

**COST OF GOVERNMENT COMMISSION
MINUTES**

**Kalana O Maui Building, 9th Floor, Mayor's Conference Room, Waihe'e Side
Thursday, August 9, 2018**

PRESENT: Paul Kailiponi, Chair
Sharron Courter, Vice-Chair
Noemi Barbadillo, Member
Bonnie DeRose, Member
Paula Heiskell, Member
Stanford Lantias, Member

EXCUSED: Barbara Mattson, Member

STAFF: Ed Kushi, First Deputy Corporation Counsel
Gary Murai, Deputy Corporation Counsel
Shelley Pellegrino, Technical Writer for the Commission
Lance Taguchi, County Auditor

OTHER: Mike Molina, Executive Assistant to the Mayor
Gladys Baisa, Acting Director, Department of Water Supply
Sherilyn Otsubo, Executive Assistant to Councilmember Yuki Lei Sugimura

DOCUMENTS RECEIVED:

1. Document entitled, "Open Meetings: The Sunshine Law, HRS Ch. 92, July 12, 2018, Cost of Government Commission" (distributed by Deputy Corporation Counsel Gary Murai)
2. Documents Produced by the Cost of Government Commission in Response to Mark Hyde's "Request to Access a Government Record"
3. Updated draft report entitled, "Compliance Losses and Risk Management Practices"

I. CALL MEETING TO ORDER

Chair Kailiponi called the meeting to order at 10:06 a.m.

II. PUBLIC TESTIMONY

There was no public testimony.

III. REVIEW JUNE 14, 2018 MINUTES

Chair Kailiponi stated that he had agreed to prepare the June meeting minutes, but that they were not yet available for review.

IV. REVIEW AND DISCUSS CORRESPONDENCE RECEIVED

- A. "Request to Access a Government Record," dated June 18, 2018, from Mark Hyde, Requesting Correspondence by Letter or Email Between the Cost of Government Commission and the Chair of the PEA Committee from April 1, 2018 to June 18, 2018
- B. Letter dated July 25, 2018, from Patrick K. Wong, Corporation Counsel, Regarding Cost of Government Commission Draft Report on Compliance Losses and Risk Management
- C. Letter Dated July 25, 2018, from Stewart Stant, Director, Department of Environmental Management, Regarding Cost of Government Commission Draft Report on Compliance Losses and Risk Management
- D. Letter Dated July 25, 2018, from Gladys C. Baisa, Acting Director, Department of Water Supply, Regarding Cost of Government Commission Draft Report on Compliance Losses and Risk Management
- E. Email Dated July 30, 2018, from Rowena Dagdag-Andaya, Deputy Director, Department of Public Works, to Shelley Pellegrino, Technical Writer, Cost of Government Commission, Regarding COGC Draft Report – DPW Review

Chair Kailiponi listed the documents received by the Commission. He then expounded on the "Request to Access a Document Record" made by Mark Hyde, and reported that he transmitted to Mr. Hyde communications between Yuki Lei Sugimura and himself between April 1, 2018 to June 18, 2018. A copy of the response was transmitted via email to the Commission.

Commissioner DeRose inquired as to the purpose of the request. Deputy Corporation Counsel Gary Murai responded the requester is not required to explain why he or she needs the record. If the record is a public record, then the requester is entitled to receive it.

Chair Kailiponi explained that he could infer why the record was requested based on the timeframe that was given, the nature of the request, and the individual who requested it. Chair Kailiponi explained that Mark Hyde provided testimony before the Commission when it was discussing the Council Manager form of government in 2015. The Commission subsequently issued a report discussing the proposed Charter amendment and Chair Kailiponi testified as to the report's contents at that time. Similarly, Chair Kailiponi testified before the County Council's Policy, Agriculture, and Economic Development (PEA) Committee on June 5, 2018. Chair Kailiponi added that Mr. Hyde is an open advocate for the Council Manager form of government. The Commission did not advocate for such a change in its 2015–2016 Annual Report.

Chair Kailiponi explained that the right for an individual to request information is absolute. He added that these types of requests also can be used as a tool to take things out of context and disparage those who have to adhere to the request. Chair Kailiponi stated that he could not state that this was the intent in this case, but in academic circles (e.g., at the University of Hawaii Maui College, where Chair Kailiponi is employed), this type of intent often exists. Consequently, the Commission needs to ensure that it dots their "i's" and crosses its "t's." Chair Kailiponi asked the Commission to review the documents produced, and reminded the Commission that as an investigative body, it has to maintain an even higher standard of integrity and transparency, especially when the Commission weighs in on policy issues.

V. COUNTY AUDITOR'S UPDATE

There was no update by the County Auditor.

VI. SUNSHINE LAW PRESENTATION BY GARY MURAI, DEPUTY CORPORATION COUNSEL

Deputy Corporation Counsel Gary Murai distributed a document entitled, "Open Meetings: The Sunshine Law, HRS Ch. 92, July 12, 2018, Cost of Government Commission." Mr. Murai then provided short refresher on various aspects of the Sunshine Law, including the following: open meetings; meeting notice; meeting minutes; board business; permitted interactions between members; the investigative exception; acceptance of testimony at cancelled meetings; attendance at informational meetings or presentations; and executive meetings.

Mr. Murai also highlighted recent changes to the Sunshine Law. First, a board packet is required and a public version of the packet must be made available for inspection at the same time it is available to the board. Second, agendas are no longer filed with the County Clerk, but posted electronically. Third, minutes may be kept in recorded form with a written summary and must be posted online within 40 days of a meeting.

VII. DISCUSS COST OF GOVERNMENT COMMISSION RULES AND PROCESSES

The Commission deferred discussion of this item.

VIII. DISCUSS EXTENSION OF CONTRACT FOR TECHNICAL WRITER FOR FISCAL YEAR 2019

County Auditor Lance Taguchi explained that the current contract for the Technical Writer ends on August 31, 2018. After discussion with the Commission Chair, a suggestion offered was to amend current contract to end at on July 30, 2018, and enter into an option period from August 1, 2018 to June 30, 2019. Chair Kailiponi noted that the Commission already voted at its June 2018 meeting to extend the Technical Writer's contract for Fiscal Year 2019. The issue involves a gap period between the two fiscal years where the Technical Writer does not have the funds to fulfill her duties.

Chair Kailiponi suggested that some of the Technical Writer's responsibilities, such as drafting the agenda be shifted to the Chair. Vice-Chair Courter stated that the Commission has been successful in large part due to the work of the Technical Writer and that removing some of the Technical Writer's responsibilities to save a small amount of money might not be cost effective in the end.

Chair Kailiponi noted that the Commission's Fiscal Year 2019 budget was already approved by the County Council, so the Commission will need to wait to propose an increase until the Fiscal Year 2020 budget.

Mr. Taguchi explained that the reason the Commission has a Technical Writer is to maintain a separation between the Office of the County Auditor and the Cost of Government Commission. In addition, the Auditor's Office is very small and employs only one administrative officer. One of the reasons the Auditor's Office delegated the responsibility for posting the agenda to the Technical Writer was because his office could not guarantee the Commission that the administrative officer could post the agenda when legally required. When the Auditor's Office is

in report-writing mode, posting an agenda becomes secondary. Mr. Taguchi reiterated that maintaining independence between the two entities is equally important.

IX. REVIEW 2017 – 2018 ANNUAL REPORT DRAFT (POSSIBLE COMMISSION ACTION)

A. Compliance Losses and Risk Management (Chair Kailiponi)

(Note: The Commission heard testimony from Acting Director of Water Supply Gladys Baisa prior to Section VI. Sunshine Law Presentation)

Gladys Baisa, Acting Director of Water Supply, stated that when she became Deputy Director of Water Supply, she asked to be more involved with Department personnel. She began holding quarterly meetings with employees and received some feedback regarding safety issues. Ms. Baisa stated that it then became a priority for her to advocate for a Safety Technician position in the Water Department, which currently has only one employee addressing safety issues. Ms. Baisa added that it is physically impossible for one person to go to all work sites, conduct safety classes, and do all that is required to take employee safety to a higher level. Ms. Baisa stated that she advocated for a Safety Technician position during the Fiscal Year 2019 budget deliberations, but the Council turned down the Department's request.

Ms. Baisa stated that she will be requesting a Safety Technician position in the Fiscal Year 2020 budget and asked that the Commission support the Department's request.

Commissioner DeRose asked whether the Department had instituted some sort of suggestion box or something similar to gather feedback from employees. Ms. Baisa stated that she meets with everyone quarterly and provides employees with her cell phone number if they wish to report issues, and follow ups up with employees who contact her.

Commissioner Lantias asked what some of the safety concerns are for the Department. Ms. Baisa responded that there are logistical issues with the locations of some of the pipelines, which are in mountains, valleys, and forests. There are also issues with landowners who do not want the County on their land. To illustrate, Ms. Baisa stated that someone set out a bucket of nails on the way to the Mahinahina Plant. Department employees have also suggested better signage and colored safety shirts (instead of blue).

Vice-Chair Courter asked Ms. Baisa why she thought the Council denied the budget request. Ms. Baisa stated that Councilmembers have competing priorities, but her perspective is that safety should come first.

Chair Kailiponi noted that Ms. Baisa's letter to the Commission stated that 20% of the 197 employees are 60 years old and over. Ms. Baisa responded that the figure is correct and that training is also a high priority for the Department.

Chair Kailiponi stated that the Commission will work to incorporate Ms. Baisa's comments into the report and offered the Commission as a resource. The Commission thanked Ms. Baisa for her insight.

During the discussion of the draft report, Chair Kailiponi noted that the latest draft had been distributed to the Commission. In addition, Chair Kailiponi stated that the

Commission had transmitted the draft report to certain departments and received responses from all of them except for the Department of Parks and Recreation. Responses from the following departments were distributed to the commissioners: Corporation Counsel; Environmental Management; Public Works; and Water Supply.

Chair Kailiponi proposed four options as to how to incorporate the department responses into the draft report: (1) include the responses at the end of the report as an appendix; (2) include the responses, but provide footnotes in the body of the report indicating that a response relevant to the corresponding text is available as an appendix; (3) intersperse the actual department response into the body of the report at the corresponding locations as response boxes, thereby limiting changes to the original text; and (4) intersperse the actual responses from the departments within the body of the report, making changes to include those responses seamlessly within the report.

Commissioner DeRose and Vice-Chair Courter supported the second option. Mr. Kushi indicated that he needed to follow up on the response by Deputy Public Works Director Rowena Dagdag-Andaya before the Commission finalized the report.

Vice-Chair Courter moved to approve the second option to provide footnotes in the body of the report indicating that a response relevant to the corresponding text is available as an appendix. Commissioner DeRose seconded the motion. The Commission voted unanimously to approve the motion.

B. Compensatory and Overtime Pay (Commissioners Heiskell & Courter)

The Commission deferred discussion of this item.

X. DISCUSS CURRENT TOPICS UNDER REVIEW

A. Energy Usage of County Facilities (Commissioner Lantias)

The Commission deferred discussion of this item.

B. Office of Economic Development — Maui Visitors Bureau Grant (Commissioner Mattson)

The Commission deferred discussion of this item.

XI. DETERMINE NEXT MEETING DATE AND AGENDA

To accommodate the newly-appointed Lanai commissioner, the Commission decided to change its meeting time from 10:15 a.m. – 12:15 p.m. The next meeting is scheduled for Thursday, September 13, 2018, at 10:15 a.m.

XII. ADJOURNMENT

The meeting adjourned at 11:50 a.m.