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

CHAIR SUGIMURA: . . .(*gavel*). . . Good morning, everyone. Thanks for being here. Today is our continuation of our meeting from July 2nd for the Policy, Economic Development, and Agriculture Committee. It was recessed yesterday after our meeting. Thank you everybody for being here. My name is Yuki Lei Sugimura and I am your Chair. Thank you, Stacy Crivello, my Vice-Chair, for being here.

VICE-CHAIR CRIVELLO: Good morning.

CHAIR SUGIMURA: Good morning. We have Alika Atay.

POLICY, ECONOMIC DEVELOPMENT, AND AGRICULTURE COMMITTEE MINUTES
Council of the County of Maui

July 3, 2018

COUNCILMEMBER ATAY: Good morning.

CHAIR SUGIMURA: Elle Cochran.

COUNCILMEMBER COCHRAN: Aloha, Chair.

CHAIR SUGIMURA: Good morning. And Kelly King.

COUNCILMEMBER KING: Good morning, Chair.

CHAIR SUGIMURA: Good morning. Excused are Bob Carroll, Mike White, Riki Hokama and Don Guzman is on his way. He should actually be here shortly.

PEA-10(2): PROPOSED CHARTER AMENDMENTS (COUNTY GOVERNANCE) (CC 17-11 and CC 17-222)

CHAIR SUGIMURA: Yesterday . . . I just want to talk about some of the procedural things that we are up against being that we have a Clerk's deadline of August 23rd to submit the question to the Clerk to appear on the November ballot. We also have . . . Charter amendments have to go through two Council meetings of which that will determine the deadlines that we're up against, and I think I've told you this at every single meeting. So, if by going through today's meeting, we are going to take up the County Governance – PEA-10(2) again and continue on with that discussion. We also have a lot of amendments that were submitted to you yesterday and we have some today. Ms. Cochran, you might have some also you've mentioned?

COUNCILMEMBER COCHRAN: No.

CHAIR SUGIMURA: You do not. Okay, so we have from Don Guzman as well as from Kelly King. We have some additional amendments that were passed out. I was going through the entire document just to get everybody up to speed with the changes that were proposed, the initial changes that were proposed. Because we're on a time crunch, I'm wondering where you are – the Committee members if you would like to continue with this method of going item-by-item or are you fine with taking up the amendments? I guess it depends on how familiar you are with the document. Ms. King, you have a comment?

COUNCILMEMBER KING: Yeah. I'm just a little disheartened with this bare quorum, Chair. And, you know, yesterday, there was a comment made that we were going to defer two other items because of the bare quorum and then we moved ahead with this one. And I'm a little worried about moving ahead with, you know, I think it was . . . it's actually good to go over the changes, maybe not as detailed as we did yesterday but I'm a little worried about somebody who, you know, not being here for this discussion who has amendments themselves and then, you know, we're going to have to redo the discussion when Mr. Guzman gets here. So, I'm just kind of a little baffled about the, you know, what we're doing here with the bare quorum. Is there anything that has a possibility of

POLICY, ECONOMIC DEVELOPMENT, AND AGRICULTURE COMMITTEE MINUTES
Council of the County of Maui

July 3, 2018

being passed today with this bare quorum? And it's probably your frustration too so, I just . . . I don't, I'm kind of, you know, what is your thought on moving forward with voting on these issues today because is there another date that you were looking at as possibly extending this meeting to?

CHAIR SUGIMURA: So, Members, that's a good question. So, depends on how far we go. As far as quorum goes, as you know from your Committee or any of our other Committees it is who shows up. And there's nothing we can do about it. We just will wait to see who does show up. I do know that Mr. Guzman should be here shortly because he did say he was going to be 30 minutes late so we're right there. And, you know, others who said they were going to be late they're here. So, you know, we're grateful.

COUNCILMEMBER KING: Okay. And yesterday . . .

CHAIR SUGIMURA: As far as us proceeding with our business, I'm not going to stop because of bare quorum. I want us to continue on and finish this and get to all the amendments. I think we have so many amendments that it deserves to be discussed, and we need to. So, . . .

COUNCILMEMBER KING: Well, let me just finish my thought because, you know, I agree with you. I agree that we need to have this discussion, but I don't understand the comment yesterday about, you know, skipping over some because of bare quorum and going to others. And what does that mean for, you know, we have three more Charter amendments that we're going to be discussing if we can get through them. So, I guess my question is, is there another date to extend this into?

CHAIR SUGIMURA: So, . . .

COUNCILMEMBER KING: We have probably what will fill the rest of the agenda today. We were told yesterday that there was seven people who said they would be here today but apparently there's only gonna be six at the most. So, yeah, it's just . . . I guess I'm expressing frustration and I also want to know if there's a possibility of extending this into another date so that we can realistically look forward to and maybe we just go through all of the Charter amendments today and then we take the vote later on hoping there will be more people. But I think it should be fair, if we're going to wait until we get more Members on the other Charter amendments then we should wait for this one to actually do the vote.

CHAIR SUGIMURA: So, if I could, that one that you're talking about at that meeting which was on June 19th . . . June 20th, Member Guzman asked that the Water Director item that he had be taken up later because of bare quorum. So, that was his discussion about that, but we did, you know, proceed on with the agenda. So, today, I am going to proceed on with the discussion because we need to as well as I'm really concerned about getting through all the amendments. And I was trying to go through the item . . . the proposal section by section because as you know when you get to I think it's Page 12 it lists from there forward Section 12 I think it's all the Directors and Deputies. Section 9

POLICY, ECONOMIC DEVELOPMENT, AND AGRICULTURE COMMITTEE MINUTES
Council of the County of Maui

July 3, 2018

of Page 12 it goes through . . . Section 12, sorry. It goes through all the Directors, all the Administrative heads and it's pretty . . . some boiler plate language.

COUNCILMEMBER KING: Right.

CHAIR SUGIMURA: But other than that, I think all of you have read this proposal so if you're comfortable proceeding on and talking about amendments without having it go through item-by-item, you know, that will buy us time that I think is valuable at this point because we have a deadline. We absolutely gotta take a vote on this and finish this discussion so that we can get it on to the or go through the two Council meetings of which, you know, we have to have and to get on to the ballot. So, we're under some pretty tight deadlines.

COUNCILMEMBER KING: Okay, my, my . . .

CHAIR SUGIMURA: So, Members, I would like to throw it out to you if you would like to go, you know, still item . . . section-by-section or are you comfortable taking up the amendments?

COUNCILMEMBER KING: So, I'm comfortable, Chair, taking up the amendments but my point is, I guess if we're going to wait for bare, for more than a bare quorum to vote on the other Charter amendments, I would like to, you know, once we get through the discussion defer this until we get more people as well.

CHAIR SUGIMURA: I'm not going to bank on that happening, right so, we need to take action as it happens. So, if we have bare quorum today and we have bare quorum the next day if we're able to schedule something and we don't finish, we still have to finish this, so I want us to move forward as best as we can as a Committee that will show up. So, I just want to throw that out. Anyone have any discussions on it? Ms. Crivello?

VICE-CHAIR CRIVELLO: Thank you. I can understand the frustration because we're all facing that, Chair, no matter what Committee we're serving on. But this is such a . . . this and the other . . . you know, when we're dealing with the Charter it's very intense. It's not something that we're just going to say this is it because for instance last election or the ballot the public approved the qualifications and, you know, and that was, in our mind, a means of trying to address some of the concerns that was brought up earlier about the governance changing. Let's say this particular reso it's 42 pages and, you know, for us to go section-by-section it will take more time for us to understand. And I'm thinking now if we're going to start, if we're going to put this on the ballot, how are we going to educate the public on all these sections? So, how are we going to simplify this so that the public has a clear understanding on what they're voting for? So, that's my concern. And then I'm thinking too we've had this vetted two years ago through a Committee and it failed to go on the ballot, and we're making another attempt now. And so, if you look at how much time we're actually putting into this, Charter Commission I think is coming up in another couple years would be in the best position to really, really dissect what the proposal is, and it goes further by going into each district and then there's the educational process. So, something as major as changing our governance, is that

POLICY, ECONOMIC DEVELOPMENT, AND AGRICULTURE COMMITTEE MINUTES
Council of the County of Maui

July 3, 2018

something we should take lightly, you know, whether we're for it or against it? I think it's a matter of how much do we want to vet this out. It's before us and quorum is a problem, but we do have quorum. So, if it is the, you know, at the Committee's decision to have the . . . put it to a vote, then so be it. But if we're going to be dealing with amendments every time we meet then how tight is this that it comes before us with amendments and then keep adding more amendments to it? So, that's what I'm trying to say is that the vetting is very involved. I think, you know, and I would look at the maker of the bill, you know, if how much more amendments will Councilmember Guzman and Councilmember King and any other one of us will be submitting for us to study further. We only get this this morning and we have no control over that. We've got Sunshine Laws. So, do we talk it out here in the Chamber, we take a break, dissect it ourselves, and try to understand what's before us? Frustrating . . . very frustrating because you know what unless I'm wrong we're really stripping the Mayor off the Mayor's full responsibility and why the people are electing a Mayor, you know. And I said it yesterday, I'll say it again, why have a Mayor?

CHAIR SUGIMURA: Anybody else have a comment? Ms. King?

COUNCILMEMBER KING: I think Ms. Cochran, did you have a comment?

CHAIR SUGIMURA: I don't see her light on.

COUNCILMEMBER COCHRAN: Well, I was just saying I'm good with amendments and move forward. But that's my take right now.

CHAIR SUGIMURA: Okay.

COUNCILMEMBER KING: I'm concerned, Chair, are we debating the issue right now or are we just talking about whether to move forward and, I mean, we don't have a motion on the floor and I'm hearing debate about whether we should pass this or not.

VICE-CHAIR CRIVELLO: I'm not debating.

CHAIR SUGIMURA: We're not debating. We're just asking for . . .

COUNCILMEMBER KING: It sounds like it. Okay.

CHAIR SUGIMURA: So, I'm just asking for where do we want to start? Do we want to keep on section-by-section or amendments? So, I hear Ms. Cochran is saying let's do the amendments.

COUNCILMEMBER KING: I didn't hear from Ms. Crivello exactly what she wants to do so that's why I was curious about those comments.

VICE-CHAIR CRIVELLO: I want to just deal with the amendments.

CHAIR SUGIMURA: Okay.

POLICY, ECONOMIC DEVELOPMENT, AND AGRICULTURE COMMITTEE MINUTES
Council of the County of Maui

July 3, 2018

COUNCILMEMBER KING: I'm good with that.

CHAIR SUGIMURA: Okay, Members. Shelly, does everybody have all the amendments?

MS. ESPELETA: Yes.

CHAIR SUGIMURA: Okay. We got the amendments yesterday and passed out amendments that were given to us by Mr. Guzman and Ms. King, is that correct? Right. So, if you look at PEA 7/3/18, we have that from Mr. Guzman. And do we have another new one from Ms. King or is it 7/2? 7/2 is the latest? 7/2 is the latest, okay. So, Members, are you in possession with PEA 7/3/18 from Councilmember Guzman? It is his amendments – three pages, and then we have PEA 7/2/18 from Councilmember King, which is one page and then you flip in the back it continues so it's two pages --

COUNCILMEMBER KING: Chair?

CHAIR SUGIMURA: --total.

COUNCILMEMBER KING: Chair, if I could just speak to those amendments because three of them were already, the first three were already addressed --

CHAIR SUGIMURA: Right.

COUNCILMEMBER KING: --and then you put them into the documents so really, it's the fourth one and it is just taking the necessity of having a contract out of it. So, it's basically saying they hire them just like we're hiring the County Auditor right now with that contract for a six-year term.

CHAIR SUGIMURA: Okay, so, yes.

COUNCILMEMBER KING: It's just one new one.

CHAIR SUGIMURA: The Amendment 1, 2, and 3 were already included in the 6/5/18 discussion, our meeting on June the 5th and it was integrated into my proposal that I gave to you of the revised resolution. So, correct, Amendment No. 4 is the new amendment. Ms. King, would you like to speak further on that?

COUNCILMEMBER KING: Okay. So, in Section 6-5(3), I'll just go back to the Granicus again, so it's basically taking out the sentence – *The terms of the managing director's employment shall be established by contract.* I think that was giving some folks pause about, you know, they were trying to liken it to the contract of the U. H., you know, the golden parachute is in that which was never the intent. And so, replacing it with "The managing director shall serve for a term of six years. The managing director may be reappointed, or a successor appointed, by the selection process defined by ordinance, involving the mayor, council chair, and a three-member citizen group for subsequent terms of six years."

POLICY, ECONOMIC DEVELOPMENT, AND AGRICULTURE COMMITTEE MINUTES
Council of the County of Maui

July 3, 2018

CHAIR SUGIMURA: Okay, so that's your amendment?

COUNCILMEMBER KING: Right. So, basically, just takes the word "contract" out of there.

CHAIR SUGIMURA: So, . . .

COUNCILMEMBER KING: And when we . . . and the background of this is that we actually called the County Auditor's office to inquire about the contract that he serves under. And he said, I don't serve under a contract. I have no contract. I just have a six-year term. So, maybe Corp. Counsel can verify that.

CHAIR SUGIMURA: Okay. So, the other . . . so do I have a second on that?

COUNCILMEMBER COCHRAN: Second.

CHAIR SUGIMURA: Okay, there's been a motion by Ms. King, second by Elle Cochran. And discussion, Members? Mr. Guzman?

COUNCILMEMBER GUZMAN: Thank you, Chair. Forgive me, I'm not feeling well today but I have questions on if it is the term of office, then how is that applicable to the civil service provisions, and are we now . . . actually, can I just speak frankly? I'd rather that it be under a contract so that you have terms under a contract that would control rather than have any other type of employment regulations be the authority. Because when you have contract provisions you can actually dictate the service, you can actually dictate the termination, you can dictate the pension, you can dictate almost everything under a service contract. So, my question to Mr. Underwood is, how does that work with this person, this managing director being a I guess a person serving of term? Is that a . . . can we terminate them with at will or how does that work? I mean, what are the provisions here?

CHAIR SUGIMURA: Mr. Underwood?

MR. UNDERWOOD: Thank you, Chair. The managing director's position is an appointed position, so it is an at will position. It's not covered by civil service so that either side can terminate the employment relationship at any time for with or without reason as long as it's not for . . . *(inaudible)* . . . *reason*. So, that's the current employment terrain, I guess, for this particular position. With regard to the benefits, such as pension and stuff like that, that's not necessarily under our control. That's set by State law or by other State agencies, so I don't know that we could really vary those terms and conditions since the eligibility for those is set by organizations other than us. So, I don't know if we have quite as much flexibility as you would normally have in a contract because these are public employees.

COUNCILMEMBER GUZMAN: And that was my concern was that I am more on the side of the contract provisions because you have more control over it, over the service itself. I don't even know if, in fact, if we go through a termination or whether we're satisfied with the

POLICY, ECONOMIC DEVELOPMENT, AND AGRICULTURE COMMITTEE MINUTES
Council of the County of Maui

July 3, 2018

performance of the managing director that we could outright terminate without some kind of proceedings as opposed to a contract provision where there's a breach or there's written in the contract how we terminate and what are the provisions that would trigger termination. So, it's just, for me, it is . . . it's more or less having more control over the work employer-employee relationship versus when a person is appointed to the position as an at will. I'm assuming it's going to be somewhat like a Deputy Prosecutor or a Deputy Corporation Counsel, which is at will. But even termination of those positions have safety guards or there's processes that are very difficult to go through. I don't know. That's just my position. I'd rather it be under a contract.

CHAIR SUGIMURA: Okay.

COUNCILMEMBER GUZMAN: Other members may have other opinions though.

CHAIR SUGIMURA: So, Ms. Cochran, you have your light on?

COUNCILMEMBER COCHRAN: Yeah, thank you, Chair. Yeah, I'm trying to vet through, I mean, I understand where the point . . . I'm trying to figure out who had issues with it being oh, I guess Mr. Guzman – the contract word. And then I'm going to Page 40 and it's the section on contracts itself and I'm looking at this would be 9-1.8 [sic]. I'm wondering how this would play into this section, and specifically No. 3, I think Ms. King likened it to the Office of the County Auditor, which is underscored here and then that contract is signed by the Council Chair. So, I'm just like where would it play in under this subheading of contracts in this Charter?

CHAIR SUGIMURA: May I ask you again what page you're on?

COUNCILMEMBER COCHRAN: Yeah. I'm on Page 40, --

CHAIR SUGIMURA: Okay.

COUNCILMEMBER COCHRAN: --No. 3 at the top.

CHAIR SUGIMURA: Oh, I see. Okay.

COUNCILMEMBER COCHRAN: And . . . but this whole section 9-1.8 [sic] is about contracts, and how would this new terminology play into this section of the Charter? So, I was wondering if Corp. Counsel or Personnel Department, I'm not sure.

CHAIR SUGIMURA: Mr. Kushi?

MR. KUSHI: Yes, Madam Chair. If you look at . . . starting on Page 39, Section 9-18 is entitled "Contracts", I believe the intent of that section, Charter section, is contracts with third party or else non-County people, you know, like vendor contracts, et cetera. But then your reference to Subsection 3, they just added the Office of County Auditor. And any of his contracts to be signed by the Legislative Branch. So, I don't believe it would pertain to the proposed contract with the managing director. If I may add, the proposal

POLICY, ECONOMIC DEVELOPMENT, AND AGRICULTURE COMMITTEE MINUTES
Council of the County of Maui

July 3, 2018

in this resolution is not say appointing the managing director for a proposed term of six years. So, it's not technically at will. It's at will in terms of he may be terminated before that time for cause but right now the Department has, the way the Charter reads, their terms are set to coincide with the term of the Mayor, but they could be terminated before that term. So, they're at will yet they're subject to termination. In the event, let's say their termination or removal comes before this body and this body says okay, go ahead and fire him, Mr. Mayor, then that Department head may have a cause of action, separate cause of action for wrongful termination. But again, it's not anywhere in the civil service. It's just a separate civil action, and that will be based on race, creed, color, religion, et cetera., you know. It's protected classes. In terms of benefits for these types of employees, I believe Chapter 89C of the HRS covers exempt excluded employees, cabinet members, and that says that, you know, they shall have all the same benefits as civil service employees but not by contract. But that's their protection. So, again, that's my response.

COUNCILMEMBER COCHRAN: Okay. Thank you, Mr. Kushi.

CHAIR SUGIMURA: So, are you fine?

COUNCILMEMBER COCHRAN: Yes.

CHAIR SUGIMURA: So, Ms. Crivello, you have . . . I'm going to go back down to all the Members. Do you have a comment regarding this?

VICE-CHAIR CRIVELLO: Thank you. So, it is my understanding that the . . . part of the intent for this reso is so that there is the longevity and the consistency of having the Director as well as the . . . the managing director and all the subordinates in place for a longer period than when the term ends for the Mayor. So, I get little bit confused on why we're going to change it to six years now. And the Auditor's set up is entirely a different. The Auditor dictates within themselves who they're going to audit. And they have their parameters exactly for this purpose and then renewed again if all of their audits are being through. So, do I want a contract . . . the golden parachute? I mean, look at HTA today just a recent firing of the HTA Director making three to four hundred thousand a year but then they're going to have to finish up the contract. And so, it's not as such. So, when we have this amendment to put in for six years somewhat like the Auditor I see this completely different and kind of contradictory to what I'm hearing why we're trying to, why there's the intent to push this resolution through. So, that's just my comments.

CHAIR SUGIMURA: Okay. Thank you. Mr. Atay, do you have any comments regarding that?

COUNCILMEMBER ATAY: No, Chair.

CHAIR SUGIMURA: Ms. Cochran, you spoke. You're fine. Ms. King?

COUNCILMEMBER KING: Thank you. Okay, first of all, the six years is exactly meant to decouple this from the term of the Mayor and give it longevity. So, I'm not sure why

POLICY, ECONOMIC DEVELOPMENT, AND AGRICULTURE COMMITTEE MINUTES
Council of the County of Maui

July 3, 2018

we're not understanding the six years is longer than four years. It gives it longevity. Also allows the next Mayor or if the same Mayor gets re-elected to keep that person on if they're doing a good job for another six years. Originally, when we were looking at this and the intent is to give a little more autonomy to this position to manage the departments. We looked at what was happening with the County Auditor because the County Auditor has a six-year term. It's decoupled from the term of the Mayor, which allows that autonomy and allows the County Auditor to not be intimidated by special interest. And we just assumed that he was under a contract when we checked into it and we actually talked to the County Auditor and he said, no, I don't have a contract. I was just hired for a six-year term. So, to me, hiring a County Manager under a six-year term is no different than the way we do it now. It doesn't preclude any Director or the County Manager or anybody, the managing director, from suing the County if they think they were wrongfully terminated. And we have a lawsuit right now because of wrongful termination by the . . . or attempt at wrongful termination by the Department of Water Supply Director. So, anybody can sue for any reason at any time. They can't stop that contract or no contract. But this concern about whether we're going to have . . . I mean, I think and I know Mr. Guzman has a proposal about you know the actual committee or body that would hire this person and that, to me, I mean, if we don't have faith that we can develop a system where we can hire somebody correctly, contract or no contract, I wanted to take the provision of a contract out of here just so it's not . . . if that body decides we can hire this person without a contract, then we can do that. If this body decides that we do need a contract, then you know I don't think there's anything here that precludes that. But I do want to ask the Corp. Counsel, Mr. Kushi, if you know we put back in here it actually is listed in here *notwithstanding any other provision in this Charter, all contracts involving the Council, the office of the County Auditor* was added in there. So, you know, is my understanding wrong? We spoke directly with the County Auditor who told us he didn't have a contract. Is that correct? If it is, then he needs to be taken out of that paragraph in No. 3.

CHAIR SUGIMURA: Mr. Kushi?

COUNCILMEMBER KING: Or maybe Mr. Underwood would know if there's an actual contract. We were just told he was hired for a six-year term.

CHAIR SUGIMURA: Mr. Kushi?

MR. KUSHI: Madam Chair, Member King, as far as I know, the County Auditor – Mr. Taguchi, is not under contract. He was appointed by resolution, I believe, by this body for a term of six years. And I think he falls under 89C. He has all the benefits of everybody else. He has vacation, sick leave, pension, et cetera, but he's not covered by civil service.

COUNCILMEMBER KING: Right. So, just like any of the Councilmembers, just like any of the appointed directors, just like the managing director right now they're all . . . they all have the same benefits but they're not under civil servant laws, so they don't fall under those requirements. And they can be terminated for cause and, you know, and you know, I mean, anybody in this whole department can sue if they think they're wrongfully terminated except for us because it's a vote of the people, but I think that's so, you

POLICY, ECONOMIC DEVELOPMENT, AND AGRICULTURE COMMITTEE MINUTES
Council of the County of Maui

July 3, 2018

know, for me that was the point of it was this I guess the fear that some people in the community had and, you know, truthfully came from special interest groups about this whole golden parachute thing that might be put into a contract which I think we're smarter than to put that into a contract but, you know, I think the requirement doesn't have to be in there to hire this body under a contract and it will be, you know, trying to put the . . . I'm sorry, I'm not speaking fast enough for you? I mean, I'm trying to put the faith in the system, which is what the whole point of this is, is to create a system of better government based on, you know, trying to get as much as possible the politics out of it and trying as much as possible give some autonomy to this position so that they don't have to be influenced by politics whether or not they have that certification that Mr. Regan has.

CHAIR SUGIMURA: Thank you. Mr. Guzman?

COUNCILMEMBER GUZMAN: Thank you, Chair. I think the reason why I favor the contract provisions is because other jurisdictions that have hired these managing directors fall under . . . they follow the contract provisions to hire. And the reason why I'm talking about benefits is that if you're looking for the best and the brightest in these kinds of positions, and with that much responsibility, you're talking about the head CEO of a conglomerate company. This is what the County is, we're \$900 million company if you look at it that way. And I apologize, Chair, I'm not feeling well. And when you're dealing with hiring those type of professionals you need leeway to offer them different benefits as an incentive or, you know, a cherry or something like that too. Although the salary may not be to their liking or to their professional standards, there are other provisions in the service contract that you can provide for benefits or added incentives for them to take the job. So, these are the things that would be different from what is the standard benefits of those that are being appointed and who are hired via important standard procedures of employment. I just feel that under a contract, service contract, you have more flexibility to offer the best benefits or whatever it may be on the salary to that applicant. Even on an appointment position does it follow, does then if we hire him . . . if we appoint that position, does it then go under the Salary Commission? You know, who then dictates the salary? Because now you're talking about the Auditor is dictated by the Salary Commission. And let's really compare apples with apples. The Auditor is a completely different animal all together, different office, different duties. We're looking at someone who will . . . the operating, the Chief Operator. So, a Chief Operator of any big company is going to want a very high salary. And if we cannot produce the high salary within the bargaining chip would then be the benefits – what else can we give that person? And if we're stuck, if we're limited to just the standards that we . . . the standard benefits that everyone else has in the County, uh-uh, you aren't going to get the best and the brightest. You are not probably even going to get a person who are certified to under that type of professional. I'm sorry, Chair, I cannot continue.

CHAIR SUGIMURA: Okay. So, I get what you're saying. Members. . .

COUNCILMEMBER KING: Chair?

CHAIR SUGIMURA: Ms. King?

POLICY, ECONOMIC DEVELOPMENT, AND AGRICULTURE COMMITTEE MINUTES
Council of the County of Maui

July 3, 2018

COUNCILMEMBER KING: I just wanted to thank Mr. Guzman for making some very good points. I was good with the way this was worded. I was trying to address some concerns and give the flexibility, but I'm happy to withdraw that amendment and leave the, you know, the contract language in there if that's, you know.

COUNCILMEMBER COCHRAN: Yeah.

COUNCILMEMBER KING: I think you made some excellent points about the need for a contract, which is what I originally wanted to have in here.

COUNCILMEMBER COCHRAN: Right.

COUNCILMEMBER KING: So, I withdraw the amendment.

COUNCILMEMBER COCHRAN: And I second the withdrawal.

CHAIR SUGIMURA: Okay. So, you're withdrawing your fourth amendment.

COUNCILMEMBER KING: Right.

CHAIR SUGIMURA: So, we're deleting that.

COUNCILMEMBER KING: So, the other ones are in there so, we don't have to address those.

CHAIR SUGIMURA: Okay.

COUNCILMEMBER KING: Unless you want to go over them.

CHAIR SUGIMURA: Mr. Guzman, can you go over your amendments? Are you okay?

COUNCILMEMBER GUZMAN: Yeah, I'll try.

CHAIR SUGIMURA: Do you need some water?

COUNCILMEMBER GUZMAN: I have.

CHAIR SUGIMURA: Okay. So, your amendments are . . . were passed out this morning?

COUNCILMEMBER GUZMAN: Yes, Chair, I submitted my amendments yesterday and you can see the . . . there are two amendments that I submitted but please disregard the first one that's dated July 3rd, 2018. And please . . . that is going to be replaced because I had some minor changes to it. That's going to be replaced with the . . . sorry . . . I have a transmittal letter and I'm not sure if everyone received this. Did you --

CHAIR SUGIMURA: I don't have that one.

POLICY, ECONOMIC DEVELOPMENT, AND AGRICULTURE COMMITTEE MINUTES
Council of the County of Maui

July 3, 2018

COUNCILMEMBER GUZMAN: --did you transmit that one? Oh, this morning? My apology.

CHAIR SUGIMURA: Can I have a copy of that?

COUNCILMEMBER GUZMAN: Does it have some . . .

CHAIR SUGIMURA: Oh, the same one. Okay.

UNIDENTIFIED SPEAKER: No, it's 7/3.

CHAIR SUGIMURA: It's 7/3. I'm sorry. I do have it.

MS. ESPELETA: Members, it's correspondence dated 7/3 from Councilmember Guzman on the lower right-hand corner.

CHAIR SUGIMURA: Yeah.

MS. ESPELETA: Section 6-5. Office of the Managing Director.

COUNCILMEMBER GUZMAN: Oh, okay.

MS. ESPELETA: There's no transmittal letter. It wasn't necessary.

COUNCILMEMBER GUZMAN: Okay. Yeah, see I apologize. I got screwed up. So, it is . . . the one that we should be focusing on is July 3, 2018 on the lower right-hand side.

CHAIR SUGIMURA: Okay.

COUNCILMEMBER GUZMAN: Please disregard the previous amendments because I did tweak it somewhat. So, one of my issues was the selection process for the managing director. There had been some issues on fairness and how do we go about selecting the managing director. So, I believe the last time I spoke about this section I wanted to emulate the Judiciary Selection Commission and how they select our Justices in the Supreme Court. And the reason why I picked that model is because it's been thoroughly vetted as per trying to take out, not trying, it does take out the political processes of it. And so, it's been challenged before and has withstand the elements of time for non-politicizing. So, if you would just bear with me and I might cough through the mike but I'm rewriting that whole section. So, it would read as follows: Section 6-5. And let me read it and then I'll explain how it works because when you read it, it does have legal technical, you know, language too that you may not necessarily be able to follow. So, No. 1, *There shall be an office of the managing director, consisting of a managing director, a deputy managing director, and the necessary staff. The mayor, with the consent of the council, shall appoint the managing director from a list of not less than four, and not more than six, nominees for the vacancy, presented to the mayor by the executive selection commission. a. If the mayor fails to make an appointment within thirty days of presentation, or within ten days of the council's rejection of any previous appointment, the appointment shall be made by the executive selection commission from a list with the*

POLICY, ECONOMIC DEVELOPMENT, AND AGRICULTURE COMMITTEE MINUTES
Council of the County of Maui

July 3, 2018

consent of the council. If the council fails to reject any appointment within thirty days thereof, it shall be deemed to have given its consent to such appointment. If the council shall reject an appointment, the mayor shall make another appointment from the list within ten days thereof. The same appointment and consent procedure shall be followed until a valid appointment has been made, or failing this, the executive selection commission shall make the appointment from the list, without council consent. 2. The managing director shall have a minimum of five years of experience . . . but Chair, may I back up? Let me explain that No. 1 and 1.a. So, what's going on here is and I'm gonna just make it very simple terms is that you would have a selection commission and it's somewhat similar to the Judiciary Selection Commission. The selection commission would vet out and find four to six candidates or potential managing directors. Four to six of them they would vet out and present those names to the Mayor. The Mayor would then pick one and there's some time frames here that are listed in the language that if the Mayor doesn't appoint, then it goes straight to the Council for that appointment. But let me further add that the four to six names are then brought forward from the selection commission to the Mayor. The Mayor then picks one. That one person that he appoints that name goes to the Council for review and approval. If the Council doesn't . . . it rejects that, then it starts the process over again. So, you gotta look at the people who are on the list and the Mayor appoints whoever else is on the list and refers it to the Council for approval. And there's time triggers here that if the Mayor doesn't make an appointment just like the Governor if he doesn't make the appointment, then it's actually the Senate that defaults to make that appointment. So, there's checks and balances going on here. If, in fact, you get down to the list and no one's viable, then the selection commission starts its process over again. So, that's how it works, you know in 1.a. Moving forward to No. 2 . . .

COUNCILMEMBER KING: Can we just ask one question?

COUNCILMEMBER GUZMAN: Yes.

COUNCILMEMBER KING: Okay. So, . . .

COUNCILMEMBER GUZMAN: And actually, it gets more into detail on No. 7 for the Executive Selection Commission. So, I explain it in more detail on No. 7, which is on the second page.

CHAIR SUGIMURA: So, Mr. Guzman, if I could?

COUNCILMEMBER GUZMAN: Yeah.

CHAIR SUGIMURA: So, based upon your amendment that you just read, you're actually on the proposed resolution if you look at Page 7, 6-5 Office of the Managing Director, you're actually eliminating under No. 1, on the third sentence, you're eliminating the managing director shall be nominated through a recruitment selection process established by ordinance involving the Council Chair, Mayor, and three-citizen group. The Council shall approve the appointment of the managing director. So, you're eliminating that, correct?

POLICY, ECONOMIC DEVELOPMENT, AND AGRICULTURE COMMITTEE MINUTES
Council of the County of Maui

July 3, 2018

COUNCILMEMBER GUZMAN: Not really. I'm expanding it and explaining how the process would work. And then on the second page of my amendment on the bottom part seven Executive Selection Commission, I go through how those members of the commission are appointed.

CHAIR SUGIMURA: Okay. So, then what you're saying I just want to make sure we're in the right paragraph --

COUNCILMEMBER GUZMAN: Yeah.

CHAIR SUGIMURA: --and we're deleting then the first number 1, right, of that and you're substituting this whole thing into the document?

COUNCILMEMBER GUZMAN: Yeah. I'm substituting this entire amendment into the document. This whole section, Section 6.5 would be . . .

CHAIR SUGIMURA: No. 1 would be eliminated, right?

COUNCILMEMBER GUZMAN: Yeah.

CHAIR SUGIMURA: And you're inserting this instead.

COUNCILMEMBER GUZMAN: Yeah.

CHAIR SUGIMURA: So, you got it, Members?

COUNCILMEMBER KING: Chair, I just got a question.

CHAIR SUGIMURA: Ms. King?

COUNCILMEMBER KING: So, yeah, I understand you're expanding the No. 1 and you're wording it so it's a little more specific. And then some of these are just the same as they are in the proposals.

COUNCILMEMBER GUZMAN: Yeah.

COUNCILMEMBER KING: So, if we could kind of go over just what your changes are so it's not confusing.

COUNCILMEMBER GUZMAN: Okay. So . . .

COUNCILMEMBER KING: I started going through No. 2 is the same, No. 3 is the same.

COUNCILMEMBER GUZMAN: Yeah, yeah, that's why I stopped at No. 2.

POLICY, ECONOMIC DEVELOPMENT, AND AGRICULTURE COMMITTEE MINUTES
Council of the County of Maui

July 3, 2018

COUNCILMEMBER KING: Yeah, so, the question I have for you is, would you be amenable to the numbers in the second sentence -- appoint the managing director from a list of not less than four. What would happen if they couldn't come up with four? Would you be amenable just to changing that to three? I mean, I think that's a reasonable number to hand over because if there aren't four qualified people what happens with that requirement?

COUNCILMEMBER GUZMAN: Yeah, I would be amen . . . be okay with a friendly amendment. That less than four and not more than six is in the HRS in regards to the selection of judges, potential judges. So, I'm fine with it. You know, I just track that language 'cause I didn't know --

COUNCILMEMBER KING: Yeah.

COUNCILMEMBER GUZMAN: --three, four, five, you know. So, yeah, I'm okay with less . . . not less than three.

COUNCILMEMBER KING: Okay. I just didn't want to, if we can't come up with four what happens then?

COUNCILMEMBER GUZMAN: Yeah.

COUNCILMEMBER KING: So, I think three might be a safer number. But I like this wording, so I just wanted to make sure that we were . . . we could, if everything is the same in these other sections, we could just skip to the actual amendment.

COUNCILMEMBER GUZMAN: Yeah, I can skip down. So, just to reiterate, Chair, 1.a., it's also similar to what goes on when there's a vacancy in as a representative, the House Rep. or a Senate Representative, State Senate Representative like the Democratic Party would send three names up to the Governor and the Governor picks one of the three. But this is even more better because it follows the track of the Judiciary where there is a selection commission and the selection commission actually vets out and searches out the, I guess, the new language is being not less than three and not more than six nominees. And those nominees whether it be three or six would go out to the Mayor and the Mayor would then pick one. That one would then go to the Council for approval. If the Council doesn't approve it, then it starts the process over again. And there's triggers here like the Mayor would have 30 days to do it. If he defaults, then it goes straight to the Council for the choosing among the three to six. So, that's just to reiterate that process 1.a. I'm going to move on to the other track changes.

CHAIR SUGIMURA: Before you go on, Mr. Underwood has his light on, so he has a comment --

COUNCILMEMBER GUZMAN: Yes.

CHAIR SUGIMURA: --regarding this. Mr. Underwood?

POLICY, ECONOMIC DEVELOPMENT, AND AGRICULTURE COMMITTEE MINUTES
Council of the County of Maui

July 3, 2018

MR. UNDERWOOD: Thank you, Chair. I would just note that in paragraph a., the last sentence basically says that if the Mayor and the Council cannot agree and the appointment process doesn't work, eventually the selection commission --

COUNCILMEMBER GUZMAN: Yeah.

MR. UNDERWOOD: --makes the appointment.

COUNCILMEMBER GUZMAN: Yes. That's the third default.

MR. UNDERWOOD: Yeah.

COUNCILMEMBER GUZMAN: Like let's say the Mayor can't make his decision, like ah I don't know who, then it goes to the Council and they pick among the three and six. And if they go, oh, well, we can't decide between the three and six, then the third default would be the commission and they would then pick the one, I guess. I mean, 'cause you always have to have a default just in case there's a gridlock, right. So, what were you saying, Mr. Underwood, I'm sorry I cut you off.

MR. UNDERWOOD: No, no. My question would be is there, you know, or a suggestion may be to have a very clear trigger as to when the commission makes the appointment whether it's gone through the recruitment process twice 'cause you're changing the authority taking away from the Mayor, taking away from the Council, and dropping on this commission so, --

COUNCILMEMBER GUZMAN: Yeah.

MR. UNDERWOOD: --just as a suggestion might be to have a very clear trigger as to when that happens.

COUNCILMEMBER GUZMAN: Right. And I could try to work that out. Let me work that provision out.

MR. UNDERWOOD: Okay.

COUNCILMEMBER GUZMAN: I only had like a day and a half to do this. So, it's kind of . . . okay. So, that's a good point. I'll put that down. Okay. Now, moving on, Chair, for the other sections that I changed. So, No. 7, Executive Selection Commission, on the second page. So, this is how we're going to decide who's on the selection commission. And so, I had some changes from my previous amendment after speaking with Mr. Hyde. And then, *7.a., There shall be an executive selection commission that shall consist of and delete nine, so I'm actually going with five members on the selection commission. The mayor shall appoint two members of the commission. The council and delete Chair so, the council body shall appoint two members in the commission. And then the Director of Personnel Services, that's you, Mr. Underwood, shall be a member to the commission.* And then I'm deleting the whole public election for members of the public. So, I'm deleting all that. So, we're just looking at the make-up of the selection commission is

POLICY, ECONOMIC DEVELOPMENT, AND AGRICULTURE COMMITTEE MINUTES
Council of the County of Maui

July 3, 2018

five members. It's an odd number. Two are appointed by the Mayor, and two are appointed by the Council body, and one member is the Director of Personnel Services. And then we go on to *b. The commission shall be selected and shall operate in a wholly nonpartisan manner. After the initial formation of the commission, elections and appointments to, oh, excuse me, delete elections, Chair, 'cause I'm . . . After the initial formation of the commission and appointments to the commission shall be for staggered terms of six years each. Notwithstanding the foregoing, no member of the commission shall serve for more than six years on the commission.* Now, the reason why I'm making it into a commission is that we have commissions that get empaneled between years. Like for instance, a good example is the Charter Commission. So, they get empaneled every ten years. So, this is kind of like, okay, you're going to be appointed and a staggered term for six years. So, moving on, for *c., Each member of the executive selection commission shall be a resident of the County of Maui and a citizen of the United States. No member shall run for or hold any other elected office under the United States, the State or its political subdivisions. No member shall take an active part in political management or in political campaigns. No member shall be eligible for appointment to a position in the County of Maui so long as the person is a member of the executive selection commission and for a period of three years thereafter.* *d. No act of the executive selection commission shall be valid except by concurrence of the majority of its voting members.* *e. The executive selection commission shall select one of its members to serve as chairperson. The commission shall adopt rules which shall have the force and effect of law. The deliberations of the commission shall be confidential.* *f. The Council shall provide for staff and operating expenses of the executive selection commission in a separate budget. No member of the executive selection commission shall receive any compensation for commission services, but shall be allowed necessary expenses for travel, board and lodging incurred in the performance in the commission's duties.* *g. The executive selection commission shall be attached to the department of personnel services, which may involve retention of an independent qualified executive search firm or entity, for purposes of administration.* So, if we're going to have the house, I would just say house. Put the executive selection commission under the Department of Personnel Services. They would also need to have their own budget as well as the ability to hire, if need be, an independent qualified executive search firm or entity to search out and find the three to six applicants. So, that's just a . . . and I put the word "may" involve because of the fact that Personnel Services may not need to find a . . . may not need a search firm for that particular case. But, in fact, they may need one. We don't know. But in any event, that language needs to be in there so just in case in Budget they're asking for additional monies for a search firm, the Council will not deny it because it's right there as being a "may." So they need a budgetary provision in there that say, yeah, we're authorized to be able to hire a search firm to find those three to six applicants. Okay, moving on to No. 23. Oh, oh, sorry.

CHAIR SUGIMURA: Let's take it one at a time.

COUNCILMEMBER GUZMAN: Okay, okay. Sorry. Okay.

CHAIR SUGIMURA: So . . .

POLICY, ECONOMIC DEVELOPMENT, AND AGRICULTURE COMMITTEE MINUTES
Council of the County of Maui

July 3, 2018

COUNCILMEMBER GUZMAN: So, that's it and I have one more amendment on the last page of that, which is the . . . my other amendment would be on . . . would be 23 on your document, Chair, and that is basically amending the effective date of this and I'm changing it to, amending it to, to read as follows: *That, upon approval by the majority of the voters voting on the proposed amendment and upon official certification of such result, the amendment proposed herein shall take effect on January 2, 2023.* And this is a discussion that we had yesterday, and I need clarification as to what parts of the sections need to be passed earlier so I just said, you know what, it's not fair to hire, I mean, I'm speaking on behalf of if you're the Mayor that gets into office this coming . . . 2019. You hire . . . at that point, the Mayor has discretion . . . complete control to hire his directors or her directors, and at that point, half way through in 2021 as your language, as the language is, half way through that term the managing director comes in and has the power to hire new directors all together. So, and by what Mr. Kushi was saying there's certain provisions in here that need to be started before 2021 so I just say, you know what, why don't we just start this in 2023 and have the provisions that need to be started in 2021 so that there's a transition going into the next term. So, it just made more sense to me that way. What needs to be identified is what sections of the Charter amendment needs to be activated prior to 2023 so it would be 2021. So, it probably be most likely the selection commission all that process moving forward and other components, which most likely you'll need an ordinance to go along with this Charter amendment to further expand and detail it out. And you also would need contract provisions and those things need to be ironed out as well. So, there's a lot of things that need to be started before the effective date of 2021 if we're going to use 2021. So, I just said, you know, let's just start it the substantial portions of it in 2023 and start with the specific provisions that need to be started ahead of time in 2021 so this next Administration can be the transition Administration. And I know it took four years to finally bring it, to finally put Ocean Safety from Parks to Fire so this is a whole new mix together, so I figured you need more time. So, that's my amendment for that section.

CHAIR SUGIMURA: Okay.

COUNCILMEMBER GUZMAN: So, I'm just trying to do my job and trying to find things that need to be fixed and, you know me, Chair, I'm always about trying to --

CHAIR SUGIMURA: Process.

COUNCILMEMBER GUZMAN: --process and fix what I can fix.

CHAIR SUGIMURA: Okay.

COUNCILMEMBER GUZMAN: Yeah, thank you.

CHAIR SUGIMURA: So, thank you very much for reading your entire two amendments. So, going back to your first, Mr. Guzman, I guess you're making a motion to . . . the change that you're making is actually on paragraph 1 on Section 6-5. Office of the Managing Director. So, you're substituting that first paragraph for 1 and 1.a., correct?

POLICY, ECONOMIC DEVELOPMENT, AND AGRICULTURE COMMITTEE MINUTES
Council of the County of Maui

July 3, 2018

COUNCILMEMBER GUZMAN: I believe so. Yeah, I don't believe I changed any other of the wordings.

CHAIR SUGIMURA: Yeah, you left it same.

COUNCILMEMBER GUZMAN: But, yeah, I . . . to limit it, yes.

CHAIR SUGIMURA: Okay. So, we're eliminating the first paragraph and we're substituting it with the 1 and a., 1.a.

COUNCILMEMBER GUZMAN: Yeah, with the friendly amendment of three.

CHAIR SUGIMURA: Three instead of less than --

COUNCILMEMBER GUZMAN: Striking less than --

CHAIR SUGIMURA: Four.

COUNCILMEMBER GUZMAN: --four. So, less than three.

CHAIR SUGIMURA: Okay. So, that would be less than three.

COUNCILMEMBER GUZMAN: Yeah.

CHAIR SUGIMURA: So, Members, is that clear what is being proposed?

COUNCILMEMBER KING: Yeah, I mean, actually, Chair, just to clarify. So, the first sentence is exactly the same. Second sentence changes to start with the Mayor, with the consent. So, that sentence is different. And then there's the paragraph a. underneath it, which is me.

CHAIR SUGIMURA: Okay. Anybody have any comments? Ms. Cochran, you have any comments about that?

COUNCILMEMBER COCHRAN: No.

CHAIR SUGIMURA: You're fine?

COUNCILMEMBER GUZMAN: The only issue that I have is with what Mr. Underwood pointed out. We can go ahead and . . . I can motion for this, but he has a good point on the default of the commission. And I could go back and try to rework that but as it is, I'll go ahead and motion for it, but Mr. Underwood had a good point and I should work on that language.

CHAIR SUGIMURA: So, you want to fix that first then before we take it up, Mr. Guzman?

POLICY, ECONOMIC DEVELOPMENT, AND AGRICULTURE COMMITTEE MINUTES
Council of the County of Maui

July 3, 2018

COUNCILMEMBER GUZMAN: You know what, I can't think right now, Chair. You know, I'll go ahead and motion for it and maybe I can get some kind of assistance on the language portion of what Mr. Underwood pointed out.

CHAIR SUGIMURA: Mr. Underwood, do you have a suggestion for that?

MR. UNDERWOOD: Madam Chair, not particularly. It's up to whatever the body chooses to do whether it's a lapsed period of time or a certain number of attempts at filling it. Either one I think would work. Just giving a very explicit goal to the commission where we're going to override the Mayor and the Council I think would be helpful.

COUNCILMEMBER KING: Chair?

COUNCILMEMBER GUZMAN: Um, I see what you're saying.

COUNCILMEMBER KING: May I make a suggestion?

CHAIR SUGIMURA: Ms. King?

COUNCILMEMBER KING: So, if . . . I don't really see it ever getting to this point because I think, you know, I mean, we've never gotten to this point with any, you know, with a director or any other . . . with any . . . even with any board or commission appointments where we needed a third option. But if we do need a third option, perhaps we could just insert . . . we could insert the six-month period. The same appointment and consent procedure shall be followed until a valid appointment has been made, or failing this *after six months*, the executive selection commission shall make an appointment from the list. That would give it that timeframe that's a pretty exhausted timeframe for it to go back and forth between the Mayor and the Council. I doubt that we'll ever exhaust that six months, but it leads into this option with some parameters so just put that to my colleague and see if that's acceptable.

COUNCILMEMBER GUZMAN: No, I see the time . . . may I, Chair?

CHAIR SUGIMURA: Yeah.

COUNCILMEMBER GUZMAN: I see the timeframe is necessary as Mr. Underwood and Ms. King is saying. I'm not necessarily sold on the fact that six months because of the fact that what if we're in an emergency situation or you know how things go like one entity will take longer than another and then pretty soon we're already at 2023 and we don't have a selection, or it's come to a default as such as this. And so, I would lessen that six-month period. Maybe we would go --

COUNCILMEMBER KING: Three . . . three months?

COUNCILMEMBER GUZMAN: --even three months, yeah?

COUNCILMEMBER KING: That's fine. I'm just trying to put . . . *(inaudible)* . . .

POLICY, ECONOMIC DEVELOPMENT, AND AGRICULTURE COMMITTEE MINUTES
Council of the County of Maui

July 3, 2018

COUNCILMEMBER GUZMAN: That's even long, I think, because, you know, if the Council can't make 'cause prior to the commission if the Council can't make that call, you know, I definitely, you know, think that the commission needs to be right there to, you know, immediately thereafter. I mean, I guess they'll probably would have to, but they're the ones that vetted out the three to six anyway, initially. So, I don't know, maybe two months, 60 days is probably better.

CHAIR SUGIMURA: Okay.

COUNCILMEMBER GUZMAN: So, I would amend it, a friendly amendment to add the language - the . . .

CHAIR SUGIMURA: The executive selection commission or failing this . . .

COUNCILMEMBER GUZMAN: . . . *or failing this after 60 days, the executive selection commission shall make the appointment from the list, without Council consent.* But I very much highly doubt it, it would get to that level.

COUNCILMEMBER KING: Yeah.

CHAIR SUGIMURA: Okay.

COUNCILMEMBER KING: So, Chair, just to clarify so that gives basically two rounds of this the previous because the first . . . because when you say if the Council fails to reject any appointment within 30 days it shall be deemed to have given consent. So, there's that caveat as well but if we get to . . . if this goes back and forth for 60 days and we give it over to the commission. I don't know if we have to say 60 days from the original list going to, you know, 60 days from what? So, I'm good with that. I was trying to put a time parameter on it. I agree, I don't think it'll get to that point, but I think describing it needs to be 60 days from what . . . from the referral, the commission's referral to the Mayor. Is that the intent?

COUNCILMEMBER GUZMAN: Yes.

COUNCILMEMBER KING: So, 60 days from the commission's original referral of candidates to the Mayor.

CHAIR SUGIMURA: Did you get that, Staff?

COUNCILMEMBER KING: Is that what we were talking about?

COUNCILMEMBER GUZMAN: I would say 60 days because at some point if the Council cannot make a decision and what we've seen in the past is that they'll send two resos down - one to approve and one to disapprove. So, once those have been voted on, I would say at that . . . once the vote has been recorded because there's a vote on the floor and then there's recordation via the Clerk. So, once it has been recorded by the Clerk as a

POLICY, ECONOMIC DEVELOPMENT, AND AGRICULTURE COMMITTEE MINUTES
Council of the County of Maui

July 3, 2018

gridlock, no, it wouldn't be recorded because neither resolution would have been passed. Okay. We're getting kind of lost in the woods. So, at some point, when there's a gridlock with the Council then the 60 days should start. When they . . . I guess what you say when it passes, when the Council sends, oh, no, that's not going to work either 'cause we have Planning Commission issues when we try to send it over to them and I'm trying to see the timeframe. Because when we send the . . . when we send Title 19 legislation to the commission, the Planning Commissions, when does the time start on the 180 days for them? Is that when they receive the legislation 'cause that's when I'm . . .

CHAIR SUGIMURA: You want to use the same trigger?

COUNCILMEMBER GUZMAN: Yeah, the same kind of trigger. Is it when they receive it and that's when the 180 days start when the Planning Commission can review it? Or maybe Mr. Kushi knows the correct answer?

COUNCILMEMBER COCHRAN: Chair?

CHAIR SUGIMURA: Mr. Kushi?

COUNCILMEMBER COCHRAN: I have a question. I mean, I have a point. So, Chair, if I may? I think Mr. Kushi's thinking.

CHAIR SUGIMURA: Oh. Mr. Kushi, you had a comment?

COUNCILMEMBER COCHRAN: I just want to go up a few sentences because there's a clock here and maybe we can fall in line with it. In the middle of this paragraph a. – If the Council shall reject any appointment, the Mayor shall make another appointment from the list within ten days thereof. So, when does that rejection date, when does that clock start? Is that when the vote is made? We reject it, boom, time-stamp, ten days after that day? I mean, I know we've had issues where this memo was dated, we didn't receive it within, you know, it was five days prior, it finally got County communicated to us, blah, blah, I mean, . . . but there was a stamp and that was the date that we followed. So, is this where this Council shall . . . if the Council rejects then ten days thereof, you know, so then I figured down below the next sentence . . . until a valid appointment has been made, or failing this, boom 60 days, the Executive Selection Commission shall make an appointment, blah, blah, blah. So, I think following in line when that clock starts, roll it down here, when that valid appointment has failed, the clock starts, 60 days counts, so that was my thought.

CHAIR SUGIMURA: Mr. Kushi, you have a . . . you have any trigger language?

MR. KUSHI: Yeah, not right now and not offhand but I understand the question. In the case of, you know, like you appoint boards, members to boards and commissions, you appoint them by resolution. You also disapprove them by resolution and there's a timeframe for that. And I think usually it's the date the Mayor receives the resolution, or I think it may be the date the Clerk certifies the resolution then the time clock ticks. But you could put in some language to that effect, yeah.

POLICY, ECONOMIC DEVELOPMENT, AND AGRICULTURE COMMITTEE MINUTES
Council of the County of Maui

July 3, 2018

COUNCILMEMBER KING: Chair, just a comment?

CHAIR SUGIMURA: Ms. King?

COUNCILMEMBER KING: So, if we look at what is a reasonable time – from the time that the commission refers the names to the Mayor. You know, if we take that as a, you know, whatever happens in between the 30 days, the 10 days, the 30 days, the 10 days, if it goes back and forth like that, is there a reasonable amount of time you know the commission does its work, finds three very qualified people or five very qualified people, and sends them to the Mayor, from that date I think saying from that date maybe it's 90 days, 90 days from that date if this back and forth is not resolved, resulted in an appointment, then the commission gets involved and says, okay, we're going to pick the person. So, that . . . because the timeframe of 30 days and 10 days is nebulous because it could be 15 days, it could be 20 days that the Council reacts. It could be five days, or it could be ten days that the Mayor reacts and is back and forth, but I think if we're thinking about some of the issues that Mr. Guzman brought up and maybe it needs to happen because, you know, we're going into the next election or we're going into, you know, we have a shortfall. We need that person appointed because the last person is gone, whatever, then there should be a reasonable amount of time that the Council and the Mayor are expected to work this out from the time that, that list gets forwarded. So, that's why I'm saying if we go back to when the commission refers that list to the Mayor and we say, you know, what is a reasonable time that this should get done whether it's 60 days or 90 days from that point then I think we'll have accomplished what we're trying to do by, you know, just getting them to work together to get this person appointed. That would be my suggestion. Rather than going 60 days from whether it gets approved by the Mayor, or whether it gets disapproved by the Mayor or whether it gets disapproved by the Council, if we go 90 days from the point that, that list gets referred to the Mayor which is a very definitive date, the two expects this to have been worked out. And so, I would just put that to my colleagues that, you know, is 90 days a reasonable expectation to work this out to get to, you know, the point where we have a managing . . . a qualified managing director so we don't have to wait and see how many days it takes the Council to approve or how many days it takes to reject it, and how many days it takes the Mayor to approve or reject the Council's decision.

CHAIR SUGIMURA: Mr. Kushi, can you help us with this language? I mean, think about it and let us know because I think we're talking about some important things. I see it with boards and commissions where we get nominees and then it starts the clock ticking and we have so many days to act. I wonder if this ten days is too short just based upon what I've seen with boards and commissions. But it has to be something that's reasonable with, you know, with our Council calendar that the way that it is. Mr. Guzman?

COUNCILMEMBER GUZMAN: Thank you, Chair. You know when I was drafting this stuff over the weekend, I just wanted the framework, you know, and so, the details can be worked out on the floor. And so, I really don't have an answer for all of my colleagues'

POLICY, ECONOMIC DEVELOPMENT, AND AGRICULTURE COMMITTEE MINUTES
Council of the County of Maui

July 3, 2018

questions. It's something that I would really have to think about it more so and with the guidance of maybe Corp. Counsel on language. But the framework is here.

CHAIR SUGIMURA: Okay.

COUNCILMEMBER GUZMAN: Like I said . . .

CHAIR SUGIMURA: So, you're not ready to take a vote on this then, yeah?

COUNCILMEMBER GUZMAN: It sounds as though there's issues to it so I, you know, I'm going to withdraw my motion at this point --

CHAIR SUGIMURA: Wait.

COUNCILMEMBER GUZMAN: --because it's not ready for it.

CHAIR SUGIMURA: Mr. Kushi has something before you withdraw.

COUNCILMEMBER GUZMAN: Okay.

CHAIR SUGIMURA: Mr. Kushi?

MR. KUSHI: Oh, yeah, Madam Chair, you know, as I read this, I believe Member Guzman's attempt is to put timeframes. Important dates are 30 days and ten days.

CHAIR SUGIMURA: Uh-huh.

COUNCILMEMBER GUZMAN: Right.

MR. KUSHI: And I think it's crucial because you need to appoint a managing director before he appoints the department heads.

COUNCILMEMBER GUZMAN: Correct.

MR. KUSHI: So, it's an expedited procedure.

COUNCILMEMBER GUZMAN: Uh-huh.

MR. KUSHI: As to when the clock starts, how it starts via resolution, et cetera, again, in your new Section 7 under the framework of the executive selection commission --

COUNCILMEMBER GUZMAN: Yes.

MR. KUSHI: --they are allowed to promulgate their own rules, Administrative Rules. I think those procedures could be set out in that form, you know.

POLICY, ECONOMIC DEVELOPMENT, AND AGRICULTURE COMMITTEE MINUTES
Council of the County of Maui

July 3, 2018

COUNCILMEMBER GUZMAN: But I think they were talking about . . . my colleagues were talking about the timeframes from when it goes from the three to six applicants being selected from the selection commission and those names being sent up to the Mayor. Now, when does the time clock start for the ten days for the Mayor to make that decision? Yeah, so, the framework is there, you know. I think it's a great . . . I mean, I'm a little bit biased but I think it's a good and fair process of selection. It's a matter of working out the details on trigger points and the timing.

CHAIR SUGIMURA: So, Mr. Guzman, I guess . . . do we have a motion on the floor? We didn't, right, we're just talking about it.

COUNCILMEMBER GUZMAN: Yeah, we're talking whether or not I should even make a motion or not.

CHAIR SUGIMURA: Yeah. So, you wanted to decide if you're going to make a motion or you want to work on these details?

COUNCILMEMBER KING: Before we do that, Chair, can I just offer another thought? Maybe this paragraph a. needs to be rather than in the Charter maybe that needs to be . . . we can reference creating the timeframes by ordinance. And that means it also makes it easier to change if it becomes cumbersome, you know, with these . . . by putting it in the Charter means if we ever wanted to change any of these timeframes we'd have to go back to a Charter amendment. So, if we can take the paragraph 1, as Mr. Guzman proposed it, and then make reference to the timeframes for the appointments between the Mayor and the Council shall be codified by ordinance or something like that. And that could be part of what happens in the next four years as you have that discussion on the floor. It's a public discussion as far as the timeframes whether we follow the boards and commissions' policies or whether we make up different timeframes. But if we put it in ordinance, it's easier to adjust if it needs adjustment later on as well putting it into . . . trying to figure out all like, you know, we're into the weeds here and trying to figure out all the details that need to happen to put it into Charter may also hamstring us from . . . you know, I hate to get stuck on something that's so detailed. So, you know, I just want to throw that out there to see what my colleagues think about.

CHAIR SUGIMURA: Mr. Guzman?

COUNCILMEMBER GUZMAN: Chair, I see where my colleague is going with it. However, the same type of structure is in our Hawaii Revised Statutes as it applies to our Judiciary selection. And I'm not . . . and Mr. Kushi can verify or not is these the selection process for our boards and commissions within the Charter itself and the timing mechanisms. I believe it . . . and I may be mistaken, is the timing of how we select the boards and commissions, is it within the Charter for those sections? Because what I'm worried about is the timing actually tracks the process, so I don't know what type of language you would use to substitute the 30 days or 60 days because it follows a process. This language follows a process, and so if we're going to leave it vague and ambiguous to be picked up by ordinance later on, how do you draft that type of language? I mean, you

POLICY, ECONOMIC DEVELOPMENT, AND AGRICULTURE COMMITTEE MINUTES
Council of the County of Maui

July 3, 2018

can delete a. but then that a. is the substance. The a. is the substantial mechanism – how it works. So, I have to go back to the drawing board on, on --

CHAIR SUGIMURA: Okay.

COUNCILMEMBER GUZMAN: --that portions of it. And, Chair, I apologize. I only had like a little bit of Saturday and Sunday to work on this. So, you know, I did request your staff for help and I didn't get the help. So, I decided to do it myself on my own.

CHAIR SUGIMURA: Yeah, thank you for doing this. So, Mr. Guzman, if you look at our current Charter, page 56, it might give you some kind of timeframe, I mean, some kind of format that you might work from.

COUNCILMEMBER GUZMAN: Okay.

CHAIR SUGIMURA: 'Cause it's talking about boards and commissions and expiration of a member's term shall be filled as follows. And it has like no more than 70 days or less than 60 days on or before, I mean, I think that's where you're trying to get to.

COUNCILMEMBER GUZMAN: So, it is in the Charter --

CHAIR SUGIMURA: Yeah.

COUNCILMEMBER GUZMAN: --for the boards and commissions.

CHAIR SUGIMURA: It's talking about boards and commissions.

COUNCILMEMBER GUZMAN: Yeah.

CHAIR SUGIMURA: And you're trying to use that same concept for this.

COUNCILMEMBER GUZMAN: Yeah, exactly in terms of triggering mechanisms.

CHAIR SUGIMURA: Yeah, triggering mechanisms.

COUNCILMEMBER GUZMAN: And so, okay, Chair, I'll try to work that out.

CHAIR SUGIMURA: Okay.

COUNCILMEMBER GUZMAN: Thank you.

COUNCILMEMBER COCHRAN: Chair?

CHAIR SUGIMURA: Yes, Ms. Cochran?

COUNCILMEMBER COCHRAN: I think my . . . this is like, again, getting so far in the weeds. A Mayor arrives, he needs a managing director pretty much immediately.

POLICY, ECONOMIC DEVELOPMENT, AND AGRICULTURE COMMITTEE MINUTES
Council of the County of Maui

July 3, 2018

CHAIR SUGIMURA: Uh-huh.

COUNCILMEMBER COCHRAN: So, now you're going to have to, I mean, the whole organizing of the Council has to happen, so I don't know. I mean, that's like one of the main things that needs to happen right away as that person sits on that ninth floor besides a communications person 'cause every man and their daughter is going to want to know what your plan is and every director, so . . . every department. And then you gotta vet through and get those . . . the managing director needs to help you get the directors and so that, this is very cumbersome if you ask me. I like Ms. King's point as to, you know, as written. It's a very basic one paragraph-ish, couple sentences going on. And then these finer details is being mentioned ought to be not stuck in this Charter amendment that we're going to be, you know, bound by word for word, dot by dot. And that's just my thoughts at this time going, whoa, this is getting to be real time consuming, cumbersome and we're going to be left without a managing director for possibly we're talking 60, 90 days. That's two months, three months down the road. Things need to get kicking into gear already – January 2nd as far as I'm concerned. So, that's just my ten cents.

CHAIR SUGIMURA: So, we do not have a motion on the floor but --

COUNCILMEMBER COCHRAN: No motion.

CHAIR SUGIMURA: --but I hear . . . I hear what you're saying.

COUNCILMEMBER KING: Chair?

CHAIR SUGIMURA: Members, do you have any other comments regarding this? Mr. Guzman?

COUNCILMEMBER KING: I have a comment?

CHAIR SUGIMURA: Ms. King?

COUNCILMEMBER KING: Yes. When you look at the boards and commissions appointments there's not the third option that there's a body that goes back to. You know, so, I would be good with, you know, keeping these timeframes and just taking out that last sentence. I just wanted to throw that out there for Mr. Guzman's listening. Because without, if we don't . . . I mean, the thing that's hanging us up is this, the executive selection commission making that appointment. And, you know, I would have some concerns too about that body making the appointment when they may have certain biases from going through the interview process. I've never even in the nonprofits I've been involved in and the businesses I've been involved in. I've been on nominating committees before and it never came back to the nominating committee to make the decision. So, the nominating committee, you know, is objective and unbiased and puts forward the best professional resumes and people from the interviews that they've had and then the selection is made by someone else. So, you know, I think that this would be fine if we just take that last sentence out and just assume that it's going to be worked

POLICY, ECONOMIC DEVELOPMENT, AND AGRICULTURE COMMITTEE MINUTES
Council of the County of Maui

July 3, 2018

out by the Mayor and the Council. And assume that if that doesn't happen, that people will get involved and vote us out of office if we can't work together and get this person appointed. I have faith that this is trying to set up a system that should work that, I mean, no system is going to work if you have all terrible people operating it and that's not within our control. That's within the control of the electorate. So, you know, assuming that this same process can be worked out if we're referring to the boards and commissions, then we don't need this last reverting back to the nominating commission. And, to me, it's a little irregular because I've never sat in on any nominating commission that ended up having the authority to pick somebody because the boss couldn't, or the executive director couldn't figure it out.

CHAIR SUGIMURA: Thank you. So, we don't have a motion on the floor. We're having discussion about it. Mr. Guzman . . . we need to talk about his second amendment. Let's take a recess so we can get him back. . . .(gavel). . .

RECESS: 10:50 a.m.

RECONVENE: 11:07 a.m.

CHAIR SUGIMURA: . . .(gavel). . . Okay. Welcome back. Policy, Economic Development, and Agriculture Committee. Members, we have 50 minutes before this meeting is going to end. And so, I want to get through as much as we can. I would love to vote on this or take us to a point that we can vote on it. Mr. Guzman, so we're on your second item on your amendments, which is No. 23. So, Section 23, you're adding on the date shall take effect on January 2, 2023 versus January 1, 2021. So, do you want to talk about it --

COUNCILMEMBER GUZMAN: Yes.

CHAIR SUGIMURA: --or make a motion?

COUNCILMEMBER GUZMAN: Yes, Chair, just to reiterate what I initially saw as an issue and this was only incorporated from yesterday's discussion. It appears that there's certain sections of the Charter amendment that needs to be implemented immediately. And so, like for example, the selection commission, I mean, that was in my forethought and other sections that Mr. Kushi had indicated that needed to be immediately in effect. So, I pushed it back to 2023 so that in 2021 you would at least have those provisions, the select provisions that need to be started prior to the substantial portions of hiring. You gotta hire, you gotta RFP, create the contract, things like that. Those need to get started before the actual selection or the employment of the managing director. So, pushing it back to one term, it then gives the opportunity to fully engage this process.

CHAIR SUGIMURA: Okay.

COUNCILMEMBER GUZMAN: And also, on the fairness portion it allows also, as I had reiterated, was at least the directors that are being hired by the Mayor in this next term would be on notice that, hey, you know what, four years from now, you know, there's

POLICY, ECONOMIC DEVELOPMENT, AND AGRICULTURE COMMITTEE MINUTES
Council of the County of Maui

July 3, 2018

going to be a managing director that will be making those appointments at that point so.

CHAIR SUGIMURA: Okay. So, that's your motion?

COUNCILMEMBER GUZMAN: Yes.

CHAIR SUGIMURA: Change the effective date to be January 2, 2023?

COUNCILMEMBER GUZMAN: Yeah, but . . .

CHAIR SUGIMURA: So, I need a second.

COUNCILMEMBER GUZMAN: It's incomplete, Chair. This amendment is incomplete because I don't know what other sections need to be . . . as you can see, I have indicated in asterisk, in bold, bold-type, discussions need to be clarified as to which sections the proposed Charter amendments will apply effective January 1, 2021. So, yeah, I am making the change to 2023 but we still have the issue of when is the preliminary process to be started? And that would be January 1, 2021 and those need to be identified.

CHAIR SUGIMURA: So, wouldn't that be . . .

COUNCILMEMBER GUZMAN: Do you understand what I'm saying?

CHAIR SUGIMURA: I understand what you're saying.

COUNCILMEMBER GUZMAN: I just don't know which sections need to be identified.

CHAIR SUGIMURA: Right.

COUNCILMEMBER GUZMAN: Because like I said it was in discussion yesterday and Mr. Kushi did say that, yeah, portions of this section needs to be started earlier. So, those . . . it's an amendment but yet it's not a complete amendment because I'm missing the portions and sections that need to be effective --

CHAIR SUGIMURA: Okay.

COUNCILMEMBER GUZMAN: --January 1, 2021.

CHAIR SUGIMURA: Okay, so you're . . . so, basically, what you're doing is you are based upon the next Mayor's term you're saying the effective date is this? So, I would assume, are you not saying then that everything would push back so that it would not take effect on the same . . . it has to take effect on 2023. So, everything would move forward.

COUNCILMEMBER GUZMAN: What I'm saying is, Chair, I'm sorry I cut you off. Go ahead.

CHAIR SUGIMURA: No, go ahead.

POLICY, ECONOMIC DEVELOPMENT, AND AGRICULTURE COMMITTEE MINUTES
Council of the County of Maui

July 3, 2018

COUNCILMEMBER GUZMAN: Oh, what I'm saying is that there are certain sections of this Charter amendment that needs to be implemented first in 2021. And then there's other . . . and then there's the substantial portions of it that can be in effect 2023. Because if you combine it all things won't happen until . . . okay, if we leave it as the original date – January 1, 2021, that means January 1, 2021 we've got to get the selection commission done, the contract done, all the other provisions in there that lay the foundation. So, I'm just . . . simple construction. You gotta lay the foundation first before you build the house, right. So, I'm talking about the foundational processes, the foundational components that need to be started before the house is built.

CHAIR SUGIMURA: Okay.

COUNCILMEMBER GUZMAN: Yeah, so . . .

CHAIR SUGIMURA: I hear what you're saying.

COUNCILMEMBER GUZMAN: Okay. Thank you.

CHAIR SUGIMURA: So, Ms. Cochran. I'm sorry, Ms. Crivello, --

VICE-CHAIR CRIVELLO: Hello.

CHAIR SUGIMURA: --your light is on. I'm sorry, your light is on.

VICE-CHAIR CRIVELLO: This is Councilmember Crivello.

CHAIR SUGIMURA: I know.

VICE-CHAIR CRIVELLO: Thank you. You know, I'm hearing Mr. Guzman and on the sidelines quarterback Atay and myself were having a little bit of discussion, which I think I'd like to throw out over here. So, Mr. Guzman talks about the substantial amendments and I guess the meat of all this resolution relate to, starts 2023. And as we're going through all this and I think about it the Charter Commission meets again in its interval time in 2021 to put the items on ballot for 2022 and goes into effect 2023. It appears as though that, you know, we want to hurry up and get this out there. But maybe in reference to where Mr. Guzman is talking maybe that's what we would have to consider so we get true vetting throughout the procedures or processing of the Charter Commission. So, I just throw that out because we have now . . . 46 pages?

UNIDENTIFIED SPEAKER: Forty-two.

VICE-CHAIR CRIVELLO: Forty-two. Still 42 and we're not even putting in a dent with all this and we have deadlines. So, I just throw that out as a thought. I think the Charter Commission gives us intense, yeah, participation and then it starts actually 2023 should the people accept what's put on the ballot for this opportunity.

POLICY, ECONOMIC DEVELOPMENT, AND AGRICULTURE COMMITTEE MINUTES
Council of the County of Maui

July 3, 2018

CHAIR SUGIMURA: Thank you. I was part of the Charter Commission along with you and it does, I mean, we were like the Budget Committee, I would equate it to the Budget Committee where we went to every single community and we heard from the community as to what their thoughts were on different items and then we vetted it and at that time Josh Stone was our Chair, I mean, it worked. And then the questions went on the ballot. And it was a diverse group so, thank you, I appreciate that, and I think we heard testifiers with the same thing. Mr. Atay is not. Ms. King?

COUNCILMEMBER KING: Thank you. So, I think we're still talking about the timeframe for this and even if the Charter Commission, which the Charter Commission . . . the reason why this came back up is the Charter Commission did not pass this out and it's been through the Charter Commission before. But I think this is a much tighter . . . this is a very different proposal that we had two years ago so it's not bringing back the same proposal as two years ago, which basically did have the Mayor as a figurehead but also got four votes on this Council. So, I think this is a very well-thought-out proposal. Didn't just come up today. It was submitted April 30th.

CHAIR SUGIMURA: Okay.

COUNCILMEMBER KING: So, we do have, we have had some time to look at it. But as far as the timeframe, I think I'm in agreement that this should probably start in 2023 but it needs . . . some of the procedures have to start earlier even if the commission said start this in 2023 you can't instantly hire, create all these procedures and hire this person in one month, you know. You have a ballot issue in November and then the next term starts in January. So, the timeframe that Mr. Guzman laid out in his No. 23 in his proposal is important in that it gives the time to lay this out. And so, my original proposal when I discussed this with Office of Council Services was to describe it as something like which would fit into this and we can get maybe Mr. Kushi's thoughts on this process, the amendment process shall take effect on January 2, 2021 with the next managing director hired in January 2023. And that allows all the processes to start in 2021 that have to get us to that point so that that person can be hired with that following Mayor's term. And that way, we don't have to describe all those processes in here, but we can just say that they take effect 2021, and then 2023 is the date for hiring the first managing director under this amendment.

COUNCILMEMBER GUZMAN: Correct.

CHAIR SUGIMURA: Mr. Guzman?

COUNCILMEMBER GUZMAN: Thank you, Chair. That language, which Ms. King, I'm so sorry, I'm in and out. That language that Ms. King had just related needs to be placed into this amendment.

CHAIR SUGIMURA: It what? I'm sorry.

POLICY, ECONOMIC DEVELOPMENT, AND AGRICULTURE COMMITTEE MINUTES
Council of the County of Maui

July 3, 2018

COUNCILMEMBER GUZMAN: Can be placed into my amendment. So, the wording needs to be reworked. I think it can work that way. I have to confer with Mr. Kushi whether or not . . .

COUNCILMEMBER KING: I asked for an opinion from --

COUNCILMEMBER GUZMAN: Oh, yeah, okay.

COUNCILMEMBER KING: --him so, you know, I wasn't . . . so, maybe Mr. Kushi . . .

CHAIR SUGIMURA: So, you're basically going to change the effective date to be January 2, 2023.

COUNCILMEMBER GUZMAN: Uh-huh.

CHAIR SUGIMURA: And you are now asking for Mr. Kushi to give you an opinion on what in this proposal will need to take effect before the . . . that Mayor's term?

COUNCILMEMBER KING: Chair?

COUNCILMEMBER GUZMAN: In accordance with . . .

CHAIR SUGIMURA: Is that correct, Mr. Kushi?

MR. KUSHI: Uh, yes, Madam Chair, as I stated yesterday I believe, I feel that the selection committee [*sic*] should be established earlier. And based on your proposed amendment today which is going to be Section 6-5.7 entitled "Executive Selection Commission", I think that should practically happen in 2021. It gives them time to establish themselves, adopt rules and regulations, and maybe propose ordinances to help their process. And come 2023 they should have a nomination, appointment. So, that being the case, my language, proposed language to your Section 23 would . . . I propose would read, you know, after the last sentence – *on January 2, 2023; provided, that proposed amendment Section 6-5.7 concerning the Executive Selection Commission shall take effect on January 2, 2021.* I think the others can stand alone and wait for 2023.

COUNCILMEMBER GUZMAN: Correct. Thank you for that language. I will adopt Mr. Kushi's language as a friendly amendment.

CHAIR SUGIMURA: Okay. So, just that portion of the selection commission will need to be started on January 2, 2021. Everything else can remain the same for the selection. Is that what Mr. Kushi is saying?

COUNCILMEMBER GUZMAN: That's what Mr. Kushi said. And I don't want to second guess you, Mr. Kushi, are you sure that's the only section?

MR. KUSHI: From my review of the amendment, the original one as well as the revised one of June 19, 2018, everything else stays the same, status quo, you know. The big change

POLICY, ECONOMIC DEVELOPMENT, AND AGRICULTURE COMMITTEE MINUTES
Council of the County of Maui

July 3, 2018

happens in 2023. But to get to that point, I'm proposing a two-year lead time for this commission.

COUNCILMEMBER GUZMAN: The selection and the drafting of the contract and the recruitment.

MR. KUSHI: Well, yeah, I mean, you know, that's another issue. I'm glad I'm not going to be around to draft that contract.

COUNCILMEMBER KING: Chair?

COUNCILMEMBER GUZMAN: Thank you, Chair. I will adopt that friendly amendment to my proposed amendment, Chair.

CHAIR SUGIMURA: Okay. So, Staff, you got that? Okay. So, No. 23 . . .

COUNCILMEMBER KING: I have a point of order. Point of order, Chair.

CHAIR SUGIMURA: Yes.

COUNCILMEMBER KING: No, I had some language and I requested an opinion from Mr. Kushi on my language, which you ignored and went to the next Councilmember but I did want to get Mr. Kushi's thoughts on if there are other portions of this that need to go into effect earlier of what . . . if it would be appropriate to say that this goes into effect January 2, 2021 with the first managing director date, appointment date of January 2, 2023, which would cover any other loose ends that might possibly need to go into effect in 2021 so that they can get started on that process. Because the biggest concern is that if you make this effective 2023 you're not going to instantly have the processes in place and the managing director chosen to start that date. You need to have these processes to start happening in 2021. So, would that . . . I mean, I don't want to get back to it and later on go, oh, we forgot to put this in starting 2021 as well. But I think to me I think what we're trying to talk about is that that would be the start date of this managing director but you're going to have a couple of years in between there to go through to create the process regardless of what that process is. I know we're still in discussion of whether it's a commission or a committee or what, where it's going to be, and we haven't decided that yet. So, just want to make sure it's covered, you know, because what I heard the other day was there might be other things that need to be started earlier as well.

CHAIR SUGIMURA: Mr. Kushi, do you have any . . . you need time to think about that?

MR. KUSHI: Yeah, if I recall what I said yesterday, I think we were talking about the terms of the department heads. And if you didn't have this transition language, I mean, if you started the amendment in 2021, the Mayor would be in his second two years, you know, two years left. But then his department heads would then be up in the air because you'll have a new appointing authority.

POLICY, ECONOMIC DEVELOPMENT, AND AGRICULTURE COMMITTEE MINUTES
Council of the County of Maui

July 3, 2018

COUNCILMEMBER KING: Right.

MR. KUSHI: So, that's what I'm talking about. Now, if you started in 2023, it's a brand new Mayor's term and there's going to be a brand-new managing director, and the managing director will appoint the department heads. So, for the next four years, for the next four-year term, the department heads would still be appointed by the Mayor and their terms would be coincide with the Mayor.

COUNCILMEMBER KING: Fine. I'm not denying that, I mean, I'm supporting that.

MR. KUSHI: That was my point about saying maybe you should tweak that department head appointments. And now, if you approve this amendment, this goes back to 2023. I don't see a problem with that. Everybody is on notice.

COUNCILMEMBER KING: Okay. But I'm not . . . I'm just talking about the wording. Are we covering all of the bases if we just say that that one section goes into effect 2021? I mean, are you understanding the language that I'm proposing? I know Mr. Guzman understands it, but the language is to state strongly that the managing director would start on, would be selected by 2023, no earlier than 2023, January 1st, but all the other processes would start, it allows the process to start January 1st or 2nd, 2021. So, if we change the language to say that this goes into effect on January 2nd, 2021 with the managing director appointed under this process starting on 2023, you know, and the department heads. So, I'm just trying to cover because I thought I heard that there were other things in this process that need to start earlier, yeah, that's what we heard yesterday and so we want to make sure we don't leave anything out so that if everything has to start in 2023, except this one piece, we can't get there in those two years because we've hindered ourselves from starting the process earlier to get to that. I mean, the goal would be to on January 2nd, 2023 whether we have the same Mayor or a new Mayor, we have a managing director that's been vetted, you know, we've taken a couple of years to vet and write a contract for and approve their terms of department heads like that. So, I just want to make sure that we're not hamstringing ourselves without by not allowing all those processes to happen earlier. And that was my question – can we just, if we make it clear that we want the managing director to start in 2023 with their appointed department heads, can we take care of all the processes that need to happen in those two years without describing them?

CHAIR SUGIMURA: So, before Mr. Kushi replies, I just want to make sure that we're actually talking about January 2nd, not January 1st. I think the language in here says January 1, 2021.

COUNCILMEMBER KING: Yeah, January 2nd.

CHAIR SUGIMURA: So, January 2nd is fine.

COUNCILMEMBER KING: No, you had the right date.

CHAIR SUGIMURA: Mr. Kushi?

POLICY, ECONOMIC DEVELOPMENT, AND AGRICULTURE COMMITTEE MINUTES
Council of the County of Maui

July 3, 2018

MR. KUSHI: Yes, Madam Chair, Member King, those were the only two areas I was concerned about – the selection committee *[sic]* when do they start? They should start earlier.

COUNCILMEMBER KING: Uh-huh.

MR. KUSHI: And the appointments of the department heads for two years instead of four years.

COUNCILMEMBER KING: Uh-huh.

MR. KUSHI: I think now that you pushed it back, there's a full four-year term for the next incoming Mayor.

COUNCILMEMBER KING: Uh-huh.

MR. KUSHI: In terms of the appointment of this new managing director, on Section 6-5.1., perhaps maybe you should put a date in there. New managing director shall be appointed by the Mayor and confirmed by the Council on or before "x" date.

CHAIR SUGIMURA: What section is that – 6-5?

MR. KUSHI: No, whatever date and month in 2023, you know.

COUNCILMEMBER KING: Well, but then what does that do to subsequent, yeah, future managing directors. There's going to be multiple dates down the line, so I think in addressing it in this No. 23 that Mr. Guzman proposed is addressing the start dates so when do we start this? I'm just trying to find a way to make it clear that we start in 2023 with the new managing director without --

CHAIR SUGIMURA: Wait.

COUNCILMEMBER KING: --but allowing all the process . . .

CHAIR SUGIMURA: Recess. Recess. . . *(gavel)* . . .

RECESS: 11:30 a.m.

RECONVENE: 11:35 a.m.

CHAIR SUGIMURA: . . . *(gavel)* . . . Okay. Welcome back, everybody. We are at 11:35. Twelve o'clock this meeting ends, and we have Mr. Guzman's amendment that we're discussing. We do not have a motion, so we would need a motion to resolve it. But I'm getting concerned about completing this, if we can, to meet the deadlines that we have to, to meet the Clerk's deadline to get on the November ballot. We're running out of time. This is very extensive. I have a whole bunch of questions that I even haven't gotten to yet but I'm wondering if the Members . . . where we are. Are we willing to come back

POLICY, ECONOMIC DEVELOPMENT, AND AGRICULTURE COMMITTEE MINUTES
Council of the County of Maui

July 3, 2018

and discuss this again? I would need quorum. So, the next day that I can think of that we would try to meet again, tomorrow is 4th of July so that's not a good day but Thursday after Ms. Crivello's meeting, HHT, if that's available to take this up and that would be the absolute last and final day. If this doesn't make it, if we don't finish, that is the last day for all of the Charter proposals that have come before us. So, Members, HHT . . . after HHT so that would end at 4 o'clock. So, at 4:30 who would be available this coming Thursday evening to work?

COUNCILMEMBER KING: I'm available.

CHAIR SUGIMURA: Kelly King. Alika, you're not available. Elle's not available. That's two, three. Friday is Council meeting. Can try for that. Are you guys available after Council?

COUNCILMEMBER GUZMAN: I'm not.

CHAIR SUGIMURA: You're not.

COUNCILMEMBER KING: I am.

CHAIR SUGIMURA: Okay. So, both days we have three people for each. We will have to poll everybody else. Mr. Guzman?

COUNCILMEMBER GUZMAN: Chair, can I just get this last amendment in?

CHAIR SUGIMURA: Yeah.

COUNCILMEMBER GUZMAN: I'm going to motion for it. Motion to amend 23, paragraph 23, to read as follows: *That, upon approval by the majority of the voters voting on the proposed amendment and upon official certification of such result, the amendment proposed herein shall take effect on January 2, 2023; Mr. Kushi, can you . . . and the Section 6-5, relating to . . . oh, wait, sorry, 6-5(7), Executive Selection Commission shall be in effect January 1, 2021.*

CHAIR SUGIMURA: Mr. Kushi, is that correct? We don't have it actually 'cause you haven't made that amendment.

COUNCILMEMBER KING: You have to do that one first.

COUNCILMEMBER GUZMAN: Yeah.

MR. KUSHI: Is that 2021?

COUNCILMEMBER GUZMAN: You know what, I cannot propose this amendment because that section doesn't exist.

CHAIR SUGIMURA: Right.

POLICY, ECONOMIC DEVELOPMENT, AND AGRICULTURE COMMITTEE MINUTES
Council of the County of Maui

July 3, 2018

COUNCILMEMBER GUZMAN: Okay. Withdraw.

CHAIR SUGIMURA: Withdraw. Okay. Withdraw both. Members? Yes, Ms. Crivello?

VICE-CHAIR CRIVELLO: Did you conclude on which day . . .

COUNCILMEMBER KING: Can you put your mike on so we can hear?

VICE-CHAIR CRIVELLO: Did you conclude when you will carry this item back again?

CHAIR SUGIMURA: Oh. Okay. So, last and final attempt to do this meeting and I'm just wondering availability for Thursday after Housing and Human Concerns, I'm sorry, HHT meeting availability. So, one, two, three, four. So, there's no quorum. And or Friday after the Council meeting. So, same four. No.

COUNCILMEMBER KING: Do we have any other Councilmembers who might . . . we can poll right now?

CHAIR SUGIMURA: Ms. Crivello?

VICE-CHAIR CRIVELLO: So, we don't have quorum for the 5th and the 6th?

CHAIR SUGIMURA: Right, based upon the Members who are here. I mean, it's four for each day availability. Yeah, let me take a short recess. . . .(gavel). . .

RECESS: 11:41 a.m.

RECONVENE: 11:46 a.m.

CHAIR SUGIMURA: . . .(gavel). . . Members, so we have tried to take this up and make it work with these amendments. Mr. Guzman's amendments are both withdrawn. Kelly King's we worked on which is included in the January, I'm sorry, the documents that I passed out that we're using now with those changes. So, are you guys ready to take a vote on this? I mean, does it look like a document that is something that you are willing to take and make a decision? Do you think we're going to finish this?

COUNCILMEMBER KING: Chair?

CHAIR SUGIMURA: Yes.

COUNCILMEMBER KING: I think Mr. Guzman had some very good amendments that need to be massaged a little bit. And we could have voted if we, you know, there's a whole section on the selection commission that needs to be vetted before. And this was all new material that he brought up. But, you know, I know that Mr. Underwood has some concerns about creating a whole commission for this selection process and that would be referred to in the last amendment which has the, you know, the dates for the selection commission to start. So, I think it needs . . . those points need to be worked out, but I

POLICY, ECONOMIC DEVELOPMENT, AND AGRICULTURE COMMITTEE MINUTES
Council of the County of Maui

July 3, 2018

think if anybody has got any questions of our support staff or myself as the maker of this resolution, I'm happy to answer and --

CHAIR SUGIMURA: Okay.

COUNCILMEMBER KING: --try to get as far as we can. I mean, we're not going to get through this or either of the other two Charter amendments to a vote today, I don't think. I don't think it's reasonable to vote with a bare quorum because we're not giving full vetting to this. And maybe that's what we're going to end up with next time too and then none of the amendments will pass but if we can hope to get our other colleagues on board to vet these Charter amendments out, I think that's the only chance we have of actually . . . of getting a meaningful vote.

CHAIR SUGIMURA: Okay. So, whether we have quorum is the big question right now for the other two dates, but these are some of the questions that I have on this proposal. So, I have concerns about having the second most powerful person as this proposal proposes to be hired on contract. This is somebody that's not going to be accountable to the voters whereas, the Mayor as we have right now, for Ms. Cochran or Mr. Guzman if they were to get elected, if they selected their managing director, their Administrative heads or directors and proceeded with managing the County, and then it didn't work out then the electorate would vote them out, right. So, that is the power of the people, the voice of the people. This proposal, according to what I see, gives that ultimate power to run the County to somebody who is not accountable to anybody except . . . I don't know who he's accountable to. So, I have a big concern about this person being hired on contract.

COUNCILMEMBER KING: Okay.

CHAIR SUGIMURA: I have a big concern about this person being hired on contract.

COUNCILMEMBER KING: Okay. Can I respond to that or if that's a question?

CHAIR SUGIMURA: It is a question.

COUNCILMEMBER KING: Okay.

VICE-CHAIR CRIVELLO: Can I ask a question?

CHAIR SUGIMURA: Yes.

VICE-CHAIR CRIVELLO: What are we doing? Just discussion or are we going to bring this . . . what is the decision on how we're handling?

CHAIR SUGIMURA: On the quorum.

VICE-CHAIR CRIVELLO: Oh.

CHAIR SUGIMURA: So, we're . . .

POLICY, ECONOMIC DEVELOPMENT, AND AGRICULTURE COMMITTEE MINUTES
Council of the County of Maui

July 3, 2018

VICE-CHAIR CRIVELLO: We're having discussion just on this? Is that okay?

CHAIR SUGIMURA: Yeah. I just wanted to bring up some of the questions I had. We went through the amendments proposed by Mr. Guzman, which were both withdrawn, and Ms. King's. So, if anybody else have amendments or discussions --

VICE-CHAIR CRIVELLO: Oh, okay, okay.

CHAIR SUGIMURA: --please let me know.

COUNCILMEMBER KING: Yeah, I don't know, you know, I'd be happy to respond to that.

CHAIR SUGIMURA: Please respond.

COUNCILMEMBER KING: I don't know if that's getting into debate but since you asked. This is actually . . . it's clear in here that the managing director reports to the Mayor. The selection process has been made more objective and less political by, you know, to this body . . . I'm not really convinced it needs a full commission and I've spoken with folks in the departments who believe this should be an ad hoc committee. But it would be a professional person that's hired for this position that would have the authority over the departments. Right now, we'd know from our discussion with Mr. Regan, and when the Mayor was here, that he does not have authority over all the departments. He's been told hands off Department of Parks. He's been told hands off DEM. He doesn't get to manage those two departments. He also doesn't get to appoint the department heads of the departments he does manage. What we're asking for is a process that is less political, it's more objective, and to allow the people of our County to vote on that new system on changing the system or not or keeping it political the way it is now. We have a Mayor who can appoint anybody regardless of what their qualifications are because there's nobody who's, to my knowledge, even doing a review of those department heads.

CHAIR SUGIMURA: Thank you.

COUNCILMEMBER KING: So, I'm not done. Can I finish?

CHAIR SUGIMURA: Finish.

COUNCILMEMBER KING: So, you know, when I look at who's come forward to oppose this it's been all those special interests that lobby the Mayor. It's been the unions, it's been the lobbyist from the real estate, Realtors Association Maui. And when I look at the people that have supported it that have helped massage this from the previous iteration two years ago which did have a Mayor just as a figurehead, now it's got a lot more. It's got the duties of the Mayor back in there, it's clear that the managing director reports to the Mayor, it's clear . . . it's written in there that he's subordinate to the Mayor and the Mayor if anybody knows how executive, how nonprofits are run, how businesses are run, the Mayor's position is to be the visionary for that department but not run every single department, not micro-manage. If you look at what happens even in nonprofits,

POLICY, ECONOMIC DEVELOPMENT, AND AGRICULTURE COMMITTEE MINUTES
Council of the County of Maui

July 3, 2018

you have a CEO in a nonprofit, you have a guy at the top who sets the vision, who manages, who's responsible ultimately for the budget and the finances of that but you have people underneath them that manage the different activities and operations. So, that's how a business runs efficiently, that's how a nonprofit runs efficiently, and that's what the people are asking for. If you look at the people that are supporting this, they have nothing personal to gain. They just want a chance to vote on the new system of government that they believe will remove the politics as much as possible, I mean it's not possible to remove it 100 percent. But if we vote against this, I believe that, and now I know I'm getting into debate, but I believe that we're allowing that same political influence to, you know, this is the very reason we need this is because these political influences and special interests --

CHAIR SUGIMURA: Okay. Thank you.

COUNCILMEMBER KING: --have come into our system.

CHAIR SUGIMURA: You've made your point, Ms. King. Ms. Crivello?

VICE-CHAIR CRIVELLO: Yeah, I think, first of all, I recognize the problem how we cannot even move this forward because we don't have a quorum for us to make that determination. I think that's our major problem as elected officials here . . . for whatever reason. And I feel that the vetting process has to be very intense and I do not take anything away from those who support it, even those that don't support it. But I have a question because I keep hearing this will take the politics out of it. I mean, we live in a political arena. We work in this political arena. And the way I read it, as this managing director, and I think we owe it to our public to really get it out there so that they fully understand this is that will be the most powerful individual in the County. That managing director will pull the strings one way or the other because he or she will hire all of the directors. He or she will be, I guess, will be a non-elected official that will have the power to determine how we're going to expend or bring in our dollars that all falls on our taxpayers. The other part too is, if we don't have the opportunity to truly vet this, 42 or 46 pages with all different amendments, we're not being fair to our constituents as we get ready should we decide to put it on the ballot or not. And you ask the question -- who is this managing director accountable to? We also . . . our people, our Mayor as well as us, our Mayor were elected by the people of this County. Whoever becomes our Mayor is representing the voice of the majority of the County of Maui, and I would want us to respect that voice and not silence it. Let us not silence the voice of the people unless . . . we're already trying to silence what was passed the last Charter with the 6.4 trying to . . . we're bypassing that, you know. So, for me, personally I'd like for us to do more dissecting. If it means for us to . . . because we're looking at when its implementation is, when it goes into place, and I think Mr. Guzman explained that further. I think the Charter Commission comes back on the table in 2021, let's put it on the ballot 2022, and there's a process that goes through that so that you fully educate the public, and then they can make that determination because my district this was not taken out there. Lanai . . . was it taken out to Lanai? Was it taken out to Hana? And, yes, I become a voice on their behalf, but this is not, this is a Charter . . . big time Charter amendment. It's changing the face of government. It's changing what was

POLICY, ECONOMIC DEVELOPMENT, AND AGRICULTURE COMMITTEE MINUTES
Council of the County of Maui

July 3, 2018

originally set forth and what was founded here by our Prince Kuhio. He founded our County local government, and he was the voice of the makaainana. And so, this is what's missing in this process. We don't even have a quorum. We're not even taking it out there. There's a crack to this process, and if it's so important for us to make sure that our constituents hear every bit about this, we should allow that. I go back again our problem is we're not meeting quorum and we're not able to decide – move it out of Committee or not. And that's where the problem lies but there's also many questions in here that what ordinance are going to be before us, not after. What are we going to set up before the ballot and not after? Is this commission, this Executive Committee or Commission, who votes them in? Who decides . . . after you elect your Mayor, the head of your County, and then we come in and say this is what we want but you know what our full-on people at large, all districts, have they heard the full story of what this involves? And that's my concern is that we're trying to institute a different type of government, a different way of governance, and we have a crack, we got pukas, that's the bottom line. And, to me, do we keep the politics out? Hey, we're all here elected through politics, whether there's the politic to get me out or get me in, there's the politics that exist. How we take the politics out of this? How do we take it? Who's going to appoint – the Mayor, Council, and individuals from our constituents. We're in a political arena and you know bottom line is like Ms. King refers to this is big business because this is big dollars. I think we gotta hold our heads up high as to how we manage the millions of dollars that we manage by the Administrative, the Executive Branch and the Legislative Branch policymakers. We've been able to, knock wood, and continue to put our budget and balance it. I think people need to hear all of this, including what the proponents want out of this. Yeah, that's my mana'o. Thank you.

CHAIR SUGIMURA: Okay. Ms. Cochran?

COUNCILMEMBER COCHRAN: Chair, I know we're going pass the noon hour and all for deferring but also . . . I mean, as a potential next mayor here, I completely and always have been in favor of a County Manager. I kind of wish the wording was that versus managing director because we currently have that and it's kind of, in my head, equating what that role is. But, for me, this has a whole different type of connotation and the Mayor, this person reports to that Mayor. This person is going to be hired, vetted, qualified, all that, but having that vision and philosophy of the Mayor's main goals and objectives of what this County is to be and become. So, I don't see where the electorate or the voters are being slighted or ignored or won't have a say because they've elected that top person of this County and then that person, the person who will be managing all the other directors that are running the County departments are all in line with the head person who is the Mayor. So, I don't understand where . . . but taking politics out of this is about having actual applications and having people who want to be directors of all these respective departments qualified. Have them share their experiences and skills and what they want to bring to the table and how is it in line with the vision of that Mayor and things of that nature and not just, you know, as we've seen, political favors and what have you. So, that's where that part falls into line and I don't understand what the discussions have been right now, you know. The other day we passed the Department . . . that whole . . . Department of Land Management and the same points I'm hearing from naysayers of this managing director concept voted through

POLICY, ECONOMIC DEVELOPMENT, AND AGRICULTURE COMMITTEE MINUTES
Council of the County of Maui

July 3, 2018

that and I just, you know, it's kind of like a selective . . . selective voting or selective interpretation of things and I . . . it's, it's very frustrating here. And I think a lot of it does have to do with lack of quorum and what have you and we just can't move forward. And the education of this, that is the County Clerk's role for any Charter amendment. That is the role of each individual here as Members voice of this community. That's our job too to educate the voters who put us into this position on what all the different Charters are that we're voting through to put upon that ballot. So, that's not to rely upon someone else. That's for us and, yeah, I get out there and I educate. So, I don't think it's pointing fingers at someone else to do it, and if this were to come up in this Committee long time ago we would had a lot more thorough discussion and everybody would been turned out and educated made aware of what this is all about. But here we are at the final hour . . . the final chance to put it on the ballot and that's why we're in this predicament why we're saying how come, how come and nobody knows, and no island knows and no district knows about it, well, would have been nice it would have been brought to the table a lot sooner. So, well, here we are guys, and it's pass noon and those are my thoughts right now.

CHAIR SUGIMURA: Mr. Atay, do you have any thoughts?

COUNCILMEMBER ATAY: Thank you, Chair. I've been sitting here trying to listen to offers and amendments, trying to do research on Charter amendments, trying to first understand when the Charter Commission . . . maybe you can . . . clarification for me. When is the Charter Commission scheduled to meet?

CHAIR SUGIMURA: So, the next dates are 2021 and it goes on the 2022 ballot. Twenty twenty-one, twenty twenty-two.

COUNCILMEMBER ATAY: So, November 2022 . . .

CHAIR SUGIMURA: Yeah. It goes into the 2022 ballot.

COUNCILMEMBER ATAY: And effective would be January 2, 2023?

CHAIR SUGIMURA: Uh-huh.

COUNCILMEMBER ATAY: Okay. And so, I was listening to Member Guzman's proposals and even these current amendments which I guess he pulled back but was effective dates January of 2023. And I'm looking up the Charter amendments and there's . . . aside from amendments or recommendations coming from the Charter Commission, there's three other ways of amendments can be initiated. And then one was that we have a 20 percent petition, like a ballot initiative, that goes to the County Clerk. Then we have 10 percent petition of registered voters that come to the County Council. And then the third way is by resolution of the Council adopted after two readings on separate days and passed by a vote of six or more Members. We're trying to attempt to bring the Charter or proposed Charter amendments through this route, but the first hurdle is we ain't got quorum. You know, we ain't got a vote of six or more members. You know, so I don't, you know, I mean . . .

POLICY, ECONOMIC DEVELOPMENT, AND AGRICULTURE COMMITTEE MINUTES
Council of the County of Maui

July 3, 2018

CHAIR SUGIMURA: So, if I could, that's talking about six members when it goes before the full Council. But out of this Committee, we need five votes to pass. But what you're talking about is, you're right, it needs, for a resolution it needs two full readings through Council and it requires six votes.

COUNCILMEMBER ATAY: Yeah.

CHAIR SUGIMURA: This Committee requires five still.

COUNCILMEMBER ATAY: So, I'm sitting here, I'm going, okay, we're under the gun. We're running out of time, you know. If the County Clerk needs August 23rd as their date to be able to post it, and we need to have it vetted this 42-page full of amendments vetted, truly vetted and get out of Committee, one, we're running out of time.

CHAIR SUGIMURA: Uh-huh.

COUNCILMEMBER ATAY: Two is, I'm sitting here going, okay, we either going rush and get it out or do we respect the process and let the Charter Commission vet it out and get it out to the public, which the two dates the end result the start effective dates is still January of 2023. For me, time and energy and properly vetting it out . . . I'd like to see. You know, we are moving very shortly to be a one-billion-dollar corporation. We definitely will be in need of professional business management decision making. I would love to see that we receive and have a managing director in place to handle this one-billion-dollar company. But we need to properly vet it out.

CHAIR SUGIMURA: Okay. Ms. King, do you have any comments?

COUNCILMEMBER KING: Yeah. Well, part of what Mr. Atay's concerns are that this has been put at the end of previous Committee meetings and so it hasn't had a chance to be discussed because until yesterday it wasn't even brought to the Committee for discussion because we kept running out of time with the other amendments. And I know you were gone, Mr. Atay, during a lot of that public testimony. My feeling and the feeling of a lot of people out there is why this comes up now is that we can't wait any longer. We have it, we are being mismanaged right now. I share Ms. Cochran's concern that we've watched other projects and other proposals being rubber stamped by this Council without the proper vetting. We both said that the Department of Land Management was a good idea, but it needs vetting. It was a brand-new idea and yet it got four votes from people who are now saying we need to vet stuff. There were budget items that we passed that came to us in the dead of the night – 10 o'clock at night by Corp. Counsel proposing 345,000 to put in security on the second floor, which no public official . . . none of the public had even heard before and it got passed out with zero vetting. So, you know, this selective vetting is really disturbing, and it also feels very political. If we're going to say that everything needs to be vetted, then we should be vetting everything before we bring it to Charter amendment and we're not doing that. So, it's disingenuous to say that we haven't had a chance to look at this and it's been out since April 30th. All the Councilmembers had had a chance to look at it. The public

POLICY, ECONOMIC DEVELOPMENT, AND AGRICULTURE COMMITTEE MINUTES
Council of the County of Maui

July 3, 2018

had a chance to look at it, we're having this discussion now last minute because we haven't been allowed to do this before, hasn't made it to Committee till yesterday, so I think there are those of us who would pass this out and give the public a chance to vote on it. And the public is demanding some changes to our system and we cannot move forward and fix the problems that we have with the same system that created it. I think that's one of the things that's clear in this electorate that there are changes that need to be made. So, it is a choice of the public. We're not saying, we're not going to put this on the ballot and say it's automatically going to pass. It does need education. It's up to those who are forward to educate the public on that, to those who are against it to educate the public on why they are against it and put it to a vote. That's why it's come here. It's sad that we don't have enough of a quorum. I feel really disappointed that some of our Committee members showed up until their proposals were passed and then haven't showed up since. I mean, you know, it's very disturbing that we can't get a full discussion on the last three Charter amendments that remain. So, I don't see anything happening today as far as the vote and I don't think it's fair to put this to a vote without finishing. Mr. Guzman did not withdraw his amendments, he's still proposing the amendments. It's just there were some things that needed to be worked out in them. So, it would take one more session to get through this, I think, to the point where we could vote on it. But the questions I'm hearing are the questions that keep being answered and keep being asked again. I mean, we know why this proposal is out here. I don't know why it keeps getting asked and, you know, I don't understand why we . . . I brought up and other members of the Committee have brought up on other issues that needed to be vetted that somehow that was just like no need to vet this, let's approve this. But this one needs to be vetted to death. So, that's where we're at right now.

CHAIR SUGIMURA: So, I will tell you that it's kind of interesting where, you know, you say, okay, so we're going to be hiring these Administrative heads based upon their qualifications and I was not part of this Council when it was taken up. But the last Council put on the ballot and the public voted to have the qualifications done and we did 11 qualifications, which, you know, we finished it in ordinance and I would like to see those qualifications be utilized when we hire the next set of department directors for the next Mayor, whether it's Ms. Cochran, Mr. Guzman, or any one of the others that are running, whoever ends up to be Mayor, we do have that in place and it was the public who asked us to do it and so we did. Ms. Crivello's statement about we are silencing the people, I feel like that if we just plow forward with this, we are silencing the voters that basically put that in place and saying that it wasn't important enough to do. We are going to do it. We want to see if it works. I think it's a pinnacle moment in our history of Maui County where we are seeing all the things that you are talking about that's important. I also feel that this needs to be vetted a lot more than we have time for. We received this proposal on the 30th of April, which was the deadline, and if you want some timeframe for this I did meet with the makers of this bill basically in August, or your Committee then about this. I reiterated my intention to proceed with establishing the additional qualifications before I proceeded with hearing any kind of Charter change. I also sent out a letter in January of this year just letting all the Members know what the timeframe was, which was after Budget we would take up Charter amendments. The last date that it was due was April 30th and that's when this document came to us. And as soon as I could after Budget, we heard it, and we tried to

POLICY, ECONOMIC DEVELOPMENT, AND AGRICULTURE COMMITTEE MINUTES
Council of the County of Maui

July 3, 2018

hear it on the 5th of, you know, June and we've been trying to do this as best as we could. This is huge, this is not, you know, this is not to be taken lightly. I agree that I think it needs to be vetted forward that this is not giving us enough time to think about this in detail. And it's a huge change. I'm not in a rush and I don't think that you should be in a rush to change something so significantly. So, Members, I don't think that even if we had one more meeting we're going to be able to vet this out completely the way that it needs to be. Unfortunately, Mr. Guzman left because he had those proposals. He's not feeling well, unfortunately he's not here. But I actually am going to hope that when the next Charter Commission meets that they can take up this item. It was something that when I was on the Charter Commission we took this item up and even at that point we said we needed to, you know, spend a lot more time on it. But this is not enough time to do it. So, Members, at this time, I'm going to defer this item so that it can be discussed further and I'm not planning on taking it up again. I'm not going to hold another . . . I can't get quorum for another Policy, Economic Development Committee *[sic]* meeting with the people who are here or the phone calls that we made. So, I can't get quorum on this. If you want to make a motion to see if this passes, I'll look for a motion. But, if not, I'm going to defer this item. Do I see a motion? Anybody wants to make a motion to pass this out of this Committee? No? Okay, Members, this meeting will be adjourned. I am deferring this.

MS. ESPELETA: . . . *(inaudible)* . . .

CHAIR SUGIMURA: Oh, I'm sorry. One moment. I'm going to recess. . . *(gavel)* . . .

RECESS: 12:17 p.m.

RECONVENE: 12:17 p.m.

CHAIR SUGIMURA: . . . *(gavel)* . . . Okay, Members, I stand corrected. I'm gonna defer all the other Charter amendments that were proposed.

PEA-10(5): PROPOSED CHARTER AMENDMENTS (OFFICE OF CLIMATE CHANGE, SUSTAINABILITY, AND RESILIENCY) (CC 17-11)

PEA-10(7): PROPOSED CHARTER AMENDMENTS (DELETE THE REQUIREMENT OF COUNCIL APPROVAL TO REMOVE THE DIRECTOR OF WATER SUPPLY) (CC 17-11)

PEA-10(4): PROPOSED CHARTER AMENDMENTS (DEPARTMENT OF LAND MANAGEMENT) (CC 17-11)

ACTION: DEFER PENDING FURTHER DISCUSSION.

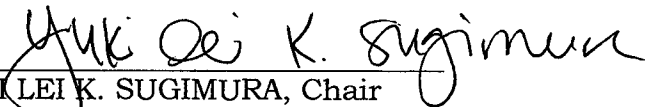
POLICY, ECONOMIC DEVELOPMENT, AND AGRICULTURE COMMITTEE MINUTES
Council of the County of Maui

July 3, 2018

CHAIR SUGIMURA: Unfortunately, we won't be able to discuss that either. We are not able to get a quorum to continue this meeting. This whole agenda will be deferred, and this meeting is adjourned. . . .(gavel). . .

ADJOURN: 12:18 p.m.

APPROVED:



YUKI LEI K. SUGIMURA, Chair
Policy, Economic Development, and
Agriculture Committee

pea:min:180703r

Transcribed by: Jo-Ann Sato

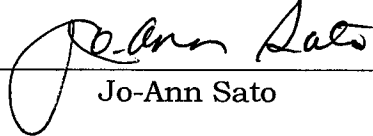
POLICY, ECONOMIC DEVELOPMENT, AND AGRICULTURE COMMITTEE MINUTES
Council of the County of Maui

July 3, 2018

CERTIFICATE

I, Jo-Ann Sato, 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 24th day of July, in Pukalani, Hawaii



Jo-Ann Sato