

# **GOVERNANCE, ETHICS, AND TRANSPARENCY COMMITTEE**

**Council of the County of Maui**

## **M I N U T E S**

**Council Chamber**

**January 30, 2019**

**RECONVENE: 3:08 p.m.**

**PRESENT:** Councilmember Michael J. Molina, Chair  
Councilmember Keani N.W. Rawlins-Fernandez, Vice-Chair  
Councilmember Riki Hokama  
Councilmember Tasha Kama  
Councilmember Kelly T. King  
Councilmember Alice L. Lee  
Councilmember Tamara Paltin  
Councilmember Shane M. Sinenci  
Councilmember Yuki Lei K. Sugimura

**STAFF:** Shelly Espeleta, Legislative Analyst  
Pauline Martins, Committee Secretary

Don Atay, Executive Assistant to Councilmember Sinenci  
Sarah Pajimola, Executive Assistant to Councilmember  
Rawlins-Fernandez

**ADMIN.:** Michael Victorino, Mayor  
Deidre Tegarden, Chief of Staff, Office of the Mayor  
Edward Kushi, Jr., First Deputy Corporation Counsel, Department  
of the Corporation Counsel  
Sananda Baz, Acting Managing Director, Department of  
Management  
Tyson Miyake, Deputy Managing Director, Department of  
Management  
Michael Miyamoto, Acting Director, Department of Environmental  
Management  
John D. Kim, Acting Prosecuting Attorney, Department of the  
Prosecuting Attorney  
Robert Rivera, First Deputy Prosecuting Attorney, Department of  
the Prosecuting Attorney  
Patrick K. Wong, Corporation Counsel, Department of the  
Corporation Counsel

**OTHERS:** Gary Murai  
Brian Perry  
Bill Medeiros  
Zandra Amaral

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Brian Bilberry  
Plus (12) other people

**PRESS:** *Akaku Maui Community Television, Inc.*  
*Melissa Tanji, The Maui News*  
*Axle Beers, Maui Time*  
*Susan Halas, Maui Time*

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CHAIR MOLINA: . . . (*gavel*) . . . The recessed meeting of the Government [*sic*], Ethics, and Transparency Committee meeting of January 23<sup>rd</sup>, 2019, is now back in session. Members, it is Wednesday, January 30<sup>th</sup> at 10 minutes after 3 p.m. For the record, the testimonial phase of the January 23<sup>rd</sup> meeting has now been completed. We will start the deliberation phase. But, first, the Chair would like to thank Affordable Housing Committee Chair Tasha Kama for providing this Committee extra time to deliberate. Thank you very much.

COUNCILMEMBER KAMA: You're welcome, Chair.

CHAIR MOLINA: And Chair will do a roll call. The Chair will just see who's in their seats. The Chair will say all Members of the GET Committee is present. Thank you very much, Members. It is a . . . it has been and will be quite a marathon as we continue through with this process. For the record, on January 23<sup>rd</sup>, there was roughly 85 sign-ups for testimony. The Committee spent almost eight hours with the combined testimony and deliberation phase. The Committee did approve Mayor Victorino's nominees for the directorships of Parks, which was Ms. Karla Peters, and for the directorship for the Department of Transportation, which was Mr. Marc Takamori. Now, on the agenda, we still have five nominees to consider. The Chair is looking at possibly going up to as late as 8 o'clock. The Chair is hopeful if we can complete all of the agenda items. However, if we do not, the Chair has a recessed date for the Committee to consider at a later point today. So, with that being said, the Chair would also like to recognize the hardworking Committee Staff – Ms. Espeleta is the Committee Analyst and Ms. Martins as the Committee Secretary. And, of course, from Corporation Counsel, we have Mr. Kushi. And joining us for our proceedings this afternoon, we have the Honorable Mayor Mike Victorino, who will be giving a brief introduction to each of his nominees. So, with that being said, Members, any questions before we proceed? Seeing none. All right. We shall start with the first item on the agenda, which is the Mayor's nominee for Managing Director - Mr. Sananda Baz. I'd like to ask Mayor Victorino to give a brief introduction of Mr. Baz before we call him up for questioning. Mr. Mayor?

MR. VICTORINO: Thank you, Chair, and thank you Council for being here and helping with the deliberations. As I said earlier yesterday, I thank you for all your hard work and your considerations. And let me start with Mr. Baz. Many of you have known him, know him many years in this community. He has been an active member in our community. He brings a lot of management skills, not only from the governmental entity

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as Budget Director and working at Council Services but also in the area of MEO and being its Executive Director for a number of years working in the private sector. Mr. Baz has shown a lot of leadership and capabilities and has great knowledge of the Council and the County's operational aspect. I believe he brings a real good determined leadership that I will work very closely with. I need someone who I believe that will do the job for the people of Maui County and Sandy has been and has demonstrated that through the years. I will say his educational background, as you read his resume, is extensive and there's not much more to say except I believe he will be a very, very solid Managing Director for which will work with not only the Administration but the County Council. I think he's done that and demonstrated that with this group here and other Councils through the years. And so, with that being said, Mr. Chair, I thank you for that opportunity for that introduction and let's get the show rolling. Thank you.

CHAIR MOLINA: All right. Thank you very much, Mr. Mayor. So, I'd like to call upon Mr. Baz to come up to the front. And while Mr. Baz is taking his seat, the Chair would just like to share his thoughts as to how the Chair will look at making his decision on the nominees. First of all, the Chair will set the priority on the nominee's qualifications, hearing the Directors', I guess, objectives for how he or she can, will address the needs of the department, and how they can improve the department as far as efficiency goes. And, Members, as a friendly reminder, if you do bring up certain issues that involve the Director, please be mindful, focus on strictly the Director's involvement and not so much stray into talking about the pros or cons of the issues specifically. And if there are issues that you're going to bring up that relate to potential litigation, please be mindful of that. We may have to consider executive session, if that is a route that this body chooses to go to. Councilmember Sugimura?

COUNCILMEMBER SUGIMURA: Can you share with us the order that you'll be taking the agenda today?

CHAIR MOLINA: Sure. For the record, we'll be in first with the Managing Director, which is GET - Item 1. He will be followed by the nominee for Environmental Management, which is Mr. Miyamoto, which is GET - Item 7, to be followed by GET - Item 3, which is the Prosecuting Attorney. And Mr. Kim, of course, is the nominee. And to be followed by the Planning Director nominee, Ms. McLean, GET - Item 8. And last on the agenda will be the nominee for Corporation Counsel, which is GET-2, and namely Mr. Patrick Wong. All right. Any other question before we ask Mr. Baz to provide us an opening summary?

COUNCILMEMBER SUGIMURA: Thank you.

CHAIR MOLINA: Okay, thank you very much. Mr. Baz, you have the floor.

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## **GET-1(1) APPOINTMENT AND REMOVAL OF ADMINISTRATIVE HEADS OF DEPARTMENTS (MANAGING DIRECTOR) (CC 19-1)**

MR. BAZ: Good afternoon, Members, Chair Molina, thank you for the opportunity to be before you this afternoon for this confirmation discussion and process. I really appreciate the opportunity. And I also appreciate the questions that were presented to the Directors and our opportunity to provide a response in writing. I hope that it was helpful to you in your review of my expertise and my vision. The Mayor has selected me as his Managing Director, and I am incredibly thankful for that opportunity. I have been in and around the County for over 20 years and it's something that . . . I was born and raised on Maui. Maui is my home. Maui will always be my home and that's where I care. My kids, grandkids, many future generations that have the opportunity to be here and to thrive in Maui County. And the opportunity that I have to be involved in this management role is an opportunity that I don't take lightly. Something that it's grown, you know. MEO is kind of joked around as being a mini County. There are about almost 300 employees, multi-million-dollar budget, and a lot of different funding sources and opportunities for services to our community. The County is a much larger scope, larger role, and . . . but very similar in that we are providing, as a County, service to our citizens. We have utility, of course, with our water, wastewater, solid waste. We have services that meet the needs of our security of our freedom, of our opportunities that we have in our different departments. And as a manager, it's my responsibility to make sure that they have the resources, capability and opportunities they need to be successful always. That's what I see first. In my Budget Director role, I worked on that from the financial perspective making sure that they have those resources that they need to meet the needs of the constituents. Mayor Victorino's mantra to us, his main initiative is to make sure that we're a customer service-oriented government. We have the opportunity to try to meet the needs of the constituents through the efforts that we have in our community and the different services that are provided by our Administration through the resources that you offer as a Council and making those final decisions as far as our budgetary-related items. But taking that aspect and being able to address the individual needs of each of our citizens in their requests for services, the requests for opportunities to provide, you know, local government aspect. It's been mentioned before I think Lt. Governor Green said it in the latest inauguration that the local governments, the closest connection to the people there is. You know, we have of course our County, we have our State, we have our Federal government but when somebody needs something, they call you, they call me, they call the Mayor first. We're the closest one. May not be our aspect of our significant role but it's an opportunity that we have to service our public and help them to find the resources that they need whether it is something that we provide or whether we can refer them to the State or County. But understanding what those needs are and how to fulfill those needs in the resource parameters that we have is something that I work definitely towards. I appreciate his trust in me in allowing me to take on this role. I appreciate my family and the sacrifices they'll make in being able to do this job, this 24/7 job. Within our first week, we had a partial activation of the EOC. So, we were there on a Sunday night dealing with the fire in evacuations in Wailea. And that's, you know, that's the role of

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the Managing Director to be able to be available and to assist, as needed. And I appreciate, you know, this process and opportunities that we have to be able to present to you and the patience the communities had in understanding trying to review this new . . . you know, there's been a few confirmations already not just this term but in previous terms but having all of the Directors now be confirmed is something that worse, I'm not saying struggling with but it has impacted the first few weeks of our operations and we want to make sure that you're doing the best job possible vetting through us and we're doing the best job possible continuing to keep the County operating while we go through this process. So, again, Members, I thank you for the opportunity and I'm here to answer any questions you have. I did provide to you, in writing, responses to those things looking at goals and objectives and opportunities that we have throughout our division of Department of Management as well as the County in general. So, thank you.

CHAIR MOLINA: Thank you very much, Mr. Baz. And prior to opening the floor for questions, Members, you do have a copy of the . . . Mr. Baz's financial disclosure form on your Granicus as well as you were provided earlier with information as far as all of the nominees' resumes, and also questions that Mr. Baz referred to, which was sent from Chairman King for responses from all of the nominees. So, just wanted to provide that information to you and the public. So, with that being said, the Chair will start off first . . . we'll just work our way down the room. We'll start first with Member Kama, if you have any questions, an opening question or two for Mr. Baz?

COUNCILMEMBER KAMA: No, sir.

CHAIR MOLINA: Okay. Thank you. Councilmember Sugimura?

COUNCILMEMBER SUGIMURA: Thank you. In your written response, one of the things that you mentioned for long- and short-term goals, so can you explain your short-term goal for develop a strategic plan for the County as an organization that encompasses the policies, directives of the adopted General Plan? Can you little bit go into it?

MR. BAZ: Sure.

CHAIR MOLINA: Mr. Baz?

MR. BAZ: Thank you, Mr. Chair. Member Sugimura, the County adopted a Community . . . General Plan back in 2010. In there, there are key objectives that we're looking for kind of the overall scope of a County in its entirety, right. There's a lot of aspects in there that deal with things that aren't . . . that we need to evaluate, we need to set as objectives. Now that those are developed, now that the Maui Island Plan is in place, we have couple basic Island Plans with Molokai and Lanai's Community Plans being adopted. We have the opportunity now to focus in on developing a strategic plan that meets the needs of the Administration's implementation of that, right. So, if you look at the General Plan's objectives, you see that there are things in there that are

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related specifically to the operations of the County as a governmental entity and there are things that are related more to the general public and the community itself. I would like to, and Mayor Victorino has already instructed me to work towards developing a strategic executive vision initially and then working towards taking those objectives and allowing the County Administration to develop the specific goals and objectives to implement those. You know, we need to be able to take them and see which ones are specific to the Department's functions – Water, Wastewater, you know, Police, Fire, all of the different services that we're providing will work towards those objectives. So, how then do we, as a County, fulfill that role, again, as a governmental entity? The Council and the Mayor generally look at things holistically in the community aspect, right. And so, as the principal management agent for the Administration, the one that's holding the Departments accountable to be, you know, working towards achieving these goals, I want to have the pieces in place to make sure that we're taking those steps. And then, measuring that performance and measuring accountability. Performance management is something that's very critical to me, and I think it's very important to whether or not we're successful. We gotta measure that and know that we're successful.

COUNCILMEMBER SUGIMURA: So, it's something the Council will see eventually, I guess. It's not something that we've seen now.

MR. BAZ: Oh, yeah. I believe so. You know, the idea that we're working, gonna be working with the, you know, facilitator and making sure that we're working towards, you know, keeping on task with getting those strategic plans, you know, completed. And it's something that we're going to be working with, you know, it obviously it's going to be part of the budget request. Maybe not this current, you know, upcoming 2020 budget because it's something that's already pretty much developed. We're reviewing that aspect right now. But as we go through the Administration there will be lots of opportunity for interaction on this strategic plan because you are the . . . hold the purse strings, I mean, to put it bluntly. You're the ones that make the final decision on budgetary aspects of what resources that we have available to accomplish that. So, you need to understand what we're trying to accomplish so that you can make a good decision on whether or not we should have the resources to get it done, yeah.

COUNCILMEMBER SUGIMURA: Thank you.

CHAIR MOLINA: Okay, thank you very much, Councilmember Sugimura. Chair recognizes the Councilmember from West Maui. Ms. Paltin, you have the floor.

COUNCILMEMBER PALTIN: Thank you, Chair. Aloha, Mr. Baz.

MR. BAZ: Aloha.

COUNCILMEMBER PALTIN: So, one of my top concerns is . . . I know legally that sea level rise and climate change reports are being incorporated into most of our policies and procedures. But I wonder if any of us really understand the impacts that this will have

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on our people and our communities, and I think we are already seeing the effects in the recent storms, the floodings, and even the fires to some extent being whipped up by the wind. I know you said you already had a partial activation of the EOC. I want to know in that regard what are your vision, future plans to make us more prepared for disasters, make our communities more resilient to stand up to things. I feel that even with the devastating effects that we've had so far, we have been fairly lucky in that it's kind of isolated into certain districts and there is, you know, potential for Puerto Rico-type disasters that affects our whole County, affects our whole State. When it's district specific of course here in Hawaii the other districts come and kokua. But what if it's Statewide, what if it's Countywide are you prepared as the Managing Director to respond?

CHAIR MOLINA: Mr. Baz?

MR. BAZ: Thank you, Mr. Chair and thank you, Ms. Paltin. Very critical. You know, we need to make sure that we have as much preparation as possible. When . . . we already have worked with the Emergency Management Office and working that with, making sure that we're prepared initially for natural disasters that are occurring right now. That's kind of the initial phase. And one of the directives that the Mayor has given all of his Directors is to make sure that they're trained. FEMA has an Incident Management System training and, you know, the Directors are required to participate and understand what the . . . that's more focused on the immediately, you know, yeah, the natural disasters that we're dealing with now – fires, floods, tsunamis, hurricanes, things like that. Thankfully no tornadoes here. But what you're discussing is something that I've already had a conversation with Emergency Management about. And the aspect of the impact for the planning for that is really Countywide. You know, we have a wastewater treatment plant that's in the tsunami zone. What happens to that? How are we preparing to make sure that if we do have a situation where, you know, a tsunami does occur that we can still flush our toilets. You know, one of the aspects of that is not just the treatment plant but the actual pump station too. Wailuku-Kahului pump station is in the inundation zone, and so if that goes down, we have no place to pump. And we want to make sure that we're setting back-ups and doing things to prepare us for those mitigation efforts. So, to answer your question, as the Managing Director, my role is to make that a priority within the Departments to make sure that we have a continuity plan. There is a draft continuity plan that's already been reviewed. I already read through that and looking at what we have available to maybe enhance that continuity of operations. That's real critical that we can still survive and meet our citizens' needs. Again, my role, as I see it, is on the actual County operational standpoint. But all the role that we have is making sure that our citizens are prepared and ready for that. We have a deficit with shelters. We don't have enough shelters that have back-up utilities and things like that. We've already had an island-wide power outage, yeah, and you know we didn't really have the ability to deal with that very well. Thankfully it was short. It was during the day and there really wasn't too much issues but that can impact us and so we need to make sure that we're thinking of those . . . *(inaudible)* . . . gathering the different organizations together that provide

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that public service. During the strategic planning in our . . . I shouldn't say strategic planning, it is strategic too but our planning in future developments, you know, are we approving developments that are in the wrong place, you know? I heard from a prior comment, oh, maybe we should, you know, condemn houses on the beach and move people away. I don't know if that's the option. That's something we all need to discuss and figure out but I'm here as the Managing Director to make sure that our Administration is prepared as possible, and that we're doing our best efforts to make sure that we're mitigating any disasters.

COUNCILMEMBER PALTIN: Thank you. I just would ask that you please ensure that recovering is part of your planning. It seems like a lot of the focus is focused on planning for the event, opening and staffing the EOC. In past instances, after the full threat has passed the recovery might need a little bit more planning on that.

MR. BAZ: Yeah. Thank you, Mr. Chair and Ms. Paltin.

CHAIR MOLINA: Proceed.

MR. BAZ: Yeah, we are working on that as well. You know, one of the things that we deal with after a natural disaster is the debris and how are we doing with that, and what opportunities do we have to help to prevent disease and, you know, littering throughout our community and we're looking at different aspects to that and I have approached already some opportunities for that with Solid Waste and others. Thank you.

CHAIR MOLINA: Okay. Thank you, Member Paltin. Councilmember Hokama?

COUNCILMEMBER HOKAMA: Thank you, Chairman. Chairman, thank you. You know, again, for me, this is my fifth confirmation of our fifth Administration. So, you know, one, I know Mr. Baz, he's been part of the County in and out for 20 years about, I think. So, again, like many of us I know his strengths. Like in all of us, we have a few weaknesses. And I appreciate one, first, that you have put yourself up for a public review for a job, which is a very difficult thing. And so, I thank your family for allowing you to go through a very open public process that is can be very difficult at times. So, thank you for that up front. One of the things that I'm going to ask you this afternoon, Mr. Baz, is of a concern of mine and this is going to be about, more of a Department-wide, Countywide concern for me that I believe as the prospective Director of Management I would ask for your thoughts because I think this is a key area of operational responsibility for the Department and yourself, and that goes to procurement, purchase orders and other financial requests, okay. During my tenure, we've had problem Departments with problem employees for what I consider inappropriate action with public money, okay. Whether it's Public Works, Parks and Recreation, what have you, this County's small, this island is small, and I can tell you there's a lot of loose lips out there. So, knowing the reality of our environment and our status, what would your plans be to tighten up because I have issues when our people cheat public funds? Whether it be a mechanic or whether it be an inspector, it doesn't

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matter to me, okay. I expect those that will lead our Departments to have virtues and traits that I feel should be outstanding as our benchmarks and as those from the public perspective look at you for leadership guidance and to be the people, we all hope to be and want to be. So, while . . . how would you address my concern regarding Countywide, the issue of bringing your Departments, your Divisions 1) to ensure fiscal responsibility in what they are requesting for public funds, and then holding those that should be accountable to be responsible for it?

CHAIR MOLINA: Mr. Baz?

MR. BAZ: Thank you, Mr. Chair. Member Hokama, thank you for that question. So, as the Budget Director, my evaluation of the Departments and the requesting piece of it was there. I haven't had a whole lot of implementation and authority with the actual procurement things like that. We do have our Department of Finance and that is their role. We have our Chief Procurement Officer. We have our Procurement Division and we have a very, very experienced Division Chief who does . . . actually lead the State as far as State procurement goes. We have the opportunity more recently with the County Auditor and he has evaluated different aspects of procurement related to pCards and specific issues, and that type of review is something that it's very welcomed. The opportunity that we have to be get better only comes from our making mistakes and figuring out what those mistakes are and achieving a better result. There are, obviously, going to be always opportunities for improvement. But working with the County Auditor, working with Department of Finance, working with the . . . under the State Procurement Code in different opportunities that we have there, really my role as Managing Director is to facilitate all of that. The Mayor is the one that signs the contracts, the Finance Director is the one that's evaluating the procurement process making sure that our purchasing requirements are met. I can help to evaluate those things. One of the responsibilities of Department of Management is performance management, right, so, if the Divisions or if the Departments have responsibility for that oversight, responsibility for making sure that Procurement Code is met, making sure that we're not doing things, you know, inappropriately then my role is to make sure that we can test those and see whether or not the Departments are performing up to standards. I would like to beef that up honestly, the Department of Management. We have the, of course, we have the County Auditor and that's a wonderful piece that adds a third-party review sort of to our system. We have our independent auditor that looks like the financial aspects of that, but we don't have . . . well, and we do have the opportunity that this Council has provided in the past with Council reviews, Council audits, and I think that tool has been used very successfully. And the reviews that they have had recently with Solid Waste, with Fire, with different aspects of those help the Administration. When I was at MEO we would get monitored, reviewed, audited probably every month. I had somebody from some level of government reviewing what we're doing, and it helped because we're going to continue on doing what we think is appropriate until, unless we're told otherwise, right. So, that ability for that review is going to make sure that we are successful 'cause we all make mistakes. We all have definitely regret some of the decisions that we made. But the opportunity for us to learn

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from those and grow from those is what's going to make us successful or not. And I have made mistakes and I don't, you know, think that I made every decision appropriately. But I have grown from that and as that example, leader, you know, I'm going to take that and be able to help others to make sure that they're reviewing things appropriately. You know, as the Budget Chair and me as the Budget Director, we've worked on things to put securities in place so that there is that oversight. So, there is a little bit more control over what's going on and I support that. And I think that that's something that has improved the accountability that we have in the County itself and the Administration itself.

COUNCILMEMBER HOKAMA: Uh-huh. Good.

CHAIR MOLINA: Mr. Hokama?

COUNCILMEMBER HOKAMA: Thank you, Chairman. And again, yeah, Mr. Baz, for certain type of actions I understand your response. But when it comes to money, yeah, I'm very small in tolerance. Almost none tolerant when it comes to the money side. And, for me, enough occurrences have happened that we should have adjusted either the supervisory training or something because it disturbs me the amount that has occurred in the past, the divisions that has occurred in the past, and how we've dealt with the wrongdoing. Okay. I don't have a problem sending people to the appropriate process for appropriate judgment. But saying that, you know, one of the things I'm going to ask you about the . . . following through on your response is that still yet as the Director of Management and your ability to traverse all Departments because of that management component and should be as the top Director for the Mayor. You know, I've listened carefully to your responses to some of my colleagues' questions about your vision, yeah. My question now is, so how does that fit with the Mayor's vision because you work for the Mayor?

MR. BAZ: Correct.

COUNCILMEMBER HOKAMA: So, is there a difference?

CHAIR MOLINA: Mr. Baz?

MR. BAZ: Thank you. So, thank you, Mr. Chairman, Member Hokama. So, the Mayor's vision, the reason why we're going through solicited strategic planning process is so that the Mayor's vision is fleshed out. That we have the strategic vision, the leadership direction that I will implement. My job is implementation of that, right. It's his directive, definitely. And it's the Council's objectives and their directives in the actions they take legislatively.

COUNCILMEMBER HOKAMA: Uh-huh, uh-huh.

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MR. BAZ: That's . . . and my job is implementation of that strictly, right. And that's something that I'm happy to do. I got to know Mr. Victorino for many years as a Councilmember working together at MEO and through the budget process. He and I, especially in the last couple of months, have had hours of discussion. And his vision, his leadership, I embrace, and I will move forward. This customer service-oriented government is something that I am incredibly happy about because that's meeting the needs of our constituents, right. And so, his focus and his direction that he's providing to me to implement with these departments, that's my role. You know, Departments some of the Departments have some discretionary authority in making decisions, things like that.

COUNCILMEMBER HOKAMA: Uh-huh.

MR. BAZ: Honestly, Department of Management, Managing Director, I don't have a whole of discretion as far as that goes, right. My implementation is that. And my implementation with the Directors is making sure that they're performing to meet the needs of the requirements, the policies that are set forth by the Mayor and this Council.

COUNCILMEMBER HOKAMA: Okay. No, I appreciate that candid response because the people of Maui voted for Mike Victorino to be the Mayor. Okay. We expect his vision and his foresight of how he convinced our residents to support him and gave him this opportunity is what we expect to be presented to us for implementation and to us for potential funding support. Chairman, I'm done at this point in the hearing so, thank you so much.

CHAIR MOLINA: Thank you very much for your questions, Councilmember Hokama. Chair recognizes Committee Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Mahalo, Mr. Baz. My first question is, how do you plan to improve transparency within the Administration?

CHAIR MOLINA: Mr. Baz?

MR. BAZ: Yeah, thank you. So, was one of the questions on the written response and my . . . and I've always been a very transparent person when it comes to the County operations and even at MEO too. You know, these are public funds. The money, as Member Hokama mentioned, is it's something that, you know, people work hard, they pay their taxes, they expect us to be doing it the best properly way. As the Budget Director, I sought fit to request to the Mayor, the previous Mayor, that we develop a system to provide open data to our citizens. And so, we do have an open data website. We do have some resources on there. Unfortunately, the staffing hasn't been able to be there to update that information, but we do have many different fiscal years' worth of data as far as our budget, our expenditures, and the actual County checkbook is online. You can go now and look through and see I think the last fiscal year that was updated was Fiscal Year 2017, there's some 2018 Fiscal Year information in there. But that information is available to the public. They want to evaluate whether or not we're

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expending the money properly, if you know we're looking at different aspects of providing information to our citizen. One of the things that we have is the significant amount of data. The County collects data on lots of different things, and if we have the opportunity to provide that data in an easily accessible manner, then I'm going to be pushing that forward. One of the things that we have upcoming is the MAPPs Program – the Maui Automated Planning and Permitting System. That system is going to be providing another set of significant amount of data relating to land management because that's kind of the focus of it but there's also going to be data available to the general public that is . . . will help them to, you know, evaluate. I heard testimony from a I think it was an attorney yesterday talking about the system that our Finance Director, Acting Finance Director, put together in Real Property. That's a data source that provides an incredible amount of resources that I use on a regular basis, right, you know. And something . . . so, the more opportunities that we can have . . . we have a lot of data already out there and I think it's just a matter of focusing the . . . I don't want to say advertising about it but making sure that people know that it's around. One of the things that when I started looking at the financial data and providing that on there, there are certain data that is not going to be accessible, right. You know, there's certain data that we can't provide. There's . . . HRS has certain protections for different providing information. HRS 92F is really . . . defines what we, what we can and we can't present in a public manner. And so, we're going to make sure that we follow all the laws when it comes to that aspect but if we have the opportunity to provide the data, I want to make it accessible 'cause then for one thing it's less phone calls because you know they can go access the data themselves. It's a different generation now, you know, I mean, the information that's accessible makes it easy for people to do their own research, you know. I don't like picking up the phone anymore and talking to somebody. I want to do my research first and then I'll call 'em and talk story with him about something. But . . . so that's kind of the aspect of that. Understanding the parameters that we have as a government we're required to provide open, you know, information and there's some things that we can't provide. So, we'll make sure that we balance that work with Corporation Counsel or Finance Department on those aspects and provide that . . . yeah, so . . . more data available. And again, we have a lot of it right now. It's just a matter of, I think, getting it out there to show that it is available where those resources are.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo.

CHAIR MOLINA: Okay. Ms. Rawlins[sic]?

VICE-CHAIR RAWLINS-FERNANDEZ: I'm really happy to hear that you support open data. As the Budget Chair, I'm really curious to hear your thoughts on implementing a comprehensive budget software like open.gov [sic] that will provide real time data to our public.

MR. BAZ: Right. So, open.gov [sic] is one platform. The open data platform that we're using now is Socrata. Very similar and provides the same resources. The interaction with

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our financial data is where, you know, that needs to be made a decision of how up-to-date the data is. It's going to take a lot of resources and then there still has to be some aspect of making sure that information is not . . . we're not violating any laws by sharing that information. But yeah, so, yeah, open.gov [sic] and Socrata very similar. They have pros and cons for each of them. I did evaluate both of them when we were looking at the software and so, yeah, we can work on that with our Budget Director and, you know, of course, with the Mayor's blessing on moving that forward is something that would be . . . would be good.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Awesome. Can I move to the next question?

CHAIR MOLINA: Uh-huh.

VICE-CHAIR RAWLINS-FERNANDEZ: Part of the approach for the professional manager motto is because the Mayor determines the amount of power the Managing Director has. Under the previous Administration, the Managing Director did not have too much and so would you be able to share with us what your scope of authority would be?

CHAIR MOLINA: Mr. Baz?

MR. BAZ: Thank you, Mr. Chair, and . . .

MR. VICTORINO: Mr. Chair, I would prefer that question not be asked in that manner. It's something that the Mayor and . . .

CHAIR MOLINA: Excuse me.

MR. VICTORINO: I'm sorry. I'm sorry. I'd like to object to that question primarily because I and Mr. Baz are working very closely in setting up a system for which accountability by all of the Departments and Department heads as well as his position and mine will be well addressed and documented for all of you. But I have not completed that because I cannot because I'm waiting to see who my Directors will be. So, until that is completed, Ms. Rawlins-Fernandez, I am, at this point, not able to divulge that. But I am working on a comprehensive plan so that all of you will understand. Power is based on accountability and doing the job that is required by not only the Charter but the Island Plan and all the other aspects of County government. Thank you.

CHAIR MOLINA: Well, Mr. Mayor, . . .

COUNCILMEMBER KING: Point of order, Chair.

CHAIR MOLINA: Yeah, hang on. I'll get right to it, Chairman. Mr. Mayor, I appreciate your thoughts on that; however, this is the Council's meeting and so I will allow any Councilmember to ask whatever question necessary. Now, if it does stray out of bounds in terms of legality, I'm sure we have Corporation Counsel to alert us to that. So,

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Mr. Baz, it's up to you if you do want to answer that question. Ms. Rawlins-Fernandez, do you want to pursue asking that question, I will let it go. However, you know, we do have heard concerns from the Mayor on it so, I will leave it up to Mr. Baz if he chooses to answer that question or not.

MR. BAZ: Mr. Chair, I'll answer it very briefly. The Mayor and I and he had this conversation with his Directors that he is a very chain of command-oriented manager and that he has let them know that I am their manager and so if they have issues, they need to come through me to address those issues and we will work on those aspects. Detailed to your question I think Mr. Mayor has, you know, the authority to say what powers and abilities there are there but he has stated to all of us that he does want to keep a chain of command with the Directors reporting to me.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay.

CHAIR MOLINA: Okay.

VICE-CHAIR RAWLINS-FERNANDEZ: Thank you. I'll let other Councilmembers ask questions.

CHAIR MOLINA: Okay. And we'll certainly go with another round or two at least.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo.

CHAIR MOLINA: Councilmember from Wailuku, Ms. Lee, you have the floor.

COUNCILMEMBER LEE: Thank you, Mr. Chair. Mr. Baz, since you won't have direct control of the operations on a day-to-day basis with the Departments, how do you plan to motivate our Department heads to improve public service or service to the public on an ongoing basis?

CHAIR MOLINA: Mr. Baz?

MR. BAZ: Thank you. Mr. Chair and Ms. Lee, that's a very good question. Motivation of employees is a very difficult thing when, especially when you're dealing with difficult to serve, you know, clients or the aspects of the job that you don't really have ability to control very much. The Departments have County Code they have to follow, lot of them have Administrative Rules that they have to implement. And so, they have parameters and restrictions that they have to do in those. What I plan on doing is, you know, utilizing the Mayor's strategic planning vision, in getting us focused in on a shared mission, on a vision that we have to see these aspects to move forward and motivating the County Directors to implement in their Departments that shared goal, right. You know, what is it that we want to see? Do we want to see an effective, efficient, responsive government? As a personal priority, that's one of my personal priorities is efficient, effective, responsive government because that's, to me, that's one of my core values,

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right. So, so, you know, that strategic vision that's going to be developed here, you know, working with Department Directors the . . . you know, we're going to be holding the Department Directors accountable. We're going to be doing performance evaluations. We're going to be helping them to make sure that they have the resources. And if they come across obstacles that prevent them from providing that good customer service because what you're talking about is what Mayor's initiative is – customer service-oriented government. And so, to make sure that we're motivated to get the job done that's good customer service. So, what aspects do we have as barriers to that? Is it something that we need to come to the Council and say, hey, you know what if we could change the County Code in this certain aspect, we're going to be able to provide better service to our customers? We won't get as many complaints because of each situation that we're dealing with at the time. And so, it's going to be a collaborative relationship on those kinds of aspects. Sometimes it's Administrative Rules that we need to go through the process and go out to the community and it is a process. It's a, you know, you've done Administrative Rules before and you know that it's a lengthy process, it's a challenging thing to do but some of that stuff is not the, you know, I don't want to say sexy stuff, you know, it's not the real high-profile stuff. But it's stuff that we need to get done to eventually work on being a better government, being more responsive to our citizens, being having that better customer service. And then in the meantime, hopefully, more efficient at it, more effective at what we do.

COUNCILMEMBER LEE: Thank you for that response and I'm glad to hear at least part of it. I like the part where you say you're going to provide them the necessary resources because as a former Director and Cabinet member the way I tried to deal with my Department was to motivate them through providing them resources and assistance efficiently and quickly, you know, because we at that level do not, we're not on the front lines. And it takes all the people involved human beings, not machines, at the end who actually provide the service. So, all the way along the line, everybody has to be working together collaboratively and, you know, in a very positive way where you give them the tools to do their jobs. So, but thank you. I appreciate what you just said. Thank you.

MR. BAZ: Mr. Chair?

CHAIR MOLINA: Mr. Baz?

MR. BAZ: One of the Mayor's main drives in this first couple of months is getting out to all of those front-line staff and really wanting to hear from them what is aspects, what obstacles they have to getting their job done. 'Cause you're right, that you know, as managers, as Division Chiefs, sometimes we . . . we're a little bit separated from that. You know, when I was at MEO I had to do that. We worked on, you know, the motto of MEO is helping people changing lives, right. So, I mean, that's really the focus of the organization. And with limited resource, right, nonprofit, we have limited financial resources, can't pay the employees very well but what can we do? Quick response is a wonderful thing, you know, to understand, you know, to really take a look at something, evaluate it properly and make a decision on something 'cause a lot of times they're

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sitting around waiting for a decision to be made. So, you know, that's where the key factor is over this. Mayor Victorino is very quick. I can pick up my cell phone and call him and, you know, we can talk about something no matter where he's at, what he's doing, he's open to having a discussion, make quick reviews of things and be able to get back to the Departments. There was an issue yesterday that we had to deal with, and it was pretty instantaneous that we could deal with that situation, that communication piece, and the ability for us to collaboratively work together and make sure the Departments have the decisions they make and the resources that they have available to use.

COUNCILMEMBER LEE: One last question --

CHAIR MOLINA: Proceed.

COUNCILMEMBER LEE: --Mr. Chair? And Mr. Baz, you know all of us pledged the people like voted for us that we would make affordable housing the number one priority. But in the past, a major impediment was County government itself. When the Departments don't have the same priorities we run into a major roadblock. So, I'm hoping that the individual Departments will put their personal preferences aside as we move forward and all of us make affordable housing the number one priority.

CHAIR MOLINA: Mr. Baz?

MR. BAZ: Thank you. Ms. Lee, that's Mayor . . . obviously, you all were out on a campaign trail with him. I went back and looked at a lot of the forms that were available and, you know, listened to the messages that he provided to the citizens and the priorities that he has in affordable housing. And my job now is to, you know, take that vision and that direction that he's provided to us and helped the Departments to get that job done. Again, you know, sometimes it's, they want to do a good job. Their reading of the Code, you know, what's in place right now may be preventing them from providing that customer service. So, if we can adjust that Code, adjust the operations of the Department, adjust the ways that we are thinking of doing, I think we can accomplish that goal of providing definitely or I don't know if we're ever going to meet the needs of affordable housing. It's something that's always been a problem and always is an aspect but if we can start to address that in a holistic manner looking at and he has directed his Departments to make this their priority. So, if they have a concern, if they have an issue, you know, come to us and let's figure out what those are so that we can . . . we can get affordable units built, obtainable units. We want to have people in housing not out there on the streets.

COUNCILMEMBER LEE: Thank you.

CHAIR MOLINA: Okay. Thank you, Member Lee. Council Chair King?

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COUNCILMEMBER KING: Thank you, Chair. Yeah, I appreciate the questions that have come before and thank you for being here, Mr. Baz. My first question is sort of a broad - I appreciate your answers too to the questions that were sent out ahead of time in the format of Senate confirmations. I don't know if you knew that, but, one of my biggest questions I guess in a big picture thing is, you know, I believe that we're all serving the same vision. I believe it's an ordinance in our Countywide Policy Plan, but I do understand that every Mayor, every Administration has a different take on that vision so from your point of view what - how is this Administration's vision different from the previous because I know you worked in the previous Administration? And when you . . . and this is kind of a two-part question, when you talk about customer service who is the customer in your mind?

CHAIR MOLINA: Mr. Baz?

MR. BAZ: Thank you, Mr. Chair, Member King. I honestly, I don't want to necessarily compare Administrations. Everybody has different perceptions of that and different opportunities. I will tell you that this customer service-oriented government that Mayor Victorino wants to make sure that we're accomplishing means that those customers that we're providing is everybody. It's the citizens that need affordable housing. It's the citizens that are out there needing our police, fire services. It's the opportunities that we have to make sure that the water is there when you turn on the faucet. It's to make sure that when you flush your toilet that's properly dealt with, and that it's, you know, continually dealt with until we aren't using injection wells and things like that. So, you know, it's going to be that full aspect of every piece of it whether it be developers, whether it be citizens, whether it be companies out there, whether it be individual groups . . . it's really everybody.

COUNCILMEMBER KING: Well, thank you. That's a very safe answer. That really didn't answer my questions but . . . I'm gonna go to just a couple of specific questions, Chair, if I may?

CHAIR MOLINA: Proceed.

COUNCILMEMBER KING: And one of them was . . . I noticed there was a mention in . . . there was a discussion in your answers about the Kula Ag Park and the Office of Economic Development. In the past Administration there was an attempt to move the Ag Specialist over to the Department of Environmental Management. It wasn't in their plan yet, but it was supposedly going to be under the Environmental Protection and Sustainability Division. So, can you speak to that Division and if we can expect to see that developed in this Administration and whether or not you would move some of those Specialists over, including the Ag Specialist, the Energy Commissioner, and I think the Environmental Coordinator? Those three were proposed in the previous Administration to move over but the program had not yet been developed.

CHAIR MOLINA: Mr. Baz?

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MR. BAZ: Yeah, Mr. Chair, thank you. Chair King, the . . . honestly, that's going to be a better question for Environmental Management. I haven't really discussed with them on their priority of that request. That was a request of a combination between the Department and the previous Administration to move those, to combine those efforts. I, honestly, have been doing a lot of other things. And while sustainability and environmental protection are critical components of the aspects of what services we need to provide to our community, hasn't been something that Mayor and I have discussed yet.

COUNCILMEMBER KING: Okay, so your intent, I mean, in your answers you said plan to work with the Office of Economic Development and the Kula Agricultural Park Committee. So, your intention is to keep that, those two together?

MR. BAZ: Well, as I mentioned . . .

COUNCILMEMBER KING: It's not just the current . . .

CHAIR MOLINA: Proceed, Mr. Baz.

MR. BAZ: Thank you. As I mentioned, that's the current structure. And so we're going to work within the current parameters until this parameter is changed.

COUNCILMEMBER KING: Okay. I guess my last question in this round is you mentioned Socrata versus open.gov [sic]. I've actually had extensive discussions with the Socrata people 'cause I met them at the NACo Conference. But you said you compared those two and there's pluses and minuses. Did we make a good choice going with Socrata? Or are you reconsidering?

CHAIR MOLINA: Mr. Baz?

MR. BAZ: Well, thank you, Mr. Chair. I guess it depends on the level of information and in open data we want to have, and I found the interface with Socrata to be easier to use than the open.gov [sic] interface. Even from the customer service aspect of it. There's different examples – State of Hawaii uses Socrata and Kauai County uses open.gov [sic]. So, if you go look at those two sites, you can kind of see a brief example. Those aren't developed. When I looked at the differences, I looked at other jurisdictions that were implementing these systems. And King County, Washington, State of Washington and Seattle City use Socrata very extensively. And the information they have provided, the stories that they can tell with that data is something that attracted me to Socrata. They have the ability to capsule that data and make it make sense to a citizen because otherwise it's just a bunch of numbers, right. You know, how many permits did we issue and the timing of those permits and, you know, the days that it takes us to issue them. If it's not presented in a way that people can really understand then it's not going to be useful in decision-making, right. So, it's kind of where I was looking at that. And again, I didn't really have a whole lot of resources. I never got anything more than the

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actual money to buy the service. It's actually a software as a service. If we did have a dedicated resource for that personnel-wise, I think we could flesh that out a lot more and be better at telling that story . . . providing that data in a way that people can understand and then utilize in their decision-making of whether or not we're providing that good customer service.

COUNCILMEMBER KING: Okay. Thank you, Chair. I'll yield the floor from now on.

CHAIR MOLINA: Okay. Thank you very much, Chair, Council Chairman. Chair now yields the floor to Hana Councilmember Mr. Sinenci.

COUNCILMEMBER SINENCI: Thank you, Chair. Good afternoon, Mr. Baz. I wanted to thank you for meeting with myself and the staff prior. I have a couple questions.

MR. BAZ: Sure.

COUNCILMEMBER SINENCI: I did . . . in our meeting, I did appreciate your intentions to implement strategic planning as the Managing Director, and I was wondering in the process of evaluating the management and performance factors how would you use that data to focus on budgets specifically cost effectiveness, excessive spending, overtime, those types of things?

CHAIR MOLINA: Mr. Baz?

MR. BAZ: So, thank you, Mr. Chair and Member Sinenci. Those are very good questions. And when I was at MEO strategic planning was a big part of our process. Lot of the Federal monies that we received required performance matrix systems that were developed. So, it was a combination effort that the executive and the board worked on, you know, basically extracting the needs and the services they're providing and figuring out the best way to provide those services so that we're doing things efficiently and effectively, right. We want to make sure that the trash that's being collected is being collected in an efficient manner and that we're successfully getting it done. So, when I came to the County as the Budget Director in 2011, there was some performance management goals related to the budget but one of the things that I did was immediately start working with the Departments at the time and explained to them kind of what strategic planning is. Some of the Departments have gone over the years and actually developed good strategic plans. They've done their own processes and have focused strategic plans that are able to be evaluated and then, you know, determined whether or not they're successful. There's some departments that are still working on that. I think the Department of Water Supply just engaged an organization to help them develop a department-wide strategic plan and a very intricate one. So, those are the kinds of aspects that if we have those pieces in place then I can look to that when I'm evaluating the Director. Directors can look to that when they're evaluating their staff and seeing that whether or not they're achieving those goals. It's very difficult to measure something that's qualitative, right. Quantitative easy, right. We've produced 500 visits. Okay, fine. You produced 400,

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you didn't meet your goal. You produced 600 you've over exceeded your goal. Wonderful. Easy. Qualitative measures are incredibly hard to determine whether or not we're successful or not. One of the things that we're looking at is there was a start of a development of a community survey. So, going out to the community and trying to develop a . . . and understanding a baseline of what it is that the community thinks we're doing well and what it is the things we can approve. And it's interesting because you deal with this on a day-to-day basis. A lot of it is individual issues. When people come to you, I have an issue with this road, I have an issue with this Director because of this decision that they made, right. You're dealing with that right now. So, how do you then evaluate whether or not the Department is doing their job on a single-issue type of a thing or are there ways that we can do a better evaluation holistically. So, my job will be working with those Departments and developing, you know, again, there's some that have good strategic planned pieces already melding those together. But what Mayor's initiative is and what we're planning to do within the next month is provide that strategic vision. Previous Mayor developed the five Countywide priorities. It's been so long I kind of forget exactly what they were – suitable public infrastructure and safe health communities, it's you know, all these things that are very important for us. And so, you know, we wanted to see, okay, well, is that the desire of the Administration? Is that the desire of the County in achieving those goals and then we can work with Departments to see if they're doing those. We get your budget review. Three of you have gone through that a number of years now and in the future months you're going to get those same kinds of aspects. We ask them – is this capital improvement project related to the Maui Island Plan? Is it related to your strategic objectives as a Department? And so, you know, one of the things we immediately looked at because Mayor's main initiative is affordable housing is are any of your CIP projects related to affordable housing, you know? Is what we're doing going to achieve that goal? And so, that's the kind of stuff that we're going to have to be evaluating. Performance management it's not just a matter of counting numbers. It's really me working with Department Directors having a good understanding of what they're doing, their operations, and then evaluating whether or not they're . . . they're making the decisions, they're making the opportunity and resources available for their staff to get the job done from a general management perspective, my role as a Managing Director. Thank you.

CHAIR MOLINA: Mr. Sinenci?

COUNCILMEMBER SINENCI: Thank you. My next question. You touched a little bit about conflicts of interest in your questionnaire number ten. And although the Council will be confirming the Department heads, we don't always confirm the deputies or the supporting staff. And so, as the Managing Director, how do you plan to, you know, resolve issues of conflicts of interest that may be in some of the other Departments?

CHAIR MOLINA: Mr. Baz?

MR. BAZ: Thank you, Mr. Chair. So, you know, the County has a Code of Ethics, right, Article 10 of the County Charter defines that. And defines the prohibitions and different

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things that are apart, defines what a conflict of interest is, you know, and then also what it is that we're prohibitive from doing that . . . we create a conflict. So, if I'm aware of a situation that as perceived conflict of interest, then we will develop that with Corporation Counsel's guidance usually a question will go to the Board of Ethics. They're the Board, they're the body that's responsible for evaluating whether or not something is a true conflict. Something that's perceived as a conflict may or may not be a true conflict. And you know, if you look at the general definition of a conflict of interest it's a conflict between the professional duties of a person or responsibility with the personal benefit, right. So, looking at it . . . so that kind of conflict is there a piece that . . . (*inaudible*) . . . so if there is a perception of that then we can go to the Board of Ethics and they can evaluate something and say, yeah, you know, there is a conflict and so we'll prohibit it from doing that. Whatever situation is we can deal with that and they'll make a recommendation from that aspect too but . . . and that's how from a Managing Director if something comes across like that whether it's from a Department Director or others or even myself, you know, if there's an issue that we feel that might be a conflict of interest then I'll go to the Board of Ethics and get an opinion on that.

COUNCILMEMBER SINENCI: Thank you.

CHAIR MOLINA: Okay. Thank you, Mr. Sinenci. Mr. Baz, --

MR. BAZ: Yes.

CHAIR MOLINA: --the Committee asked you some very pointed, very good technical questions and you certainly provided very thorough responses to them. For me, one of the things that I place great emphasis on when it comes to confirming any of the Directors is stability. You're the number two man to the Mayor and if Mayor Victorino for some reason becomes incapacitated, you'll be the face of this Administration. You have a tremendous responsibility of overseeing the Directors, carrying out the Mayor's visions and directives. You are to payoff of a well-known TV series. You'll be Mr. Spock to Captain Kirk, okay. But and you'll be the conscience of this Administration so, I note that on your resume you've moved around a lot in your County career. You've had a couple go-arounds as Budget Director. You worked out of the Corporation Counsel's Office and you had a short stint as a Council Services Director. And now you're up for consideration as Managing Director. And your being accessible and being available to serve especially in times of emergency as Councilmember Paltin has alluded to is very, very important. So, I, for one, am not pleased when I see Directors who have been appointed and they leave in mid-term for other lucrative opportunities in the private sector. That bothers me because I take the commitment to public service very serious. You start something, you finish it. And I know you, you know, you have a family life as well but, you know, you're signing on for this job. We need a commitment, or just assure this Committee you're going to be here for the long haul barring any emergency or illness. I want you to state your commitment to this Committee about your seriousness about this job. Please expound on that, if you can.

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MR. BAZ: Yeah, thank you, Mr. Chair. Yeah, you know, my positions within the County have grown my experience and my abilities and my knowledge of operations both on the Legislative and the Administrative branch side of things. And the opportunity that's been provided to me in this role is something that I do not take lightly as I mentioned in my opening comments, and something that my family has committed to understanding, you know, that this is a 24/7 job and that we do have . . . I have a responsibility no matter what time it is, no matter what issue it is, the preparedness that we deal with for emergencies is not just a matter of making sure that we have the shelters in place. But as a Director, especially as the Managing Director, I make sure that my family is prepared 'cause I could just have to drop everything and leave them and deal with the issue at the County. You know, the Mayor was in Washington, D.C. at the U.S. Conference of Mayors last week and I was the Acting Mayor and that is not a role that I take lightly. It's something that I would definitely put all of my efforts to. I am committed. That was one of the questions that the Committee, I think one of the testifiers that was working on the Committee did express that, that they asked us that, you know, are we committed? And I am committed. Definitely. The, you know, the reasons for leaving other positions obviously if you look at it wasn't lucrative financial reasons. I have dealt with other people who have left the Administration that have gone on to more financially lucrative things. That's not the role that I have. I actually took a pay cut to come from MEO to the County because I saw that as a priority in my personal agenda to help this County to be a better County. And the opportunity that I had when the previous Mayor asked me to join his Administration. In the Budget Director role I saw an opportunity for that, and I was there for seven years. I did get requested to consider the Office of Council Services Directorship. I did have the desire to learn the Legislative branch and, you know, that . . . as we went through that process it wasn't something that I think . . . I met with the Members at the time and had an understanding of what the needs of the OCS were and thought that I could accomplish that goal. As I worked in the Department and worked with the previous Council, I felt that I wasn't able to fulfill that role as much as I desired to. And so, you know, the communication piece that I had with the previous Chair, you know, I think we had just different expectations. Both of us had different expectations of each other and the roles and responsibilities. With Mayor Victorino, I've been very clear about communication with him and being able to request from him more information and roles and responsibilities and being very clear about those. And he and I are both very comfortable as he expressed to you with my ability to fulfill this role as Managing Director, and I'm definitely committed to staying here as Managing Director as long as he sees fit should this Council confirm me.

CHAIR MOLINA: Okay. Thank you very much, Mr. Baz. Okay. For this second round, Chair recognizes Kahului Councilmember Kama.

COUNCILMEMBER KAMA: Thank you, Mr. Chair. Earlier you mentioned that there was a MEO slogan that said something like *helping people changing lives*. And then our Mayor now has a slogan that says, he wants to *provide good customer service*. It would be nice, I think, if the Council had their own logo that says, *helping people improving lives*. And,

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collectively, if we all work together, we could certainly improve the lives of our people. One of the things I wanted to bring up was improve the lives of our people means improving the lives of the people who are going to be serving our people, which is the Council, the Mayor, his team, but also the Departments, their heads, and all the people who work within those Departments and Divisions. And my concern has always been – what is the morale like in these Departments and their Divisions? When I first got elected, one of the things I wanted to do was to meet some of the Department heads and meet some of their people and get to know who they were, what they did. And in coming in and out of some of the Departments, I would bump into some of their people who actually worked in the rank and file. And, you know, you get information from the guys at the top that says this, and then you get information from the guy on the bottom that says something else. And so, my question to you, sir, is what is your remedy when you find out that within some of your Divisions or Departments that there's stuff going on such as bullying, such as favoritism, such as those kinds of things that is common knowledge, I think, to many of us as we read in the paper and it doesn't stop. And although we have Code of Ethics that says, you know, we're so . . . (*inaudible*) . . . don't worry. There will be no retaliation, but people don't seem to believe that that will be so, that they're still afraid to come forth.

CHAIR MOLINA: Mr. Baz?

MR. BAZ: Thank you, Mr. Chair and Member Kama. That's actually an incredibly good and timely question. The part of the management, Department of Management's role . . . the Managing Director's specifically is related to Violence in the Workplace Action Plan and responsibility of dealing with bullying, retaliation, those kinds of things. And there's an ongoing issue that I have been confronted with that I'm dealing with and, you know, we have the assistance of Corporation Counsel and others to get that aspect done. But I think to answer your question the way that it is addressed and the way that we can, from the Administration's standpoint, help to mitigate or to reduce this level of, if there's any frustrations, is that we address them, right. You know, one of the . . . being a manager for a long time now one of the things that I have come to understand is a lot of times the employees are having difficulties because they don't feel like they're being listened to. And, honestly, I've had people tell me. They don't feel like they're being listened to. So, to take the time to listen to their situation, to help to understand it, sometimes we can address the problem, sometimes we can't, sometimes we address the problem, but we can't tell them what the resolution was. There's privacy rules and different things like that so but that piece of listening, being able to do what we can in those parameters I think is what helps the employees to feel valued, you know. And it's something that has to feed down from the Mayor, from me through the Directors, this idea that the staff, everybody is important to get the job done, right, whether it's the janitor, the trash collector, the clerk, the Director. Everybody is important. Everybody does a crucial role to getting the job done helping them to feel valued, feel listened to is something that creates an environment where they then are a little bit more comfortable, that they don't have a lot of issues like this. And a lot of times I've seen, you know, it just . . . I don't wanna say it festers but, you know, it's something that because it's not

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dealt with, smoke is not dealt with then it becomes fire. So, hopefully, we can deal with the smoke, if we can listen to what those concerns are, if we can't address them then we're going to try our best to address them.

COUNCILMEMBER KAMA: Thank you.

CHAIR MOLINA: Okay. Thank you, Member Kama. Councilmember Sugimura?

COUNCILMEMBER SUGIMURA: Thank you, Mr. Baz. What a grueling process. I hear you. I will say that during the last term one of the things that my Committee did, which is what we're seeing today is put together the qualifications that the electorate allowed, based upon the Charter change. And based upon your qualifications, I just want to go through it because I think that the Screening Committee probably did that when they looked at your resume. So, you have a really glowing resume in terms of years of experience. So, some of the . . . just the minimum requirements were five years of experience in administrative capacity either in public or private business, which you qualified for with your work with the County as a Budget Director as well as with MEO, as well as have three years of responsible managerial and budgetary experience. You were the Budget Director. So, I'd like to, you know, give you credit for that. In addition, five years of administrative experience and three years of or, oh, three years of experience and one or more of the following, and it talks about supporting the Chief Executive Officer, which is your job now as a Managing Director; supervising administrative functions of agencies, departments, boards and commissions; evaluating the management and performance of agencies under your supervision; prescribing standards of administrative practice to be followed by agencies under your supervision; supervising and coordinating the participate, oh, I'm sorry, preparation and submittal of an annual operating budget and capital programs, so you're very familiar with that; supervising and coordinating the control of management and execution of an annual operating budget and capital program. And then your educational degree. So, your educational degree is . . .

CHAIR MOLINA: Mr. Baz?

MR. BAZ: I have . . . Mr. Chair, thank you. I have a Bachelor's in Business Administration and a Master's in Business Administration. My Master's Degree is focused on management and strategy looking at the . . . a lot of the classes that I took were related to figuring out, you know, HR related things, organizational behavior kind of stuff. That was something I felt that would help me in my role, you know, at MEO and in any management aspect. Organizational behavior is something to study that you can, again, it helps to I don't say listen but to be able to hear what's going on and evaluate those things, and then make management decisions based on that. And so, there are a lot of the classes they had a course of financial related stuff and legal business law and different things like that, yeah.

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COUNCILMEMBER SUGIMURA: Thank you. Going back to my first question. So, with all of these qualifications and with your . . . you listed it as your first short-term goal, which is basically to develop strategic plan for the County using the General Plan, Maui Island Plan for Maui, Molokai and Lanai. So, going through this, basics of working what are your hours that you put in to when you come to work every day and, oh, can you answer that question?

MR. BAZ: Sure.

CHAIR MOLINA: Mr. Baz?

MR. BAZ: So, typically, I'm at the office from usually eight to nine hours at the office every day. While operations are going on, I put my son to bed and I'm usually on the computer doing emails 'cause a lot of times my day is spent with the Mayor in meetings working with Department Directors or working with the public in situations like that, so I need to take the time in the evening to respond to emails and deal with that, provide directives. I keep a notebook of everything that's going on so that I can then provide that to, yeah, the Departments. The Mayor is providing me with direction to Departments that I gotta get out there and then make sure that they understand and hold them accountable too.

COUNCILMEMBER SUGIMURA: Thank you.

MR. BAZ: Yeah.

COUNCILMEMBER SUGIMURA: So, how many . . . what is your management schedule for having meetings with your Department managers and what is that because if you were to do strategic plans for the County, how would you implement that with your . . . I don't know what you call your management meetings but what is your plan, what is the schedule, I guess, for your management meetings and how often? And how would you ensure that these strategic plans are followed because you said we wouldn't see it in this budget, which means it's not going to happen in this budget round, but it could be in the daily practices of the Departments. So, please explain that --

CHAIR MOLINA: Mr. Baz?

COUNCILMEMBER SUGIMURA: --through your meetings.

MR. BAZ: Thank you, Mr. Chair. So, we've already implemented by at least bi-weekly Directors' meetings. So, we get together sometimes weekly, sometimes bi-weekly with the Departments – the Directors, Deputies are there. We pull in some other related, you know, budget and communications and things like that . . . emergency management pieces that may not necessarily be Department Directors but very critical to our operational aspects. And those meetings provide an opportunity for us to present policy directives and requests to the Departments on different functionality as well as provides

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them an opportunity to provide feedback and communication, so kind of a two-way communication tool. So, those are going to be at least bi-weekly. Like I said, we probably had four or five just in the last, maybe four I think we've had so far. So, some weekly and some bi-weekly. And my role as the Managing Director is not just to have meetings to have meetings. I'm not a person who likes to have meetings to have meetings. I want to make sure that those are effective, that they're not wasting people's time. So, if we have the opportunity to get together and have a brief conversation about something provide that directive, so there's that aspect. I do meet with the Department Directors on at least a monthly basis one-on-one, and sometimes a lot more frequently. With the ease of communication now we are able to communicate, you know, via email or phone call or face-to-face. As things arise, I've told the Departments don't wait for a Director's meeting or don't wait for our monthly meeting, if you have an issue. And they have been very good at addressing those. But as far as the aspect of your question relating to implementing a strategic plan that will definitely be something that the Directors will be involved in the process of the strategic visioning that we've set forth as well as a regular discussion topic with me, with the Directors whether it is in our Directors' meeting or in our one-on-one meetings. I don't want to make any promises about the 2020 Budget and that stuff will be presented because our Budget Director is working very hard on making sure that the information is all there and that the budget is going to be balanced and I don't want to burden her with, if there are any changes from the strategic planning process that happens in February with making significant changes to our budget that's going to be presented in March. That's the only reason why I'm saying it. It may not be in the 2020 Budget.

COUNCILMEMBER SUGIMURA: But you are working with the Budget Director?

MR. BAZ: On a daily, multiple daily basis, yes.

COUNCILMEMBER SUGIMURA: So, when . . . one last question. So, when the Office of Council Services was having problems with the Violence in the Workplace, which happened over this last two years, what did you do when you were sitting in the Director's seat?

MR. BAZ: So, the Director of OCS has a little bit different role I think than definitely the Managing Director and even in the Director of a Department because of the role of the Chair of the Council with that Director. And so, the Violence in the Workplace issues that were brought up were managed by the Chair and the Chair's office. As far as the Director of OCS, we did try to address certain situations and we did have investigation as needed of complaint. But it was difficult to deal with and there's been some discussion about that and I'm not going to provide any recommendations to the Council about how to deal with that aspect of it. You had some discussions in your organizational meeting and when you're developing your Rules on that aspect. And that's really from OCS side of things, and the Council that's your role as the body that oversees the Legislative Branch. From the Administration Branch, we do have a Violence in the Workplace Action Plan and we do have pieces in place and the resources

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available to address any complaint that's dealt with. We have a process to deal with it within the Department if that is available and will be something that is going to be dealt with appropriately. If it is going to go beyond that, then it goes into my office and dealing with that situation as well as Corporation Counsel. And so, that . . . from the Administration standpoint we're going to follow the Violence in the Workplace Action Plan that's been developed.

CHAIR MOLINA: Okay. Thank you, Councilmember Sugimura. Member Paltin?

COUNCILMEMBER PALTIN: Thank you, Chair. I neglected the first time around to thank you for your service and thank you for going through this process. I really appreciate it and I'm sorry I forgot to mention it the first time around. I have couple more questions. So, the first one is, I've been a proponent of the professional manager set up and should you be confirmed, and should there be one or more directors that are not confirmed, do you envision being that . . . if you're confirmed you will be working so closely with these directors that you will be a part of the selection process of the new appointee?

CHAIR MOLINA: Mr. Baz?

MR. BAZ: Thank you, Mr. Chair. So, the Mayor had defined a process that he developed for this initial hiring and the Selection Committee review and all that was what it was, and he described that. As far as how it goes with the . . . if a director is not confirmed, we haven't really addressed that yet specifically. I do hope to be involved with it as the confirmed Managing Director, you know, that role will be there. It's still the Mayor's directive and purview to appoint a Director, right? He's the one that no matter if he had a Review Committee that did everything, you know, and I think they did an excellent thorough job in evaluating us, it's still the Mayor's choice, right. He is the Mayor. He's the one that was elected to be the Chief Executive Officer so that is his role. I do believe that he would involve me in that process but that's something that that definitely he would probably be better to confirm the answer to that question.

COUNCILMEMBER PALTIN: So, I guess maybe the gist of my question is if you are able to be at the table in the selection of another appointee, would you work collaboratively with the Council to save time on the confirmation process, you know, kind of a thing?

CHAIR MOLINA: Mr. Baz?

MR. BAZ: Yeah, I would defer to the Mayor on that.

COUNCILMEMBER PALTIN: So, my second question goes to like . . . integrity, character, and corruption or whatever you want to call it. At what point do you draw the line whether it's somebody from the Administration, somebody from the Council, somebody from the public asking you to do something that would compromise your integrity or what you believe to be your character or what you believe to be just general corruption?

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CHAIR MOLINA: Mr. Baz?

MR. BAZ: Yeah. Thank you, Mr. Chair. So, Member Paltin, that's a very good question. And as the Managing Director that is a critical role. And definitely evaluating things with a different mindset may be then I had in the past. I mean the core; my core values are what they are and they're not going to change. The responsibility for me to do things as I have the ability to review and understand legally is going to be something that I will maintain if I have a question about it. One of the things I've learned is to take a step back and take the time to have a better review of things and working with our attorneys. You know, Corporation Counsel is the attorneys for the County and so Mr. Kushi here or whoever the attorneys are assigned to a specific topic or situation would be a collaborative process with dealing with that. If there was a . . . if there was a question to do something illegal, definitely, you know, we'd be looking at that and saying, no, because it's not something that the Code allows. It's not something HRS allows, that kind of stuff for sure. Yeah.

CHAIR MOLINA: Member Paltin?

COUNCILMEMBER PALTIN: So, at this point, there's been no illegalities --

CHAIR MOLINA: Mr. Baz?

MR. BAZ: Yeah.

COUNCILMEMBER PALTIN: --in your career with the County?

MR. BAZ: No. There was a situation that was addressed early on with the old Wailuku Post Office as something that I think one of the testifiers brought up. The evaluation of that the Auditor did perform a pretty thorough review. One of the situations that came up and one of the things why I changed my processes was I had been appointed as basically the Acting Director of Finance for a couple of weeks because there was no Deputy and the Director had a pre-planned international trip. It happened to be the last couple of days in the year. And as such, the Departments are presenting contracts that need to be signed before the end of the fiscal year, the end of the calendar year, which is the end of the ability for the CIP projects to be approved. And one of those projects that I had signed the contract on was the old Wailuku Post Office demolition. And in that evaluation, and this is one of the things why I say that having reviews are good because we looked at that and we looked at the situation. The Auditor did a very thorough analysis and provided some recommendations and the Budget Committee Chair worked on implementing those and now we have an Appendix C. We have more controls in place to prevent those kinds of things. But from me, from specifically in my ability to evaluate the situation, I learned that I need to take a pause sometimes and do a better evaluation before I approve something, before I would do something.

COUNCILMEMBER PALTIN: Thank you. Sorry, I had to go there.

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MR. BAZ: No, that's okay. I understand.

CHAIR MOLINA: Thank you, Member Paltin. No apologies necessary. You ask these tough questions. Member Hokama?

COUNCILMEMBER HOKAMA: Chairman, thank you. First, just a comment, Chairman. On the agenda, yeah, we posted it as appointment and removal.

UNIDENTIFIED SPEAKER: Correct.

COUNCILMEMBER HOKAMA: We have very limited powers on removal. So, hopefully more accurately provide the agendas or your scheduled sheets to more appropriately affect our parameters. This is about a review of the qualifications of a nominee for the, to that confirmation of an appointment to a directorship. So, just a comment on that, Chairman. Couple things here and I'm glad that some of the other Members brought it up because I have an irk with the word customer. I serve the residents of this County, yeah. They're not customers to me, they're residents. They're my neighbors, they're fellow workers, they are people who make up a healthy community. So, I don't see them as customers. I see them as fellow residents. And as residents . . . because usually customers have choices of what they want to use. They choose Brand A, Brand B, Brand C, that's my choice as a customer, yeah. Residents don't really have that choice regarding government – Brand A, Brand B, Brand C. It's either the County or the State in Hawaii. So, for me, you know, it's just, again, my little irk about that. And I say that because I have issues with this new generation mentality, yeah. It goes against the efforts of what we're trying to do from government. We should be part of a collective group. Purely consensus within the various communities for the benefit of the County, and that in the end, it is about building communities. Okay. So, this me mentality, me generation is out the door with me. But hearing that, there's couple things I want to ask you about Mr. Baz and I appreciate some of the Members approaching the subject regarding transparency and whatnot. So, I'm going to ask you this same question I've asked earlier and I'm going to ask all the other nominees because I appreciate being reconnected or recommunicated with Ms. Cochran, and I share some communications. Did you receive any type of earlier notification that you may or may not have sufficient votes to be confirmed for your position?

CHAIR MOLINA: Mr. Baz?

MR. BAZ: No, I did not receive any communication from a former Councilmember.

COUNCILMEMBER HOKAMA: Or anyone?

MR. BAZ: Or anyone.

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COUNCILMEMBER HOKAMA: Okay. Because I find interesting how word gets on the street unless someone gives notice. Okay. So, I want to know what has been predetermined that some can be recommended to seek other employment. Okay. That means, to me, something has been determined already and I thought this was the process for us to help make a determination.

MR. BAZ: Thank you. Mr. Chairman, --

CHAIR MOLINA: Mr. Baz?

MR. BAZ: --how I am aware that some of the Directors have been approached. But me, personally, I did not.

CHAIR MOLINA: Okay, thank you for that response, Mr. Baz. Chairman, I choose to end my questioning now. I appreciate, again, Mr. Baz's presence and his responses to the previous questions but I'm more concerned about the qualifications, and just one additional comment. I will take my level of responsibility because as I reviewed it and seen how it's been difficult for this Administration in its process for nominees cause I asked others why didn't you consider for applying on it. The issue wasn't the Charter. The issue was the ordinance that we adopted, and some of the language of how we wrote it, which wasn't our intention to limit applications, yeah. Council was trying to get some a bit more I guess professionalism in certain areas understanding the role of County operations per se subject matter has some value. But if you cannot manage people, I don't care how smart you are, it ain't going to work. Okay. So, I'll take my level of responsibility that we may have created ordinance language that has maybe hindered us from receiving additional potential applications. And if so, people are not happy to make appropriate adjustments in the Code and still be in line with what the Charter says. You have any comments you would share at this time on that specific area?

CHAIR MOLINA: Mr. Baz?

MR. BAZ: Yeah, thank you, Mr. Chair and Member Hokama. Those are . . . I've heard the same things. Not directly but from others that were, you know, maybe thinking about applying maybe did not two processes that they had to deal with were the additional qualifications and this public review process. Both of them are, I think, important. You know, the Charter allowed for . . . the Charter amendment that was approved by the citizens allowed for this process to be put in place. And they saw a need for that, right. Obviously, a majority of people saw a need for the confirmation of the Directors and possible additional qualifications were put in place. I think as an ordinance, as a Code it should be reviewed, you know. As I mentioned earlier in my conversation here with you is that there are different aspects of the Code that should be reviewed on a regular basis and seem, you know, are there barriers to us achieving the goals that we want to achieve because it's written a certain way. So, yeah, no, I would definitely want the Council to maybe take another look at that and, you know, hopefully, the Mayor can provide his comments on him dealing with this recruitment situation and the outcome

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of that. The Committee that did the work I think has some comments that they provided too so, yeah, definitely open to that discussion piece, yeah.

CHAIR MOLINA: Okay.

MR. BAZ: And then, again, my experience as a manager and hiring people I think I can, hopefully, assist as well.

CHAIR MOLINA: Thank you, Mr. Baz. Thank you, Mr. Hokama. Councilmember Rawlins-Fernandez?

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Mahalo, Chair. And mahalo, again, Mr. Baz, for enduring this process, and for recognizing the value of this process. You know, an overwhelming majority, I believe 63 percent of people voted to establish this and so . . . and it was for more transparency and accountability, and so my question is on accountability. Councilmember Kama asked about bullying. But she also asked about retaliation and I didn't hear a response specifically to that, and so I wanted to know, you know, retaliation from whistleblowing, you know, what kind of office policies will you have in place to protect our County workers? And will you hold up a level manager or even Directors accountable if finding wrongdoing?

CHAIR MOLINA: Mr. Baz?

MR. BAZ: Thank you. So, yes, whistleblowing does involve our policies we have in place now. It does address those and the requirement of preventing retaliation. And so, when we're addressing a situation, we're very clear to the people involved whether, you know, especially when it's still at the investigation process about retaliating, about you know those type of activities, and that they're not allowed to retaliate. And so, if that's addressed to me as a manager, I'm going to deal with that directly because it does go back to Member Kama's question about do people have the confidence in management to be able to feel like they can come to us with their problems that it will remain confidential to the extent possible, and that it will be something that we address to the extent possible but also that they're not impacted in their day-to-day role of trying to get their job done through retaliation. So, it is something definitely that we'll address if it does come up to us.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Thank you. Second question -- so, earlier you mentioned mistakes and regrets in response to Councilmember Hokama's question. I think self-reflection is so important and a good quality to have. So, what issues in the past do you wish you would have handled differently?

CHAIR MOLINA: Mr. Baz?

MR. BAZ: Definitely the old Wailuku Post Office and having a better understanding, you know. I don't want to get into a discussion about that and that evaluation has come across,

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you know, but in gen- little things too, you know. And stuff that may or may not had a significant impact in the outcome of it but, you know, that self-reflection is something that I've learned to evaluate. My wife's a good sounding board. She, you know, is . . . provides me with some of the not necessarily the self-reflection of me looking at things and telling me, hey, you know, you better look at what it is and sometimes the tone I say things in or something like that or not smiling and maybe look too aggressive I'm not sure. But, yeah, I mean, you know, there's . . . I don't want to get into too much details about stuff but there has been things. I understood that and grow from it, and I appreciate the opportunity to grow and be a better person from that. And, hopefully, now the management experience that I've had have made me prepared for this role as Managing Director, and a little bit more cautious in, again, you know, some of the decisions that I make and the review of things. I'm very cognizant of communicating with especially with the Mayor on things before decisions are made. And that's something that I just, you know, appreciate the opportunity to get better at.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Mahalo. I'll yield the floor, Chair.

CHAIR MOLINA: Thank you very much, Ms. Rawlins-Fernandez. Prior to recognizing Member Lee, the Chair is certainly aware of the time. While it has been certainly grueling for the nominees, also been grueling for you, Members. You've, Chair has kept you in your seats for nearly two hours along with the fact you've participated in two Committee meetings from this morning and this afternoon. So, Chair is looking at possibly finishing the second and possible final round of questions for Mr. Baz. I was initially looking at recessing at five o'clock for your early evening break. However, Ms. Lee, do you have a question or two for Mr. Baz before we consider other alternatives?

COUNCILMEMBER LEE: Chair, you would be happy to know I have no more questions.

CHAIR MOLINA: Okay. Alrighty, well, let's move on to Council Chairman King.

COUNCILMEMBER KING: Thank you, Chair. I don't have too many more grueling questions, but I appreciate you being here, but I also think that this is a really important process to go through. And given the fact that we, this is our only opportunity to do this oversight that was mandated by the general public, by the voters of Maui, and we have no recourse after this. So, I think it's important and as much as I appreciate it, Chair, I don't want to be apologizing for it because I think we are doing the people's work. But I guess what I wanted to ask, the last question I wanted to ask Mr. Baz because I've had sort of a working relationship with you on some of these various positions you've been in and been impressed. But on the earlier subject that came up of possible . . . possibly having an ordinance description that are too stringent. I guess I take exception to that because I don't feel and I wanted to get your take on this, I don't feel like there was a real effort to recruit. And when you are in the corporate world and you're at this high level of management, you don't really just sit back and wait for applications to come in. You go out and you find the good people, and there are some great people in this community. We have not gone out and sought them out. We waited till . . . to just see

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what applications came in. So, I guess my question to you is based on earlier conversations we've had is do you feel confident that you will have that ability to go out and recruit? Should there be a need after we go through this round of confirmation?

CHAIR MOLINA: Mr. Baz?

MR. BAZ: Thank you. Thank you, Mr. Chair. Chair King, so, again, the recruitment process, selection process and eventual appointment is under the purview of the Mayor. He did, during this prior, did do advertising. It was on the County's hiring system. There was, you know, newspaper articles and things like that. I don't know the extent of the personal touch. I think it's what you're getting at is that, you know, as a manager and if you feel that there's somebody that you think would do an excellent job at that position would, you know, go, do approach that directly. And I think Mayor Victorino in this initial intent wanted to try to prevent perception of it being him hiring his friends or hm hiring, you know, through any kind of process that wasn't as transparent as it could be. You know, it's still a hiring process and there's going to be confidentiality of applicants and things like that, but he didn't want to present to the Committee any idea that he had a certain person in mind. There's a big balance between that process if you have especially because of the responsibility that we have as government directors and, you know, the Administration to make sure that we're trying to find the best candidate possible and if there is a certain person you think is great, they may not be the best candidate possible. So, you try to do as much broad-based recruitment as possible. But then, the balance of that is, yeah, you kind of want to make sure that that person at least applied for the job because then that evaluation piece can happen. Then that Selection Committee could have reviewed that application and decided that that was a recommendation they wanted to make or not. So, it is a balance between being, you know, open and fair to all the candidates, and making sure that you're finding the right people. So, as we move forward and, you know, we still want to go and Mayor's, you know, still under the idea that he wants to get, you know, all of his director's confirmed. And this is this body's decision to do that whether or not they're going to confirm all of 'em. But should the director not get confirmed then we can evaluate those pieces and take their recommendations and be able to maybe look at the process itself and see if there's a better way to do it. So, at this point, I can tell you, yeah, for sure, yeah, we're going to go and hand pick people because we want it to be still, no matter what, we just want it to be an open and competitive process.

COUNCILMEMBER KING: Thank you, Chair.

CHAIR MOLINA: Thank you, Chair King. Mr. Sinenci?

COUNCILMEMBER SINENCI: Yes. I guess I have just a comment more than a question about the Charter amendment. And, you know, as a new Councilmember, I can certainly appreciate the continuity of government when it comes to qualifications and to work ethic and having that success in government. However, you know, I also appreciate this process and I appreciate you going through this and I appreciate the voters wanting to

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see also change where we can, where we can effect change within our local government. So, if you had any comments towards that?

CHAIR MOLINA: Mr. Baz?

MR. BAZ: You know, I'll try to brief. It's after 5:00 here. I watched the Temporary Investigative group on the County Manager system of government and the evaluations they took and the comments that they made. You know, continuity in government is . . . there's a good, it has to be a good balance between people who are . . . have the knowledge and experience to get the job done and fresh eyes, fresh look. And so, you know, when we look at the Directors and I guess, sorry, Mr. Chair, generalized comment here, when we look at the Directors that were appointed we have a very good mix, I think, of people who have experience at different levels of government and then now they're taking on leadership roles, and people who are experienced leaders and have the ability to work with their deputy and provide mentoring and provide opportunities for continued growth. We want to provide the most excellent government that we can, the most efficient, effective, responsive government. That's my core function as I mentioned. So, this process, in a way, allows for certain aspects of that to happen, and whether you call it a compromise of a different system, you know, the Mayor still appointing, you guys still have the ability to do that through vetting and analysis and make the decision of a confirmation or not. You know, we'll save the end results and the outcomes it's produced but I'm optimistic. I'm a generally optimistic kind of guy anyway so, yeah.

CHAIR MOLINA: Okay. Thank you, Mr. Sinenci. Mr. Baz, the Committee has certainly put you through an exhausting round of questions, which basically some of the questions the Chair was going to ask is, has been asked. Members, Chair is ready to offer a recommendation. If there are more questions though, the Chair is going to take a recess and come back. Any Members have any more questions for Mr. Baz? If not, the Chair is ready to offer a recommendation? So be it. Members, Chair would like to ask for a motion for the adoption of the revised proposed resolution entitled "APPROVING THE MAYOR'S APPOINTMENT FOR MANAGING DIRECTOR" and inserting the name of Sananda Baz and incorporating any nonsubstantive revisions that may be needed. And this motion will also include the filing of the proposed resolution entitled DISAPPROVING THE MAYOR'S APPOINTMENT FOR THE DIRECTOR OF MANAGEMENT. The floor is open for a motion.

COUNCILMEMBER LEE: So moved.

VICE-CHAIR RAWLINS-FERNANDEZ: So moved.

CHAIR MOLINA: Okay. It's been moved by Committee Vice-Chair Rawlins [*sic*].

COUNCILMEMBER LEE: Second.

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CHAIR MOLINA: And seconded by Councilmember Lee. The floor is open for discussion. Mr. Hokama?

COUNCILMEMBER HOKAMA: Chairman, I'm open to the movant as . . .

CHAIR MOLINA: Okay. All right. The Chair will recognize Councilmember Rawlins [sic] as the Committee Vice-Chair for remarks on the motion.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. I speak in favor of my motion. I feel that Mr. Baz has done an excellent job at answering our questions. He is qualified and I feel that he will be very collaborate . . . he'll work very collaboratively with us and I look forward to working with him.

CHAIR MOLINA: Thank you very much, Ms. Rawlins-Fernandez. Member Hokama?

COUNCILMEMBER HOKAMA: Thank you, Chairman. It's never easy when it comes to personnel decisions, Chairman. But this afternoon I will be happy to support your motion with reservations. I would like this to get to the full Council for final Council decision so I can support you to move this through to Council. But, in general, Chairman, these are the areas that I will make my final determination on, and I want everyone to know that these are the factors in my judgment and decision-making. It carries six components that I feel is critical of our Department heads. One, discernment – the quality of being able to grasp and comprehend the elements whether it be obscured or not regarding what is before them. And then how that is applied to number two, judgment – the process of forming and evaluating an opinion through discernment. Then comes the component for me of integrity. The hearings to court of especially moral values. And then, it leads me to my fourth major area of decision-making – morals, relating to the principles of right and wrong in behavior and judgment. Again, Chairman, in behavior and judgment, which all comes to a point for me under credibility. But the quality or power regarding the capacity of belief. And, therefore, what that leads to is honesty. Fairness and straightforwardness of conduct in the adherence to facts because we are a body that deals with findings of facts and conclusion of law. That is part of our duties. And the most important thing, Chairman, that I've been judging the nominees on is on accountability. The obligation of willingness to accept responsibility of one's actions. So, I state that for the record that that will be my factors of making my final decision at Council. But I have no problem of moving forward the Mayor's nominees at this time for a final decision. Thank you, Chairman.

CHAIR MOLINA: So noted, Mr. Hokama. Members, any other discussion to the motion? Chairman King?

COUNCILMEMBER KING: Thank you, Chair. I support the motion and I want to thank Mr. Baz for supporting our process here, which is a brand-new process for this County. But I also want to say that I've had of all the folks I think on the ninth floor I've had the most collaborative relationship with Mr. Baz so, I'm happy that he is moving into this

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position and hoping that we can work, that he will also work collaboratively among the different Departments because I think that's a key piece to the communication with the Council. So, happy to support this nomination, Chair. Thank you.

CHAIR MOLINA: Thank you, Chairman King. Members? Councilmember Sugimura?

COUNCILMEMBER SUGIMURA: Thank you. Thank you, Mr. Baz. What a grinding, grueling process to go through these questions so always the first one is probably the hardest. In light of what Member Hokama said, I think another element that I think is really important to all the Directors and especially your position because of what you'd be doing, and I did have a private conversation with the Mayor just about this position because I think it's probably one of the most encompassing and important position because you will represent him. And what you embody will be him and I think a lot of our current Mayor. So, I did want to know that what you would be doing or, you know, where you stand with your integrity and I think the word that I just want to add to this is loyalty to add to Mr. Hokama's list that I think loyalty to him is a very important as well as loyalty to as we all talked about earlier but to the electorate. But definitely, you know, you got the Mayor's back, basically. So, I just want to add that on that I think is very important. And the Mayor did, you know, give me his assurances that those are the qualifications and besides what we wrote 'cause those things are words of qualifications but, as you said earlier, you know, to quantify that in terms of, you know, your integrity as a person I think that's going to be really important and I think he said it's important to him and he'll be watching what you do and the Directors do but I just want to add my support and I look forward to following what the Mayor has decided to do for the County and, you know, being able to watch from a distance because we can't tell you what to do as in terms of a body basically the Charter. But look forward to working with you and the County.

CHAIR MOLINA: Thank you, Member Sugimura. Members, any other discussion as it relates to the motion on the floor? Member Kama?

COUNCILMEMBER KAMA: Yes, Mr. Chair. Thank you very much. And I just wanted to say if we could add to your list, Member Hokama, I'd like to add the spirit of aloha to that list because I think if we have love not for one another then how do we continue to proceed and to go on to serve. So, I just wanted to add that to your list, sir, and to let you know, Mr. Baz, that that is what I discern from you. So, thank you for being here.

CHAIR MOLINA: Thank you, Member Kama. Any other discussion as it relates to the motion?

COUNCILMEMBER SINENCI: Chair?

CHAIR MOLINA: Thank you. Member Sinenci followed by Member Paltin?

COUNCILMEMBER SINENCI: I, too, would like to support the recommendation of Mr. Baz and out of Committee and to full Council.

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CHAIR MOLINA: Okay. Thank you, Mr. Sinenci. Member Paltin?

COUNCILMEMBER PALTIN: Thank you, Chair. So, I recognize that the Managing Director is one of the Mayor's most key appointments. This is the position that coordinates and oversees all other Directors and works most closely with the Mayor and running all other Departments. I've had the opportunity in the past to work with interim Director Baz through the budget process and I've met personally with him about this appointment. It's my opinion that this is a bigger responsibility Mr. Baz is stepping up into and I do have some concerns but in the spirit of collaboration and compromise I do believe that Mayor Victorino's choice for Managing Director should be given special consideration. This is his choice as our elected Mayor for who to work most closely with. His choice for who will serve on his behalf should he be absent from our County and his choice to help make our visions a reality. In this case, more than all others, seeing that Mr. Baz meets the minimum qualifications I would like to approve the Mayor's top pick for the Director he will work most closely with. My only request to Mr. Baz and all of the Directors whom I will be approving is to please work together to make Maui County a better place, and remember we are serving the people of Maui County. They are entrusting us to provide stewardship over self-interest. Thank you, Chair.

CHAIR MOLINA: Thank you, Member Paltin. Member Lee, anything to say?

COUNCILMEMBER LEE: Okay. Thank you, Mr. Chair. Gee, I'm getting hungry, you know.

CHAIR MOLINA: Likewise.

COUNCILMEMBER LEE: So, anyway, I would like to add to Mr. Hokama's list, and I will be focusing in on your memory, yeah, that you don't forget all the promises you made today and all the nice things you heard from the Councilmembers today because we are taking a chance on you and we certainly hope you are successful. Thank you.

CHAIR MOLINA: Thank you, Member Lee.

MR. BAZ: Thank you.

CHAIR MOLINA: And finally, the Chair would like to just say I've had the opportunity to work with you in the former Administration and I found you to be responsive to any questions I had as an Executive Assistant and also members of the public. I hope you continue that spirit of openness and being responsive in your soon to be possibly new role. I don't want to see any encouragement at least in your position, which I don't believe you will create somewhat adversarial relationship with this Council because this is why the people wanted change and I think it's important that we maintain a decent spirit of cooperation with each other otherwise things won't get done in this community. So, I'd just like to state that for the record, Members. So, Members, the Chair is ready to call for the vote. All those in favor of, and by the way, I just was informed by my Staff to



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CHAIR MOLINA: . . . (*gavel*) . . . The Governance, Ethics, and Transparency Committee meeting of January 23<sup>rd</sup> recessed meeting will now come back to order. Members, it is 5:50 p.m. Today's date is Wednesday, January 30<sup>th</sup>. We're now on to our second item of the agenda, which is the consideration of the Mayor's appointee to the Director of Environmental Management, Mr. Mike Miyamoto. But before we engage Mr. Miyamoto, we have the Chief of Staff, Ms. Deidre Tegarden to provide us a brief opening on the nominee. Ms. Tegarden.

**GET-1(7) APPOINTMENT AND REMOVAL OF ADMINISTRATIVE HEADS OF DEPARTMENTS (DIRECTOR OF ENVIRONMENTAL MANAGEMENT) (CC 19-1)**

MS. TEGARDEN: Thank you, Chair and Committee Members. And, yes, I will keep my remarks brief. But I just wanted to share that Mr. Miyamoto has been dedicated to public service since graduating from college. And he is guided by the principle that you treat people the way you wish to be treated. He is a compassionate, knowledgeable, and forward-thinking leader who brings a great deal of experience and knowledge with him to this role as the Director of Environmental Management. Thank you for having us here this evening and I turn the floor back to you, Chair.

CHAIR MOLINA: Thank you, Ms. Tegarden. Mr. Miyamoto, if you'd like to give a brief opening remarks prior to the Chair opening the floor up for questions. Proceed.

MR. MIYAMOTO: Thank you, Mr. Chair. I guess I'll give a little bit about my background first. I'm a Lahainaluna grad. And I have my college degree in Civil Engineering from the University of Lowell out in Massachusetts. As Chief of Staff has said, once I graduated got into the working force. I did work for the Maryland State Highway Administration as you seen on my resume where I learned my public service really what it means 'cause you know I heard the question being asked who is your client? Well, to me, if you're not on my side of the phone, you're my client whether you're a co-worker, another Department, State agency, the public, an elected official, you are my client at that point because I need to respond to you. And, you know, in this new world of electronics everybody is . . . everybody is so hyped up on sending emails, but I think, you know, from if you're on the other side of the phone, you want to hear a voice. You want to hear someone get back to you. So, that's been our, my focus since I've always started working that the government pays me, the people pay me, so I need to respond to them as much as possible. So, for the Department of Environmental Management, you know, we have three divisions, three major divisions – the Wastewater Reclamation Division, our Solid Waste Management Division, and our Environmental Protection and Sustainability Division. All total we have somewhere around 238 employees, actually EPs I should say. We currently have around between 10 and 15 vacancies. We typically try to promote from within so you can understand when you promote from within that creates a vacancy at a lower level, so we really don't, you know, increase the numbers. We just create a vacancy at a lower level, which opens up the opportunity for other people

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outside the Department. Heard about my short-term goals. Well, we've had some significant retirements this past season. End of the year came, a lot of significant people retired. Lot of good supervisors with long careers of really only what they do. For example, like George Correa retired from our Refuse Collection. He owns the business, he takes care of it. He's very customer service and that's one of the goals ism I don't want anyone here, any elected official to be stuck with the stigma that well, you know, they got elected and the service went down. It's not your fault. It's our responsibility to try and maintain that level of service. So, we're trying to find a good candidate at this point. We're TA'ing people from within to try and try out the position and, so, we're going to be recruiting for that position. We had the same thing happen in our Wastewater side. Our Wastewater Supervisor for that side, I mean, in becoming a supervisor in Wastewater, if you're actually out in having to deal with wastewater, the union contract allows you for 25 and out. So, we had employees who can retire. Some were in their 40s. And so, when you become, you rise to a higher level as a supervisor, you lose that flexibility. So, to get somebody from within to give up that right of theirs to retire so early and to take a managerial supervisor position has proven problematic. So, we're re-evaluating how we can attract more people that would be interested in that type of a position. I heard about Environmental Protection and Sustainability Division. In the past, we didn't have a supervisor. Previous Council approved a supervisory position. We were able to hire a very capable young lady. She has heard the criticisms that the body has given us. She is working on setting goals for that Division. She's working on a mission statement. She's working on a philosophy for that Division, which is the most exciting thing for me because that's something I really don't have much exposure to. And, hopefully, in the coming days you'll see, you know, where we can go with it. Whether or not that Division should be in our Department is up for debate because their scope of work isn't just in our Department. They transcend departmental line so maybe they should be somewhere else that can have the stronger authority to mandate certain things about recycling, landfill diversion, and things like that. So, I look forward to their growth and where they're going to go in the future. Some of the long-term goals, we have our injection well issue that we're battling with. That aside we decided to just take a new vision, you know. Recycled water is no longer something we need to dispose of. It is now a resource. How can we market that resource? How can we utilize that resource? And fortunately, with some of the new Director that's coming in for the Department of Water he's open to talk to us. He's looking at, okay, maybe people don't like the stigma of making it potable but how can you offset other demands for him so that his demand on potable goes down? So, we'll be working in conversations with the Water Department more closely as someone had mentioned about crossing departmental lines to work together. So, we'll be doing that with the Water Department. The other thing is about our landfills. We, you know, we have to keep marching on. We do have a contract for alternative methods. We're going to be putting screws to that contract a little bit tighter. So, we wanna see . . . I've been involved with that contract since 2012 when we led the industry but now, we're behind the industry and that sort of upsets me. So, we're going to be putting the screws and tightening that one down to get moving. Other than that, I'm here for questions. Thank you, Mr. Chair.

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CHAIR MOLINA: Okay. Thank you very much, Mr. Miyamoto. As we open up the floor for questions, Chair welcomes back Mr. Kushi from Corporation Counsel. Members, we're going to start first with the subject matter Chair. I'd like to recognize, start first with the line of questioning with Member Lee. Am I correct? I know you have Infrastructure and Environment. Okay. If you don't mind, Member Lee, I'll recognize Member Sinenci first.

COUNCILMEMBER LEE: Okay, you hurt my feelings.

CHAIR MOLINA: Okay. Sorry. I owe you one; I owe you plenty. Mr. Sinenci?

COUNCILMEMBER SINENCI: Thank you, Chair. Mr. Miyamoto, in light of, you know, the sea level rise doctrines and government accepting this doctrine, can you explain, and I know it's a large project but how the Anaergia project would help to move some of our sewage systems inland if indulged?

CHAIR MOLINA: Mr. Miyamoto?

MR. MIYAMOTO: Thank you, Mr. Chair. When we developed the RFP for that project that's in Kahului, for example, it's right next to the shoreline, it's right in our wastewater treatment plant, in working with our Corporation Counsel it's at no risk to the County. If a tsunami comes and it damages that infrastructure, it's their . . . it's all on them. They have to move it. If we end up moving the treatment plant, they have to pay to move their facilities to go with our treatment plant. The Kahului treatment plant is a 7.9-million gallons a day facility. We're looking at, right now the thought is, you know, if you have to build another 7.9-million-gallon facility, it's probably going to be somewhere in the \$200,000 range to move it. You're gonna have to move some pump stations, you're gonna have to do a lot more infrastructural changes. So, our thought is, well, there's a growing area called Waikapu. So, what if we put a satellite facility out there then the opportunities to divert existing flows to that area can reduce the pressure on the 7.9-million-gallon facility. Maybe now we can build a 5-million-gallon facility, which is much cheaper than a \$200 million facility. So, staff are looking into that possibility how we can accommodate growth in the future down in the Waikapu area and also how to assist us in moving that plant, maybe making a smaller one so it's a little bit easier. Thank you.

CHAIR MOLINA: Mr. Sinenci?

COUNCILMEMBER SINENCI: So, my second question is . . . *(inaudible)* . . .

CHAIR MOLINA: Microphone, Mr. Sinenci. Thank you. You have a nice voice.

COUNCILMEMBER SINENCI: Sorry. My second question was, were you aware that MECo has also got some programs towards moving some of the . . . They have a system of addressing the sewage. Are you aware of their system as well?

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CHAIR MOLINA: Mr. Miyamoto?

MR. MIYAMOTO: Without specifics, thank you, Mr. Chair, without specifics I'm not really sure which ones you're referring to when you say . . .

COUNCILMEMBER SINENCI: Okay. I'll research and I'll come back to that.

MR. MIYAMOTO: If there's alternative sources of funding, we're always looking at Member Hokama drilled into our heads in Budget Committee. So, if we can find somebody to help us fund it and move it, we're all open for it.

COUNCILMEMBER SINENCI: Thank you.

CHAIR MOLINA: All right. Thank you, Mr. Sinenci. Ms. Lee?

COUNCILMEMBER LEE: Thank you, Mr. Chair. You're so kind. Okay, Mike, speaking of budget, is or are your wastewater treatment plants self-supporting?

CHAIR MOLINA: Mr. Miyamoto?

MR. MIYAMOTO: Thank you, Mr. Chair. The Wastewater Division overall is a self-supporting fund. Yes, we charge rates, fees and that's based on whatever CIP we do for reliability. We don't want to have spills. We want it to keep it in the pipes so to speak.

COUNCILMEMBER LEE: Uh-huh. Are you asking for any rate increases?

CHAIR MOLINA: Mr. Miyamoto?

MR. MIYAMOTO: Thank you, Mr. Chair. Yes. In discussing with the Budget Director, former Budget Director, we had proposed one in previous Administration. With the new Budget Director we'll be reviewing that and seeing where she wants to go with it in the future. So, we were but we'll see what the new Budget Director says.

COUNCILMEMBER LEE: I see. Thank you.

CHAIR MOLINA: Okay. Thank you, Member Lee. Next, floor is open for questions. Council Chair King?

COUNCILMEMBER KING: Thank you, Chair. So, thanks for being here, Mike, and I know you're on your way through the first nominee. I guess my question is, how would you run this Department different from your predecessors? And some of the things I'm concerned about I'll give you so maybe you can comment on them. As you talk about your clients as everybody who's on the opposite side and I've witnessed the clients in Maui Meadows being upset because there was an attempt to end curbside recycling.

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I've witnessed the people in the community being upset because the EP and S program was not instituted after it was voted in in 2012 and it's actually in the Charter. So, I don't think you can move it because it's under the Department of Environmental Management. So, it will take a Charter change to move it. But I've been one of the people from back in 2012 lobbying for that position and that program and nothing was ever done until last year. And I understand that you were Deputy so you didn't have that direction so that's why I'm asking how would your direction for this Department be different? There's a lot of questions about the two Anaergia contracts and specifically the one for the landfill I think has just gotten extend . . . another extension? Or is that the wastewater treatment? I don't know. Maybe you could answer where we're at with that one because that one was going to cost the County quite a bit and never went through approval of the Council. So, I'll stop there for now.

CHAIR MOLINA: Okay. Pretty loaded questions you asked. Okay, Mr. Miyamoto?

MR. MIYAMOTO: Thank you, Mr. Chair. So, with the Anaergia contract, it affects all of the areas that you mentioned in your questions. So, the Anaergia contract that we entered into it provides that whatever comes into our landfill, whatever comes through our gates is what they're entitled to. So, if something doesn't come into our gates, for example, the 3 can plan recyclables, if that doesn't come in, they don't have a right for it. But that's going to be a decision that this body and the Mayor will make going further down the road because when we originally conceived the plan it was going to cost us over \$6 million just to implement it islandwide. If we had implemented it islandwide that when you look at the market for recyclables now, that has really changed our thought process about recycling because the market has crashed. I mean, China is so strict now. I think their requirement on, for example, cardboards is .5 percent contamination. And so, you can imagine, you know, you're going to have to really, really, really take care your cardboard. You're going to have to clean it. You have to take your tape off of it because tape is considered contamination. You're gonna have to take off that mailing label because that's contamination. So, you can see it's getting harder and harder to recycle. Currently, right now, at our residential recyclable facilities we pay \$303.00 to recycle all the items that we collect. When you think about our landfill tipping fee currently right now is about a hundred dollars roughly. So, you think we're paying three times the amount to recycle. So, you know, the market is falling down. Our processor is really, we're fortunate that he's got a broker that's shopping recyclables around the world literally. China is really . . . become a hard, hard, hard place to send the materials. So, the Anaergia contract that's going to be their responsibility. They'll have like a dirty MRF materials recovery facility at the front end. What's marketable that you can go ahead and collect it. What's not marketable they can put 'em through their process. Their process, you know, we've heard the public input they want compost. So, okay, you're being sensitive to that. So, the possibility of having just an organic anaerobic digester to process organics only so the waste product becomes a compostable material that organic farmers can utilize. 'Cause currently our process for compost at the landfill has sludge in it. So, having the sludge in that compost makes it a no go for organic farmers. They can't use it. They'll lose their organic certification. So, with the Anaergia

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project, if they see the profit in an organic anaerobic digester and then they can work with the farmers to have this material come out the back end, they can turn it into compost and then it's something that they can utilize. That's one end of it. The undesirable other materials that we get in there, there's other processes that we can certainly utilize and they're looking into it. One of them that I really liked on the mainland it's not of commercial size because when we did this, we wanted a commercial size facility. We didn't want to be the guinea pigs so you had to have a commercial size facility, test it for three years, proved that it worked, and people couldn't read it. The anaerobic digester was the only one that really met that requirement. Because we didn't want to do incineration, we heard it from the public they want it incinerated, they don't want the burning trash, so we did a technology search, and so there's other technologies. So, we're changing the mentality a little bit. We'll do the anaerobic digesters, we can do it the organics come out with methane gas, come out with compostable materials in the back end but all that other undesirables can go into another type of technology that can be utilized. And you know, the possibility that no longer may need to be a commercial size technology 'cause it's not the full, I think we said, 650 tons a day. So, the possibilities for them to hear what the people say and adjust that process to meet what they want is out there with the Anaergia contract.

COUNCILMEMBER KING: So, the landfill contract is that one that's been extended three times since . . .

MR. MIYAMOTO: To my knowledge, yes.

COUNCILMEMBER KING: Because nothing's happened on it. So, that's kind of one of my concerns is that under your previous direction the last two directors the original RFP was never addressed, and the project keeps morphing. And the public, who is your client, is saying why doesn't I go back out for bid for an open, fair bid? And then the fact that when the first iteration of that project was going to cost us close to a million dollars a year because we were going to have to start paying a tipping fee on our own garbage trucks. And so, to me, that triggered going to the Council and getting approval for it, but it never did come to the Council. So, those are some concerns. And I just want to hear how you're going to approach that differently because to me that's illegal to push through a contract like that that's not vetted by the, you know, that the Council hasn't given you the approval to pay that money for. And so, those are my concerns, you know, the timing of everything just keeps getting pushed further and further and we're not seeing results. And I'm hoping because I like you, Mike, and you know I've worked with you on the outside for many years but I'm just hoping the direction of this Department is going to be different, and actually is going to be action-oriented and look at what the public wants because the public really wants environmental protection sustainability, and they wanted that since 2012. So, if you can just, you know, if you can just focus on your direction and your leadership and how things would be different.

CHAIR MOLINA: Mr. Miyamoto?

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MR. MIYAMOTO: Thank you, Mr. Chair. I think at the inauguration, you know, Mayor Victorino put the contractor . . . this is a contractor that contract, it's service provider so it didn't need to come to this body. But at the inauguration speech Mayor Victorino put the contractor on notice. Even though the contract is extended there are going to be measurables. Even former Mayor Arakawa had his measurables that he wanted to see and, you know, some of the things he wanted to make sure was they had land controls, so they end up getting a land lease from A&B at the time, so they have land control. In meeting the new management staff for the project, you know, I expressed my displeasure also. I mean, when I used to go to conferences back in 2013 and 14, you know, Maui was on the map. Maui was going to be ahead of the curve and now we're behind and that really, really, really bothers me since I was involved in it from the beginning. So, this year, there are going to be measures that they have to do. There are going to be performances that they're going to have to meet. If not, by the end of the year, I think, Mayor Victorino is looking to see what his options are. But just to let you know the second . . . the process that came in second was very similar to one that came in first because that's the only technology that could meet it that wasn't incineration. And so, you know, moving forward beyond that I mean, the landscape has really changed. I have to let you know that the landscape of what's out there has really changed. When the contract started in the early 2012-13, you know, we have a process they're going to produce a product. And if you produce a product, you gotta have somebody buying your product or it becomes a useless product. So, they entered into a lawsuit with the utility company. Few years later now, we're a few years later moving along HC&S goes out of business, mandate to be renewable. The two parties are now working together. They'll be working together to try and see how they can go ahead and use this product and how they can use this product to meet their mandate by 2045 of renewable fuels. So, it's been a tough one for them because the landscape keeps changing. But in the end for Maui County we want to see something done. So, this year is going to be a really make it or break it year for them so to speak.

COUNCILMEMBER KING: Okay. So, this is no more extensions. So, if something doesn't happen this year, we're done with this and we can move on to something different or put it back out to bid again?

CHAIR MOLINA: Mr. Miyamoto?

MR. MIYAMOTO: That's my understanding from Mayor Victorino.

COUNCILMEMBER KING: Uh-huh. And then I guess the other thing is because it started in my community and in the last budget session you told me you were moving curbside recycling up to Lahaina so, apparently, it's you know it's got a larger demand. So, are we working in that direction of curbside recycling, trying to figure out how to make that work?

CHAIR MOLINA: Mr. Miyamoto?

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MR. MIYAMOTO: Mr. Chair, yeah. It was an interesting conversation with the predecessor, the previous representative from West Maui. Yeah, it all became about because West Maui does not have a recycling facility for the Members out there. The closest thing that they have is the Olowalu transfer station, which is quite a drive for the people in Maui, in the Lahaina and Napili area. So, the private . . . there was a private vendor who had two facilities – one in Napili and then one down by the old smoke stack. They had two facilities. To give you an idea of how hard it is they had to close both facilities because they just couldn't make the dollars work. So, previously, we worked with the previous Parks Director. We had a great site next to the skate park in town. That big basin you see only half of that technically is a basin. They just left the other side go. But technically half of that basin could be filled and utilized as a recycling center. So, we proposed that item previously with the previous representative from West Maui. And she didn't want it. She said it's too close to the skate park . . . the kids might get hurt with all the traffic going in and out. So, we struggled to move forward and . . . so we took the 3 can plan off the table because should the Anaergia, well, not should . . . the Anaergia contract better move forward and that better be taking all of those. And the market changed so we'll see what recycles. In the meantime, we have given a grant to an individual who is operating the old Maui Disposal site near the cannery. We get quarterly reports from them and we're trying to see how much material they're actually taking in. But, yeah, we had given a grant to them.

COUNCILMEMBER KING: Okay. But you'll continue in Maui Meadows?

MR. MIYAMOTO: Excuse me?

COUNCILMEMBER KING: They'll continue the program in Maui Meadows?

MR. MIYAMOTO: Yes.

COUNCILMEMBER KING: Okay.

MR. MIYAMOTO: Yes, at this time, that's been proposed.

COUNCILMEMBER KING: Okay. Thank you, Chair.

CHAIR MOLINA: Okay. Thank you, Chairman King. Councilmember Paltin, you had a question?

COUNCILMEMBER PALTIN: I think it was addressed. We do recycle, we are able to recycle at the old Pioneer Mill now. But it was kind of a soft opening so not everybody in the community knows about it. But it would be good to get the word out, if you want to measure how much is getting recycled.

CHAIR MOLINA: Mr. Miyamoto, a response?

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MR. MIYAMOTO: Yes, as part of that grant, it was very challenging for the grantee to meet the requirements. That's why it's been very, you know, it's sort of a new relationship in trying to start that business up. And so, it's sort of two entities. One overseeing it, the guy who does the high five, but he's sort of somewhat subletting it out to somebody else to take care of the recycling portion. So, we can improve and get that notification out. But we also like that, what is that, third Sunday.

COUNCILMEMBER PALTIN: Third Saturdays.

MR. MIYAMOTO: Third Saturdays, yes. That was an initiation that, at the time, Chair White and Member Cochran set up as a proviso and we found it so valuable that we just started putting it in our budget because they don't just collect regular recyclables. They collect appliances, batteries, and they just collect so much more that, you know, it's money well spent to get all of that once a month.

COUNCILMEMBER PALTIN: In fact, it could even be expanded when we do clean-ups and there's extra tires and things like that, that's obviously generated from people's homes already. It doesn't spring up from the fields. We're not allowed to take any of that there because the capacity from home use is so big. I mean, it would be nice to expand on that because where else can volunteers take 30 tires on a Saturday to be disposed of. You know, you mentioned that the landscape is changing. I think with . . . like my colleague, Councilmember Sinenci mentioned of sea level rise and climate change I think it will continue to change and it will change faster than ever. And I was wondering, you know, with the Anaergia being one type of technology, are there other technologies that you looked into specifically regarding, in my district, a big constituent request is the smell of the wastewater treatment plant. And I know that you had mentioned to me in our interview about a kind of a sucking truck. I recently met with these other folks from YDRO who say that they can address the smell at 15 through 35 percent in the cost less. Fifteen to 35 percent less of the cost. And I was wondering, are you actively looking into any and all options to reduce the smell?

CHAIR MOLINA: Mr. Miyamoto?

MR. MIYAMOTO: Thank you, Mr. Chair. They mentioned Councilmember Lee's name also when we met with them this morning. We had seen their product before, and it seems like they've expanded their product list. I think before they only had maybe less than five products. Now, they're over 22 products. And so, we had a great discussion with them. We're going to be looking to see how can we do some kind of a pilot project, maybe in the 2020 Budget, you know. We'll have to see if there's going to be a proviso for a pilot project in some place. The Lahaina facility right now is undergoing major construction so it wouldn't be a good facility to do a test pilot because we don't have a base level right now. You know, we spent \$49 million out there to modify the process. So, we don't have a good base level to assess whether or not this technology, this process actually works. So, we're looking at, okay, where else can we utilize it? So, we looked at where we're having a lot of fat, oils, and grease in our lines. So, we're looking

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somewhere in Central Maui. There's a line that heads towards from the Wailuku pump station out towards the Hawaiian Homes area that has a history of having a lot of fat, oils, and grease. So, we're looking to do some kind of a pilot project down the road. We're still in contact. We want to find out, yeah, how much can it really reduce the odors. The previous product that someone had proposed actually increased the odors so that's why we're very cautious. So, we're trying to get some background information on that and send it to the YDRO people and see how they react to see, you know, the data from the previous product.

COUNCILMEMBER PALTIN: Sorry. Can you clarify . . . so, you don't want to do a test project because it's being upgraded right now. But the smell is still there.

MR. MIYAMOTO: Right.

COUNCILMEMBER PALTIN: And it's gonna be addressed somehow.

MR. MIYAMOTO: Right. 'Cause typically a sewage treatment plant has two locations where it stinks -- the front end and the back end. The front end because the wastewater is coming all the way from Puamana to that Honokowai. It's coming all the way from Napili down so that wastewater is pretty old. So, the minute it hits the surface at the head works, the odor is really kicked up. So, we have air systems now, we create negative air pressure, we're sucking air into a filtration system, so we've got that pretty well set. The back end, the sludge, we don't have what they call a digester in Lahaina facility that helps do an additional process to help eat up all the organics in there. So, one thing we're going to do is we're looking at the trucks. So, if we can get the trucks that's enclosed, totally enclosed and that thing sucks the air into the truck system and filters it then maybe we can reduce . . . we're thinking it should reduce our stinkiness of our trucks because right now we have open air trucks. That material just sits out in the open air of the truck until we can fill it because we're not going to haul a half empty truck, so we wait till we fill the truck and it gets pretty old and, obviously, the odor. So, if we get it enclosed with negative air pressure that should keep all the odors inside.

COUNCILMEMBER PALTIN: So, during the \$49 million upgrade process that wasn't taken into account the smell on the back end or . . .

MR. MIYAMOTO: The smell in the back end we were already working on. We're evaluating the type of trucks that will meet our requirements because we're looking at . . . you know, right now we have fixed floor trucks. So, if we go with the enclosed one, we need one that can move. You have one hole in that tank, it only comes in there and then the floor will slowly move until that truck gets filled. So, we're looking at technology. So, that's already been . . . we were in that process. The modification for the plant is to, for reliability. You can imagine if we had a 75 side and 85 side. Seventy-five technology does not meet the current DOH requirements. So, we had to moth ball it, so we have to maintain that level of capacity in the facility, hence, the \$49 million modification.

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COUNCILMEMBER PALTIN: Thank you, Chair.

CHAIR MOLINA: Thank you, Councilmember Paltin. And if the body would indulge the Chair for just one question as a follow-up to Member Paltin's question related to rubbish and stinkiness, Mr. Miyamoto, we've had a, you know, I guess it's . . . just on my end, it seems to be increasing with the amount of missed rubbish pickups in the community. In your position as the potential Director of this Department, any suggestions? I mean, will you likely be approaching this body more for additional personnel? I mean, it seems to be . . . maybe I'm not sure what the cause is for the missed pickups. Maybe a higher sick-out rate among employees. Can you address that?

MR. MIYAMOTO: Thank you, Mr. Chair. So, there's two reasons why we would miss trash collection on a particular day or a particular route. Obviously, it's either mechanical, the truck breaks down or we are short manpower. So, this body has always been very generous for us and had provided us the equipment that we need so we can reduce the amount of down time for machinery. The one thing we don't . . . we depend on Public Works to maintain our equipment so that's probably the one thing down the road maybe if we had our own mechanics, we could take care of it. Yeah, we could make sure our facility, our equipment operate properly. You can imagine the typical one-arm bandit, if you figure out, you know, let's say he got 800 picks in a day, he does it four days a week and you figure out there's 52 weeks in a year, it's like something like 70,000 activations that arm does in one year. So, that's usually a weak point. You can imagine that arm doing it 76,000 times in a year. So, that . . . you know, maybe if we had our own mechanics, that might be a possibility. As far as manpower go, what we're looking to do is we started this process of we're trying to get more and more people with their CDL license. Even the guy who stands in the back of the truck if he gets his CDL license and we train him properly, he can fill in for a truck driver. He can get TA'd to the truck driver if the truck driver is sick. So, we're working on that process. We have our own trainers. We're trying to get expanded so to speak. We're also looking at more, you know, converting manual routes to automated that will free up, you know, at least two guys on the back end. If they don't have their CDL, then they can start working on cart repairs and things of that nature. That's our other big complaint is about -- lids falling off, wheels falling off. So, we don't have a dedicated crew. We just, if everybody shows up, then we got somebody that can, a group that can do it and then we send them out. So, we don't like to say we have missed pick-ups. We're just delaying them because, you know, if we don't get to you today, leave it out tomorrow we'll get to you. So, that's been our philosophy and that's a philosophy we had from the previous supervisor who retired and we're hoping the people still maintain that level of dedication to the service that we're providing.

CHAIR MOLINA: Okay. Thank you, Mr. Miyamoto. Chair appreciates your thinking outside of the box and looking at different options. Councilman Hokama, you have a question?

COUNCILMEMBER HOKAMA: Just a few specifics but, in general, Chairman, I've been fairly pleased. Like I said, this is my fifth Administration. I've dealt with a lot of Directors

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and Deputies in my tenure. So, I want to commend Mr. Miyamoto. He was part of a team, last Administration, that I felt did a very good job. So, seeking the areas of personnel issues for me -- grievances, work comp., overtime, absenteeism, morale. I think the previous Director, Mr. Miyamoto, did a very good job on behalf of us. And if you look at the stats, the stats prove itself on their success. And I would agree with Mr. Miyamoto, one of the challenges is that technology is moving quickly that we can be behind the ball in a blink of an eye just as quickly too, Chairman. So, I appreciate his candidness about being part of leading the industry and now being behind the ball because that's how quickly technology is changing the face. And I can verify the comments because China they're booming, and I just was there. More than half of the world's concrete last year was poured in China, and the majority was in Shanghai. Okay. So, they got a booming economy going right now. My concern though, again, one is Solid Waste and so you made comments already but to support the Department, Mr. Chair, I would just say that by public law, which is Federal by Congress, the users of our system is to pay for its maintenance, expansion and improvements. Wasn't supposed to come from General Fund, was supposed to come from dedicated fees to pay for the system, operate the system, and improve the system. So, I expect rate fee increases because we have an aged infrastructure that's going to need replacements, not just patch work and maintenance, but replacement of an aging facility and I can tell you what is missing -- 80 percent funding from the Federal government. Okay. That is what's going to be missing. So, to me, we need to be honest with our residents that fees going to have to go up especially with contract costs, collective bargaining agreements for the private sector as well that people are going to have to pay more to get certain services, Chairman. And that's just the reality that all communities face in the country. Okay. Not just ours. Being saying that, Mr. Chairman, you know, Mr. Miyamoto, one thing that in my discussions with President Kochi, Speaker Saiki, Chairman Luke from House Finance, and Chairman Dela Cruz from Senate WAM, is that we know we're going to have our disagreements more than likely on real property tax and TAT revenue. I believe there's one thing we can agree and work jointly together on behalf of the residents of this State, and particularly for us, with our residents of our County is the issue of cesspool closure. Okay. It's a State concern. It's a Statewide health issue, okay. Not just our issue. And while we do have our challenges with West Maui regarding some of our wells and whatnot, the other counties face the same situation. They got the same issue with leakage in the ocean. Big Island has it. Kona, that whole coast is dealing with same thing with the lava tubes and everything. So, we're not unique as a County or an island facing health issues regarding cesspool and waste. Saying that, does your . . . do you already have some additional thoughts or plans to address how this County may want to address the cesspool issue because there's a clock ticking? And one of the concerns is cost to the individual resident or property owner. And by law, again, you have to backfield the puka eventually, okay. So, that's going to be additional cost . . . fill material and transportation of the material as well as appropriate compaction. I get it. We did it on Lanai when we converted, okay, so, you have any comments you wish to share with us this evening?

CHAIR MOLINA: Mr. Miyamoto?

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MR. MIYAMOTO: Thank you, Mr. Chair. The previous budget, our current budget FY '19, the Council had put in a project for our Wastewater Division to assist the Parks Department relative to Helene Hall in Hana.

COUNCILMEMBER HOKAMA: Uh-huh.

MR. MIYAMOTO: And so, I just . . . I had my Deputy out there I think it was yesterday they went out and looked at the situation and, you know, the physical situation is how can we do it? So, we're doing a pilot project. We hired a consultant. We have a consultant on board and the first thing they have to do is look at what technologies are available that's been approved by the Department of Health. And the second thing is also about what level . . . what quality of water do we want to produce out of these facilities? Do we want to make it water that we can recycle and utilize, you know? The current plan for the Helene Hall had a septic tank with a leach field and then that met great public opposition because the leach field was going to be where the kids were playing. So, then they . . . their plan was, well, let's pump it up to a bigger septic tank up the hill. Well, that had its own challenges in trying to do it. So, with this contract that we have they're going to look at the available, what technologies we can implement and, obviously, 7,400 units, 74 household need to replace their systems. And you can imagine you do ten a year, if you do it over ten years, that's two a day you would have to average replacing. I just can't imagine trying to replace average two a day. So, we want to get the technology done. We want to get the options available and then we can start looking at, you know, creative funding as we had talked about before whether or not the County enters into this system where we start assisting the homeowners with maintaining the systems with for a fee. You know, they're not connected to our sewage treatment plant but if they're depending on us for some kind of a maintenance program for this facility, then they would pay a fee for that. Whether or not we can get funding from the State level, I know the previous Director had looked at what was available from I guess Department of Health and whatever opportunities were very open, if there's something you need as Member Sinenci had mentioned if there was other opportunities from other agencies, we're open to it also. I mean, it's our County, it's our waste. So, we gotta look at how we can help our residents on this. We'll do the research for them. We'll do the evaluation and we can see what we can do to assist them.

COUNCILMEMBER HOKAMA: So, that is something already ongoing, Mr. Miyamoto, or that's something you wish to establish?

CHAIR MOLINA: Mr. Miyamoto?

MR. MIYAMOTO: Thank you. Because we have the Helene Hall a lot of the engineering so to speak about technology, what kind of water we can produce, and what are the opportunities, it's going to be part of that contract. So, beyond that, then we have to start looking at the individual properties and see what can be fed. If you have a large property and you're not too worried about it, a leach field may be doing with very clean

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water is a possibility. If you don't have a big property, you have a small property, then maybe you can use some kind of a septic tank with maybe a little bit additional aeration or something to clean the water up a little bit better and you can put it back down into the existing cesspool. So, I know they've . . .

COUNCILMEMBER HOKAMA: So, for us, yeah, I know we can talk about all this in --

MR. MIYAMOTO: Uh-huh.

COUNCILMEMBER HOKAMA: --long, long hours but for this evening what I'm trying to get at is that you need a policy decision sooner than later from us regarding quality of water we expect from the treatments, whether it's R-0 or R-1. You need policy decisions to be made so that you can then look at the appropriate options to implement our policy decisions?

MR. MIYAMOTO: Actually, we're looking at 'em all. We're not going to put limits on it. Go from R-0 - what are the costs for R-0, what are the costs for R-1, what are the costs for R-2? So, as part of that for Helene Hall, they have to look at every, all of these options, what are the costs of installation, what are the costs of maintenance?

COUNCILMEMBER HOKAMA: Uh-huh.

MR. MIYAMOTO: So, we'll look at all of that. Of course, to operate also.

COUNCILMEMBER HOKAMA: Did we tie that to the Kula Gym wastewater project too? Part of the outcome of Helene Hall we would then make the adjustments for Kula Gym?

MR. MIYAMOTO: Yes.

COUNCILMEMBER SUGIMURA: Yes, yes.

MR. MIYAMOTO: I think you're correct, yes.

COUNCILMEMBER SUGIMURA: Yes.

COUNCILMEMBER HOKAMA: Okay. So, I just wanted to point that in coordination Council has been supportive of new technology to solve some of our . . . and maybe that's the right term, stinky mess, whatever it be. But I just want to share that the Department has not sit still because technology continues to move, Chairman. So, that's all I have, and I have no further questions, and I will be supporting this nominee. Thank you.

CHAIR MOLINA: Okay, Councilmember Hokama. Committee Vice-Chair Rawlins-Fernandez, question?

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VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Okay, so, mahalo for joining us, Mr. Miyamoto, and mahalo for meeting with me. So, first question is, I'm hoping to get an update from you on a decision that was made back in 2008. The A&B wanted a zoning change and as part of approving that there were a number of conditions placed on the change. One of the changes or one of the conditions . . . I'll read this, that Alexander and Baldwin shall work with the County's Department of Environmental Management to identify and dedicate to the County a mutually acceptable site or sites for future Central Maui wastewater requirements. This is when Mr. Molina and Mr. Hokama were on the Council back in 2008. So, do you have an update on that?

CHAIR MOLINA: Mr. Miyamoto?

MR. MIYAMOTO: Thank you, Mr. Chair. I remember that 'cause I remember Councilmember Hokama was the one that really suggested it and we were thankful because that committed them. As I mentioned before, we're somewhat looking at, you know, A&B has a project out in the Waikapu area for future growth. And so, we're looking at that as a possibility, you know, as one site that they could provide so that we could do a satellite facility to take care of that, take care of some growth, divert maybe about a million gallons of existing wastewater to that facility. Then we would need a smaller footprint for the relocation of the Kahului facility. So, we haven't quite figured out the size of the, how big that satellite facility would be. We're looking between maybe two and four million gallons maybe. We just haven't figured out exactly how big that's going to be but overall, we're looking possibly maybe two sites but until we decide exactly what that size should be, I think it's premature at this time. But we have been in contact with the representative from A&B that just to keep it on their radar you still have this requirement and that, you know, obviously, it needs to be closer to the Central area because we are looking at, we are talking in discussions with them for other lands, other wares at the Central Maui landfill, maybe somewhere in the Central azimuths so we can do soil aquifer treatment type basins to recharge the groundwater. So, we are in contact with them.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. So, it sounds like the Mahi Pono purchase will not have an impact on the negotiations?

CHAIR MOLINA: Mr. Miyamoto?

MR. MIYAMOTO: That is my understanding at this time.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Thank you. My second question is, so what has been your effort towards moving Maui to a zero waste as Kauai and Hawaii Counties have done? What kind of a goals and principles will you adopt?

CHAIR MOLINA: Mr. Miyamoto?

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MR. MIYAMOTO: Mr. Chair, for this question, I point to our Environmental Protection Sustainability Division. They are, you know, the new leaders of somewhat setting a vision for that. She's very familiar with zero waste. The principles whether it's technically achievable it's questionable how the zero is zero but, she is working on it. For example, they have a program out called *Bring Your Own*. So, we have reusable clam shells. We got rid of the polystyrene, now we're having these clam shells that you can reutilize. We did a pilot project at the community college. We have a system where you can exchange, you have a FOB. If you have a FOB, you're entitled to a reusable facility. And, you know, we were concerned about contamination and everything. So, the way the system is set up technically the food vendor keeps the container, cleans it, and when they serve it if you have the FOB you get it in that reusable container and that can go back and then be utilized. We are starting to move in that direction. That's why it's, like I said, that's the area that citing me for my Department, our EP and S they're coming up with new ideas every time and I just want to get out of their way and just let them really help me grow in that Division. Thank you, Mr. Chair.

VICE-CHAIR RAWLINS-FERNANDEZ: Thank you. Okay. The actions of the past two Directors of DEM have done damage to neglect and regards to our Clean Water Act and our environment the job obviously must be corrected. And then as a long-time Deputy, I assume then you were a part of some of these decisions. How can you expect the reputation of DEM to change under your directorship?

CHAIR MOLINA: Mr. Miyamoto?

MR. MIYAMOTO: Thank you, Mr. Chair. As I mentioned in my opening remarks, you're now looking at the effluent as a resource, you know. Obviously, when you think about an injection well, to replace it . . . to totally not use an injection well there are two options. One is an ocean outfall, and given where we are, we won't be doing an ocean outfall because it's in sync to the whale sanctuary in West Maui. The other guarantee that we will never use an injection well is using that water as potable source. You may not like the flavor of that thought so to speak. So, that's something I would be working with the Water Director in how we can replace some of their non-potable demands . . . some of their potable demands with non-potable water. So, our Wastewater Reclamation Division we're starting a process of evaluating what are the possibilities to maximize recycled water. So, we have a reservoir at about the 700-foot elevation. We will be pumping water up to that elevation. We need some pumps. We need some pipes. We're working on those. But we can have the water but if we don't have a customer it's useless. So, what the Wastewater Division has started is they've talked with major landowners, and some of these landowners are going to lose their water source. I mean, they have stream water sources that they're going to lose. So, now they really want to use this recycled water. So, we're in a position right now at least in West Maui where demand is higher than what we have. The guy at the last . . . end of the line he's worried if he's going to have water coming out of the pipe for him. So, what we're doing now is we're looking also at what are existing . . . there are some existing reservoirs that we can utilize to stabilize the flow of water to our customers. So, we're trying to negotiate some

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kind of an agreement where those . . . you know, like it's raining right now. Nobody wants our water, but we still got water. Let's fill those reservoirs up and so that when we go back to drier weather, we have the additional flow for those people. We're trying to do that . . . Kihei the Council approved a second tank for us so, initially we said we want to irrigate the 152 acres. Gentleman sitting to the right, the Mayor said, why limit yourself to 152 acres? Let's talk to all the landowners above . . . right around where our tank is and let's see if we can irrigate all of those areas. When we look at to irrigate those areas, we have to make sure we don't over irrigate because now technically it's R-1 water. If it runs off of the property, it's a spill. We have to report it to DOH and it's a fine involved in. So, we have to figure out how we can control that, yet still fully utilize it. But we're looking bigger in those areas. Thank you, Mr. Chair.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo. One last question.

CHAIR MOLINA: Proceed.

VICE-CHAIR RAWLINS-FERNANDEZ: So, pharmaceuticals that come into our water supply through wastewater have become quite a large concern from many in our County and all over the globe. How has your Department been addressing this concern? And if I . . . yeah, let's leave it at that.

CHAIR MOLINA: Mr. Miyamoto?

MR. MIYAMOTO: Thank you, Mr. Chair. Given our limited population it really hasn't been a major issue for us, the pharmaceuticals at this point but in conversation with the YDRO people they say they can help us with that issue. So, that's why we're looking at, you know, some type of a pilot project. We want something with a baseline that we can evaluate. We're not gonna just do it and not evaluate it. So, we want to make sure that we're spending our money wisely. Does it cost us more to do it that way than it would to just do it another way? We want to make sure we're fiscally responsible when we do those types of pilot projects. So, we want to have full control over what our current costs. What are the quality of the waters that we're producing at the back end? Is it going to reduce our fat oils, and grease in our sewer line? Is it going to clean up? So, we are looking into other methods, the latest one being the YDRO people.

VICE-CHAIR RAWLINS-FERNANDEZ: I'm sorry. I just have one more question?

CHAIR MOLINA: Proceed.

VICE-CHAIR RAWLINS-FERNANDEZ: For the Molokai Wastewater Treatment facility in Kaunakakai, what are your long-term plans for that facility?

CHAIR MOLINA: Mr. Miyamoto?

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MR. MIYAMOTO: Thank you, Mr. Chair. We haven't really seen much growth, so the demand really hasn't warranted us expanding it that much. Actually, we also - in the conversation with YDRO, the Molokai Plan came up because for fat, oils, and grease we don't have a pre-treatment type system like we do here on Maui. So, the possibility of doing, using their product to go ahead and reduce the amount of fat, oils, and grease in our ponds and then ultimately in our system is what we were looking for. So, we're pretty stable as far as there is only one pump station. We've gone ahead and done an upgrade there. There's one force main we've done the upgrade there. We do regular checks on the collection systems so we're pretty good at that. Relative to the injection wells, we're looking at what are the options. If this YDRO system can work out, then you know it can reduce, it can improve our water, it can reduce the demand on sludge and everything.

VICE-CHAIR RAWLINS-FERNANDEZ: So, follow-up to that question. So, correct me if I'm wrong but I believe the capacity of the Kaunakakai Wastewater Treatment facility is 300,000 gallons and it's at 250,000 gallons now. So, it's pretty close to capacity.

CHAIR MOLINA: Mr. Miyamoto, any comment?

MR. MIYAMOTO: Yes. We have, you know, as part of a permit for that facility. We have certain triggers when it reaches a certain point. So, when it reaches 50 percent it triggers us to do a study. So, when it reaches 75 percent then it triggers us some kind of an action plan. We need to start thinking about it. So, it's one of the studies that we have on board that we're going to be executing for that plan see what we need to do. Maybe it's more about, you know, how can we reduce the flows? Do we have a lot of I and I because Kaunakakai is so close to the sea level we may have a lot of infiltration coming in to our pipelines that, you know, if we were to put the hole so to speak in our pipeline and stop the groundwater or sea water that's coming into our system, then maybe we don't need to expand the facility and that the flows would drop to under 200,000. So, those are the types of alternatives we're looking at for that facility at this time.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. And so, as far as like, you know, sea level rise and shoreline, it's right on the shoreline.

CHAIR MOLINA: Mr. Miyamoto?

MR. MIYAMOTO: I think all of Kaunakakai would be gone.

VICE-CHAIR RAWLINS-FERNANDEZ: Yes.

MR. MIYAMOTO: So, yeah, if sea level rises and all of Kaunakakai is down, I guess we'll be removing our facilities out there.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Thank you.

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CHAIR MOLINA: Thank you, Ms. Rawlins-Fernandez. Moving on to the end as we get closer, Councilmember Kama, question for Mr. Miyamoto?

COUNCILMEMBER KAMA: Yes, thank you, Chair. Wow, I've been waiting on this question for so long, but my iPad keeps shutting down on me. Okay. So, here we are. So, Mr. Miyamoto . . .

CHAIR MOLINA: Sorry, Member Kama, can you speak into the mike? Thank you.

COUNCILMEMBER KAMA: Sorry. I'm sorry. Well, let me move this over. I can have it all in the front of me. So, you know, on the . . . your response to the questions that were sent out, under No. 5, it says, what are your goals for reclaimed water use projects and cesspool conversions? Can you help me to understand what the cesspool conversion, what it means by that? And how is it that cesspools are under the jurisdiction of the Department of Health, State of Hawaii, and how is it that the septics are under County jurisdiction? And are we trying to get everybody to convert to cesspools or doesn't it not matter? I'm trying . . . because Upcountry in the Hawaiian Home Lands area, it's all on septics so does that mean that we all have to convert to cesspool? Help me to understand that, please?

CHAIR MOLINA: All right. Mr. Miyamoto, are you prepared to respond to numerous amount of good questions certainly, though. Go ahead, Mr. Miyamoto?

MR. MIYAMOTO: Thank you, Mr. Chair. Cesspool was the old day technology you just dig a hole and you throw it in. So, cesspool is the bottom. They're no longer permitted for any use. So, that's why the Hawaiian Home Lands Subdivision is all on septic tanks

COUNCILMEMBER KAMA: Yeah.

MR. MIYAMOTO: So, the tank collects a lot of the waste. It does settlement and hopefully the clear water is what's going into your leach field whether vegetation is taking up the nitrogen and everything else. So, yes, it is a State mandate but it's falling on our County and so, you know, how can we help our constituents to, you know, take care this heavy mandate . . . this unfunded so-called mandate. And so that's the conversations we've had in the previous Administration. Member Hokama has been very helpful in trying to figure out how can we go ahead and meet this requirement. So, septic tanks are nice and we're also looking at what can we do beyond that whether it's aeration systems, there's advanced treatment systems that can be utilized. So, it just depends on what people want to do with that water. If they want to use it for above ground irrigation, then it has to be a higher quality.

COUNCILMEMBER KAMA: How do you get that? I'm sorry, sir.

CHAIR MOLINA: Go ahead. Mr. Miyamoto?

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MR. MIYAMOTO: When you say how do you get that, what is . . .

COUNCILMEMBER KAMA: How do you get the above-ground quality?

MR. MIYAMOTO: Mr. Chair? So, there's other advanced treatment systems. You can do, you know, they have . . . there's multiple tanks, you can go through aeration and then you can go through advanced treatment whether they do some kind of UV treatment that obviously the Cadillac will have the UV treatments, the filtration systems, and the basic system is like a septic tank.

COUNCILMEMBER KAMA: Okay. Thank you.

CHAIR MOLINA: Thank you, Member Kama. And last but not least my colleague from Upcountry who is also very interested in the cesspool matters, Councilmember Sugimura.

COUNCILMEMBER SUGIMURA: Seventy-four hundred of them. We were designated throughout the whole State as having the worst problem, but I want to say, I want to congratulate the Mayor for selecting you to lead this Department because the last two budget sessions since I've been, have gone through two sessions, you always came with Steward Stant and provided a lot of background information. And through both of your leadership you certainly had a very strong presence and force in terms of leading this Department forward. But actually the questions that I had from the other Members have asked it and you certainly have answered it with a lot of background and knowledge. So, Chair, I call for the question. I want to support this guy and make him our next Director for Department of Environmental Management.

CHAIR MOLINA: Okay. Thank you, Councilmember Sugimura. Chair certainly appreciates your exuberance. If there are no more questions, the Chair would like to offer a recommendation. Chairman King?

COUNCILMEMBER KING: Thank you, Chair. I do have some more questions and I wanted to follow up on the biological nutrient removal project in Kihei and see where we're at with that. Are we working towards getting, you know, lower usage out of our injection wells there? And are we working towards just biological nutrient removal in general?

CHAIR MOLINA: Okay, Mr. Miyamoto?

MR. MIYAMOTO: Thank you, Mr. Chair. The project has been assigned. We're down to the qualification-based selection process so we have a consultant on board. Philosophically, here's a challenge we have. So, our recycled water people like it because it has the nutrients in it. This study wants to remove the nutrients so it's kind of a . . . it could impact the quality of our recycled water. If we do biological nutrient removal at the front end, so then the recycled water at the back end doesn't have as much nutrients for like for example nitrogen phosphorous those are the two things that people want in our

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recycled water. So, it's kind of a double-edge sword. Do we take it out and then sort of . . . people will still have to use fertilizer when they use our water or do we leave our water somewhat rich with nitrogen and then they can utilize it and not have to use as much commercial fertilizer?

COUNCILMEMBER KING: Okay. But as you know, the point of it is to take that out before it goes in the injection wells. So, are we not using our injection wells anymore in Kihei?

MR. MIYAMOTO: Mr. Chair?

CHAIR MOLINA: Mr. Miyamoto?

MR. MIYAMOTO: As I mentioned, with our new Mayor, you know, initially we were looking to do the 152 acres, he wants it all irrigated. So, we're expanding our scope of thought on that how do we irrigate that whole side of that area. We have to talk to multiple landowners, we have to see how we can control any runoff that may occur from our recycled water because that would be considered a spill. So, we're expanding it. We're trying to, you know, short of an outfall or drinking it, if it rains like it's raining right now, nobody wants our water. So, unless we're prepared to build a 100-million gallons storage facility to store the water when people don't want it that's going to be the challenge at this time.

COUNCILMEMBER KING: Okay, so you didn't answer my question. Are you trying to not use the injection wells or we're still using the injection wells 'cause that's the whole point of taking the nutrient out?

MR. MIYAMOTO: So, we're trying to minimize its use. Rainy days we have to utilize the injection wells because nobody wants our water. The golf course right next to us didn't take water because it's raining. So, why would they pay for water when they getting the free water from rain. So, it's our goal to minimize the use of the injection wells. And so, you know, whether we do land irrigation as Mayor Victorino has given us that direction. So, we're trying to just minimize its use at this time.

COUNCILMEMBER KING: Okay. So, you're not doing the biological nutrient removal then?

MR. MIYAMOTO: We're still looking at it. We still have that project.

COUNCILMEMBER KING: Okay, yeah that's about a year old, I think. So, you know, I wanted to ask you too about you're in the management because in the last term Managing Director Keith Regan stated that the two departments that he was not able to manage were Parks and Rec and your Department – DEM. And that those were hands off and the Mayor managed those two Departments directly. He sat right where you're seating, and he told me that. And so, are you planning to work with our Managing Director directly, you know, like the other departments do?

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CHAIR MOLINA: Mr. Miyamoto?

MR. MIYAMOTO: Mr. Chair, I'm ecstatic that Sandy was approved as Managing Director because if anybody knows all the budgets of all the Departments, he's the guy that knows it all. So, he knows . . . he's, you know, extremely educated. We've seen him at Budget. He literally does a great introduction into all of our Departments. Hearing you say that we were hands-off in the previous Administration is sort of news to me. I wasn't aware that that was the situation because we met with Keith twice, we met with the MD (Managing Director) twice a month to discuss issues and directions and everything. So, it sort of caught me off guard when you mentioned that.

COUNCILMEMBER KING: Yeah, well, it caught me off guard when he said it but, you know, that was kind of the feeling we got. And one of the biggest issues I think I had as a constituent that would be before I got on the Council was that seeing that Anaergia contracts when the audit came out there was a \$35 million discrepancy because originally it was supposed to save us over 18 million, 18.3 I think it was really when they did the audit it was going to cost us 16.7 million. So, that discrepancy and, you know, then there was no, after that audit came out there was no apology, there was no attempt to remove that contract. There was just an extension and another extension. And so, I would just like some assurance that this, your . . . this Department is going to be different under your Administration because that was really unacceptable. I agree there's people talking about a lawsuit because of that. So, you know, we have to start responding to these irresponsible . . . You know, when the audit comes out nobody ever responded to it from the Department. The Department head left. You know that. The Director left.

CHAIR MOLINA: Comment or respond to Chairman King's statements?

MR. MIYAMOTO: Thank you, Mr. Chair. As a previous managing . . . as Mr. Baz, Managing Director Baz had mentioned, yeah, we love audits. I remember that audit and operations part of that audit showed that we were doing the best that we can do, and they were really supportive of that. The second part of it was relative to, you know, are we . . . is that a good . . . basically a good deal for the thing? And it came down to one item that was the total difference for that audit, and it was the value of air space. We valued it high. They valued air space low. So, of course, when you have low value for air space, it looks like we're losing out. But if you have a . . . we've put a high value on it because, you know, the height you can go to is really valuable at how much longer your landfill can survive. So, we placed a higher value on the air space, they did a lower value on air space. And I think that was the primary difference. And I remember, at the time, Director Ginoza mentioning that, that was the key for the difference between the two what we assessed it at and what the auditors assessed it at.

COUNCILMEMBER KING: Okay. But there were, you know, the fact remains there is that discrepancy and it was really never answered. I mean, Director Ginoza left before that audit came out so there was really no response to that. And I was here when people

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were testifying on that, so I remember it pretty clearly. So, I'm just hoping that there's going to be a different direction, that we're going to be tighter on these things. If something is shown to not be working out, then show 'em what these discrepancies and they're going to come out and, you know, and inform the public and talk to the public about what the reasons are and move forward because we should not be keep giving extensions to contracts. They're actually costing us money.

CHAIR MOLINA: Okay. Thank you, Chairman King, Mr. Miyamoto. All right, Members, Chair is ready to offer a recommendation. Chair recommends adoption of the revised proposed resolution entitled "APPROVING THE MAYOR'S APPOINTMENT FOR DIRECTOR OF ENVIRONMENTAL MANAGEMENT." This will include nonsubstantive changes as well as the filing of the resolution entitled "DISAPPROVING THE MAYOR'S APPOINTMENT FOR DIRECTOR OF ENVIRONMENTAL MANAGEMENT."

COUNCILMEMBER SUGIMURA: So moved.

COUNCILMEMBER KAMA: Second.

CHAIR MOLINA: Okay. It's been moved by Member Sugimura, seconded by Member Kama. The floor is open for discussion. Member Sugimura as the movant, you have any brief comments before . . .

COUNCILMEMBER SUGIMURA: I think I expressed my feelings when I asked for the question before but I'm totally grateful for this wealth of knowledge that we're seeing and I think the leadership that he's going to take us to with this Administration, so congratulations.

CHAIR MOLINA: Thank you. Any other discussion? Seeing none . . .

COUNCILMEMBER PALTIN: Chair?

CHAIR MOLINA: Oops, excuse me. I'm sorry. Member Paltin followed by Chairman King.

COUNCILMEMBER PALTIN: Appointee Michael Miyamoto shared with me that he's one of the longest served being appointed officials having been appointed Director, a Deputy Director under several Administrations. I really appreciate his dedication to this County, his family, and the employees he oversees. I believe he has the technical knowledge and managerial knowledge maybe to do this job. However, with the changing climate, environment and rapid advancements in technology we will experience in the coming years. I have a feeling that this job will be much more difficult than it is currently expected to be. This is not to say that Michael Miyamoto is not capable. I think the position will be difficult for anyone. I do have some concerns. I'm not sure that he's the best person for this position but I am willing to work with Mayor Victorino and approve this nominee. I believe that if he does end up being confirmed by the majority, we will need to do our best to support him in guiding the Department of Environmental

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Management through the upcoming challenges we will face. I remember how big of a challenge it is that he's taking on. Thank you, Chair.

CHAIR MOLINA: Thank you, Ms. Paltin. Well stated. Chairman King followed by Councilmember Sinenci.

COUNCILMEMBER KING: Thank you, Chair, and thank you for being here, again, Mike. I'm going to support this nomination with reservations because I have a long history with this Department. I've always had a good relation, working relationship with Mr. Miyamoto; however, the direction in the past that this Department has led to some huge mistakes, I believe. And I believe the willingness to continue to paint them is very disturbing to me, but I know it wasn't your decision to do that last extension. So, you know, I'm hoping that you're going to step up. I think you have the right attitude about the environmental concerns that we have that will, hopefully, finally be prescribed in a program for environmental protection and sustainability. So, I'm going to put my faith in you and hope that we see the public truly being served and being responded to so thanks for stepping up and we'll go forward from here.

CHAIR MOLINA: Okay, thank you, Chairman King. Subject matter Chair, Councilmember Sinenci.

COUNCILMEMBER SINENCI: Thank you, Chair. I, too, would like to support Mr. Miyamoto's confirmation tonight. I have some reservations only because, you know, my community has seen a lot of infrastructure that has been aged infrastructure. So, we've been always looking. It's something that we've seen in the last couple years especially with the increased visitor industry and just seeing public utility just kind of, you know, age and, and, so I look with high hopes as the Environmental Committee Chair. I'm offering my help as well and I hope Mr. Miyamoto you're open to new ideas and to input that would help the Department look at some cost-effective ways of dealing with our environmental issues. Thank you.

CHAIR MOLINA: Okay, Mr. Sinenci, any other discussion? Okay. Mr. Hokama?

COUNCILMEMBER HOKAMA: Quickly, Chairman, as I stated before, I am in support of Mr. Miyamoto. I've watched him over a decade, I guess, serving this, our people of Maui County. And I didn't ask you the one question I said I was going to ask everybody. Did you receive any communication prior to this meeting whether or not you had enough support or not for your directorship?

CHAIR MOLINA: Mr. Miyamoto?

MR. MIYAMOTO: No, I did not.

COUNCILMEMBER HOKAMA: Okay. Thank you, Chairman.



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**RECESS: 7:00 p.m.**

**RECONVENE: 7:15 p.m.**

**GET-1(3) APPOINTMENT AND REMOVAL OF ADMINISTRATIVE HEADS OF DEPARTMENTS (PROSECUTING ATTORNEY) (CC 19-1)**

CHAIR MOLINA: . . . *(gavel)* . . . The GET recessed meeting of January 23<sup>rd</sup>, 2019 is now back in session. Members, it is Wednesday, January 30<sup>th</sup>, 7:15 p.m. Thank you for that brief break, Members. We are coming close to the tail end of the evening. We have one more nominee to consider this evening, and that is the nominee for the Prosecutor's Office, Mr. J.D. Kim. First, I'd like to ask Ms. Tegarden to give us a brief opening remarks regarding the nominee. Ms. Tegarden?

MS. TEGARDEN: Thank you, Chair and Committee Members. Mr. Kim brings experience to his role as Prosecuting Attorney. With over 30 years of experience at the State and County levels he does not rest on his laurels. With a short-term goal of establishing a children's peace center for children and their families who are victims of violent crime, Mr. Kim is constantly looking for new ways to serve our most vulnerable. Mr. Kim works collaboratively with law enforcement to continually seek justice for our community. We thank you very much for allowing us to share these few remarks.

CHAIR MOLINA: Okay, thank you, Ms. Tegarden. Mr. Kim, you have the floor.

MR. KIM: Thank you, Mr. Chair. Good evening. Just a little bit of background about myself. I am a graduate of Waianae High School in 1972 in rural Waianae. I went to Leeward Community College for two years but in between that I also worked as a Merchant Marine, Merchant Seaman as well as construction. One year I was here and then came back to Honolulu and got my degree in Bachelor Arts & Science in Zoology. In 1980, I came to Maui to work for the Water Board. I was a lab assistant for a year and then I got hired by Operations Management International that was doing contract work for the County at the Wastewater Reclamation Plant so, I became the Water Chemist. Brought them into compliance with the EPA. Then in 1982, I got accepted into law school. I tried to get into U. H. Law School for three years running and for three years I got turned down. So, I was lucky enough to get accepted to Temple University School of Law in Philadelphia. In '85, I came back to Maui, passed the bar. And December of '85, I got hired by then Judge, well, Joseph Cardoza who was the Prosecutor. And I worked for him till 1990. From 1990 to '91, I was a Deputy Attorney General for Child Protective Services in the Administration Division for the DOE. And then in 1991, I got re-hired by the Prosecutors and was imbedded at the Police station for about nine years reviewing and doing screening and indicting cases, and taking cases to preliminary hearing. Then in 2000, I moved to Corporation Counsel for seven years and was assigned various tasks with interest in arbitration, grievance arbitrations. I also assisted the Department of Personnel Services. I was asked to also counsel and advise the Police station, the Police

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as well as the Fire Department. Also, I had Parks and Recreation for a little while. Came back to the Prosecuting Attorney in 2007 and became the Prosecutor in 2011 and currently holds that position. People asked me why I applied and that's because my job is very important, and I believe I've been doing a very good job in coordinating as well as re-establishing our partnerships with all the different various law enforcement agencies from the Federal government down to the local Police Department. We are victims centered prosecution department and so we pay attention to our victims. That's been our philosophy working with Robert Rivera, my First Deputy. His vision as well as my vision is to establish this Family Peace Center, this one stop shop, which a former counsel allowed us to acquire 2103 Wells Street, the former Ueoka building. And our vision is to establish a co-location with the Police Department, Children's Justice Center, Victim Witness counselors as well as forensic exams for our child victims. Our long-term goal is actually to expand our campus because we are out growing the old courthouse. We have 88 positions that we oversee. Our Victims Witness counselors as well as most of our investigators are at 2103 Wells Street. We were renting but that, you know, we don't want to pay rent when you can actually own the building for the cost of the rent, and that was pointed out by Councilman Hokama, and we were lucky enough to get that. So, at this point, I'll turn it over to you.

CHAIR MOLINA: Thank you very much, Mr. Kim. Members, before I open a line of questioning, I'd like to ask Mr. Kushi to take his place as Corporation Counsel. All right, Members, I'll go ahead and open up the floor with questions. Let's start with Mr. Hokama.

COUNCILMEMBER HOKAMA: Thank you very much, Mr. Chairman. Mr. Kim, I don't know I think this is our third review with the information process between you and I. One thing I will ask you this evening because I was surprised on the amount of communications I received. This is particular in general from our women of our County and the concern about early release, especially with the incidences we've been made aware of whether it's the news or cases filed. And, you know, for me, I'm not clear on exactly what is the protocols of the process but can you give us some comments this evening how you approaching this phrase "early releases", and is this something you just follow according to State Statute or by rules of the Judiciary or is this just an internal departmental procedure? But I'm trying to get some understanding better because a lot of our women in our County are concerned about safety, and I am too. And so, can you give us some comment regarding this thing called early releases, and does it apply to those that are not convicted of previous crimes or that's for anyone including convicted felonies?

CHAIR MOLINA: Mr. Kim, prior to responding to Mr. Hokama's questions, just a friendly courtesy to the Members, depending on your level of questioning because of the nature of Mr. Kim's job that he's being considered for, I will ask Mr. Kushi to advise us depending on the type of question you ask if he recommends possible executive session depending on the level of questions that you're asking. So, just wanted to just pass that on to you. Okay, Mr. Kim, you can go ahead and respond to Mr. Hokama's questions.

COUNCILMEMBER HOKAMA: What you can say in open session, --

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MR. KIM: Yes.

COUNCILMEMBER HOKAMA: --Mr. Kim.

MR. KIM: Thank you.

COUNCILMEMBER HOKAMA: 'Cause I want our community, our women of this County to hear your response, please.

MR. KIM: Thank you, Mr. Hokama. About two or three years ago, we had an . . . (*inaudible*) . . . investment study that came to the State of Hawaii. And they did a study of the Judiciary, the criminals, law system as well as the parole system and locking of people and putting the criminals away. And they opined that four years of probation would be enough because five years was too much. And currently, if you're put on probation, the norm is five years unless you commit a more serious crime. And so, by and large, a lot of . . . there was a decriminalization that was going on. For example, they made it so . . . they said, if we let them out early, we would save the State money. And it surely would because they don't have to keep these guys in prison. They came up with this early release thing. Our Department from the get-go we were probably the only County that actually sent Prosecutors on the more serious violent crimes to speak to the Hawaii Paroling Authority to get their minimum term equal to the maximum term. And we would send and write religiously to the Parole Board when we get notices about the early release. And our deputies are assigned, and they follow up with those letters opposing any type of release for our defendants that get convicted in our courts, especially the violent defenders.

COUNCILMEMBER HOKAMA: Okay. Just a few follow ups, Mr. Chairman?

CHAIR MOLINA: Proceed.

COUNCILMEMBER HOKAMA: And we'll be kind of pointed so your specific responses, Mr. Kim. So, when you say, we or they, you mean, the Legislature made a policy decision regarding the early release on the subject we're talking about right now?

MR. KIM: That's correct.

COUNCILMEMBER HOKAMA: And their policy decision was based on the cost to the State to house inmates versus safety of our residents?

MR. KIM: Yes.

COUNCILMEMBER HOKAMA: Interesting choices.

MR. KIM: Well . . .

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CHAIR MOLINA: Mr. Kim?

MR. KIM: Don't forget when Governor Abercrombie got into office, he had promised the return all those that were incarcerated out of state, and that has not happened. We don't have enough prison space.

COUNCILMEMBER HOKAMA: Understood.

MR. KIM: And so, we, as Prosecutors, law enforcement, we didn't see any value in that.

COUNCILMEMBER HOKAMA: Uh-huh.

MR. KIM: I mean, they were supposed to build a community correctional center in Puunene, and they had three iterations of design. Still haven't moved forward on that. And so, we're looking forward to when they do build a bigger prison, our population is growing, we need a bigger community center. We do have programs that work with this current community center. I think we're the only Drug Court Program that has space in the dormitories for those who need drug treatment. And we understand that people fall off the wagon but if they're honest about it, they get a time out and they get treatment. And that's what the drug program is about as well as the larger space for the community correctional center.

COUNCILMEMBER HOKAMA: And I appreciate you bringing up the challenge because I can tell you even when I chaired Council and it was working with Governor Lingle's Administration, okay, Governor Lingle's Administration of looking at Waiale or possible relocating the State prison. Where are we today? Same place. Still spinning our wheels except for the amount of inmates and lack of facilities. But from the County's perspective we got an early release and whatnot, is there an issue for us within our booking and holding component? Because we're responsible for jails. Okay. But jails are for people who have yet to be adjudicated. Prisons is for those that have been adjudicated. Okay. That's why we have issues of, well, for me, I have issues with who's paying the bill for what component, yeah. So, from our standpoint, from the County's standpoint, regarding jail space and everything else for you to do your job as a Prosecutor, how do you feel about your situation status with this?

CHAIR MOLINA: Mr. Kim?

MR. KIM: Mr. Hokama, our Department stands by our policy with respect to holding those that commit crimes accountable. And that they should be locked up so that they don't victimize the rest of the community after they've been caught and adjudicated by the courts. And so, that's why we have the constitutional protections. We have a preliminary hearing or indictment by a neutral magistrate or, I mean, neutral parties. Once that happens, and they're charged with a criminal offense we want them away from our victims, away from the public so that they don't re-victimize people while they're out and about. There is a push currently with our Legislature on a bill Reform Act. It hasn't worked in New Jersey and it hasn't worked in California. California just

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passed it. And so, you either bail, no, you either no bail or you get released and that's been an issue with California because there's now a risk assessment for dangerousness. And so, once you're found a danger, you don't get released. And so, now their population in their jail system is overcrowded, is burgeoning.

COUNCILMEMBER HOKAMA: And that's before adjudication?

MR. KIM: That's before adjudication. Because it's either yes or no you get released. The County faces, because we're a three-island County, we also face the issue of release and services. If they get released, they're ordered to do services and that's the main point. And, we've seen that in the 70s where everything was forgiveness and let's see if we can rehabilitate. Then when the 80s came, the pendulum swung back to punishment. We had mandatory prison time just for methane phentermine possession. And now, we're seeing the pendulum swinging back to forgiveness and rehabilitation. And so, we . . . I'm old enough to know or at least appreciate and that's why I became a Prosecutor. Rehabilitation and forgiveness will take for a very small population of those who decide to be criminals and criminalize and victimize our public members. There are some that do get rehabilitated and that's fine. We can weed them out, we can look at them in Drug Court. Those that have that addiction, and I was a Drug Court Prosecutor for two years, three years. We handled 300 cases but were able to take those 300 potential defendants off the street, get them services, get them counseling, and keep those 300 cases out of the court system. So, I do believe in that part. But for our violent criminals who because they can victimize the weak, I have no sympathy for that.

COUNCILMEMBER HOKAMA: So, with this early releasing the State Legislature put into law has this increased or assisted your workload for you and your deputies?

MR. KIM: Well . . .

CHAIR MOLINA: Mr. Kim?

MR. KIM: Just let me say that there's a policy that the Department of Public Safety --

COUNCILMEMBER HOKAMA: Uh-huh.

MR. KIM: --about this early release, it hasn't been put into law just yet. I'm talking about the bail reform act that's coming about, that's coming this Legislative season and that will be . . . we'll see what happens with that. I think the head of that Task Force, joint Task Force - House and Senate was asked should can we do it, should we do it all one time or can we do it piecemeal? He said, piecemeal is fine. But there's dangerous . . . a danger to that for public safety. That's my main objection. When I asked about my opinion on this Task Force and the ACLU coming out with their study, they came to speak to the Task Force, and we asked them pointedly. This information that you base your opinions on is incomplete data, and they agreed, yeah, it is. But we had to say

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something. And so, I asked Judge Ron Traitor, who wrote for the Task Force that make sure that the Legis. understands that.

COUNCILMEMBER HOKAMA: Okay. I would just ask that you, again, upon a final disposition of your nomination, Mr. Kim, at the appropriate time I would ask that your Department prepare for our Budget Committee whether or not some of these adjustments in State law is an actual new State mandate, which by Constitution the State should be providing financial resources to each participating County. So, you're going to need to provide us with some comment and recommendations down the road. Okay. Thank you, Chairman.

CHAIR MOLINA: Thank you, Mr. Hokama. Let's move out towards the West side. Ms. Paltin, do you have any questions for Mr. Kim?

COUNCILMEMBER PALTIN: Thank you, Chair. Similar to my colleague, Mr. Hokama, I have no desire to go into executive session so if any questions that I ask would prompt that, then I would withdraw that question. I think I agree that I think the public should be able to hear the processes. So, I have a bunch of questions, but I'll just start out . . . how many vacancies do you have in your Department?

CHAIR MOLINA: Mr. Kim?

MR. KIM: Currently, we have I believe two for attorneys. Probably one because the one is position for an attorney is being held because that Deputy was called to active duty for three years and he's coming back in August of 2019. As far as Support staff, I just accepted, well, she resigned as an Investigator at the end of this month, so I have probably two Investigative positions open. And as far as Legal Clerks, I believe we have one or two. So, not very many.

COUNCILMEMBER PALTIN: And I see here year-to-date as of February 28<sup>th</sup>, 2018 in your Prosecutor's Administration Program, so this was February of last year, there was already 31,113 overtime expended, and in the General Prosecution Program – 96,664 is up from 2017, and I just was wondering because in your . . . in the minutes from the April 11, 2018, it says that the Deputies do not get premium pay. They get paid what they're paid, and they're expected to work overtime. So, I was wondering all this overtime expenses how is it coming about?

MR. KIM: The overtime is coming . . . I'm sorry.

CHAIR MOLINA: No, go ahead, Mr. Kim.

MR. KIM: The overtime is coming about from our Legal Clerks. Our Law Techs is now Legal Clerks. They do the bulk of the work for the office, for my Department. Our support staff is worth their weight in gold. I would rather fire a Deputy than trying to get rid a Legal Clerk or a Law Tech. So, it's on a voluntary basis. We're getting more and more

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cases. We probably indict every year felony charges about a thousand cases of the 4,000 to 5,000 cases we receive from the law enforcement agencies. And so, they work. We do not have the redundancy that some of the other Departments may have but this is County so if someone gets sick, someone is on family leave, Support staff is expected to take up the slack. My Deputies are salaried, so they do not get overtime. That's just how it is.

COUNCILMEMBER PALTIN: So, you have vacancies in the Legal Techs?

MR. KIM: It's not really a vacancy if they're sick, long-term sick or if they decided or not or they're on family leave.

COUNCILMEMBER PALTIN: Oh, so there's no vacancies?

MR. KIM: Right now, I believe, there's probably two or three and that's it, and they're being filled. 'Cause right now, we just moved up our Office Administration Assistants to Legal Clerks. That's how we train internally our court staff. It's very rarely would somebody come over from private practice to our Department because I believe private practice pays more money. And we have a very low unemployment rate. So, it's hard to recruit.

COUNCILMEMBER PALTIN: Thank you. How about the backlog in cases? It says it's up 45 percent from your predecessor yet 2011, 2012, '14, '15, '16, '17 all saw a decrease in crime per capita. So, wondering why the backlog?

MR. KIM: I don't know if there's a backlog.

COUNCILMEMBER PALTIN: Okay. I'll yield at this time.

CHAIR MOLINA: Thank you, Ms. Paltin. Ms. Sugimura?

COUNCILMEMBER SUGIMURA: Thank you, Mr. Kim. I believe that in Granicus and who came to visit us as well as testified was a Kimberlyn Scott . . . Kimberlyn Scott. And I guess I'm not sure how much can be said about this so please stop me. I don't want to go into executive session about this. I know that there is, was an ongoing case and I think there may be something going on now. And I know that there are . . .

CHAIR MOLINA: Mr. Kim, if you would like to respond to that inquiry?

MR. KIM: I cannot respond to any of her allegations that she brought up because the case is currently under appeal. So, it's a very long case and right now I would be remiss in comments made in open session.

COUNCILMEMBER SUGIMURA: Okay.

CHAIR MOLINA: Mr. Kushi?

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MR. KUSHI: Member, what case are you talking about?

COUNCILMEMBER SUGIMURA: Kimberlyn Scott who came to testify. It's her daughter . . .

MR. KUSHI: Okay. If Kim says it's under appeal, it's under appeal the same litigation.

COUNCILMEMBER SUGIMURA: Okay. So, we will not . . .

MR. KIM: Well, I can address any of your concerns in closed session.

COUNCILMEMBER SUGIMURA: Yeah, no, I don't want to. I just wanted to clear or get from you and Corp. Counsel what can or cannot be said 'cause there's some pretty, you know, allegations in here that we cannot talk about so.

MR. KIM: That was the document that was just handed out.

COUNCILMEMBER SUGIMURA: And she did submit before.

MR. KIM: Right.

COUNCILMEMBER SUGIMURA: Yeah.

MR. KIM: Right.

COUNCILMEMBER SUGIMURA: Yeah.

MR. KIM: Okay.

COUNCILMEMBER SUGIMURA: Come and testify. So, yes. All along the same --

MR. KIM: I got it.

COUNCILMEMBER SUGIMURA: --venue so . . .

CHAIR MOLINA: Ms. Sugimura, do you have another . . . you want to redirect your questions or is there anything else to ask of Mr. Kim?

COUNCILMEMBER SUGIMURA: I think I just wanted to clear the air on that --

CHAIR MOLINA: Sure.

COUNCILMEMBER SUGIMURA: --because it was pretty strong testimony, emotional testimony so, I just wanted to clear the air and just . . . that's it.

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CHAIR MOLINA: Okay, thank you, Ms. Sugimura.

MR. KIM: Thank you.

CHAIR MOLINA: Councilmember Kama, questions for Mr. Kim?

COUNCILMEMBER KAMA: Thank you, Chair. Boy, I'm not sure if I should ask this question at all but you will tell me if it's inappropriate or not. When we started doing the roles for our Council or the rules for our Council, one of the things that came up was that we were trying to look for new language that would be able to support and protect you know, the Councilmembers here because of what happened prior in a prior Council where there's a lot of outburst in the community and things of that nature that actually brought some interpretation and fear, and so we're looking for that language. And so what that did was because Councilmember Sugimura was very . . . I was very . . . oh, what she said just touched my heart and I thought to myself that oh, my gosh, I feel what she's saying. And I thought no person regardless where you stay should have that kind of feeling of not being safe. So, when this young woman walked into my office and I've had people come into my office and hit me up any place, any time in the bathroom, to talk about certain things. And I'm always open to talking to them. When this young lady came into my office and she wanted to meet with me, and she was very fearful. She didn't want anybody to know that she's coming to see but she came nonetheless. And she brought with her many documents regarding Mr. Kim. And it just . . . it broke my heart to hear her story, and it had to do with being bullied, retaliation, and it had to do with her being terminated after 20 plus years of work in the County. And so, I didn't know what to say or to do with that except to just bring it forth to this place and if that's what Mr. Kim could respond to.

CHAIR MOLINA: Mr. Kim?

MR. KIM: Thank you. Ms. Kama, that case is also under litigation. Corporation Counsel is handling a grievance and a workman's compensation appeal. So, I cannot comment about it in open session. I can do so if you're willing to know where we stand on that.

COUNCILMEMBER KAMA: I need to confirm whether you . . . because if what this young lady is saying is true, then do I want to appoint someone who may continue this behavior within the Department and allow other women to be exposed to this type of behavior? That's my concern. So, I'm just not sure if we should go into exec or not go into exec. So, I'm not sure. But I don't want this to continue to go on and I do want some resolution. And I do understand that . . . this system and litigation.

CHAIR MOLINA: Okay. Mr. Kim, you have a comment?

MR. KIM: Ms. Kama, you have every right as the member of this Council to ask for executive session and I can explain that to you.

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CHAIR MOLINA: Ms. Kama? As Mr. Kim has stated, you have the right to make a motion if that is your choosing. Another option . . . although we probably . . . of course, this is the first hurdle. If Mister . . . looking ahead, if Mr. Kim does get approval from the majority of this Council, there is this matter . . . his vote we'll still have to go before Council and, at that point, you may want to meet with Mr. Kim one-to-one to find out these concerns that had been brought to our attention tonight. So, that's a couple of options for you to consider. Mr. Kushi?

MR. KUSHI: Well, Mr. Chair, if you go into executive session, there is a reason why you go into it because its executive session is confidential. Anything said in executive session cannot, should not be let out to the public. You understand?

COUNCILMEMBER KAMA: Yes.

MR. KUSHI: Okay. So, again, in fact you just had Sunshine Law training. You go into executive session whatever information is disclosed whether it be about Mr. Kim or his employee or any litigation should not be disclosed to the public for several reasons. One, it may not involve only him but somebody else who's not here to defend him or herself. Secondly, if it's litigation and you disclose that, you're giving the other side an advantage. If it's litigation, it's a suit against the County or its employees. The County of Maui is all of you. So, we go into litigation, we discuss litigation, we review our strategies, and that should not be disclosed. So, again, if you . . . following up on Member Molina's suggestion, you should talk to Mr. Kim in private. Again, I would warn him about the same concerns.

COUNCILMEMBER KAMA: Thank you, --

MR. KUSHI: Okay.

COUNCILMEMBER KAMA: Mr. Kushi. And Mr. Chair, I do not want to go into executive session. Thank you.

CHAIR MOLINA: So noted. Thank you, Member Kama. Appreciate the explanation and clarification from you, Mr. Kushi, as well as Mr. Kim. Mr. Sinenci, questions for Mr. Kim?

COUNCILMEMBER SINENCI: Thank you, Chair. Mr. Kim, you mentioned earlier that your staff is salaried, and they don't have . . . they don't receive any overtime. Is that . . . I wanted to clarify your response?

CHAIR MOLINA: Mr. Kim?

MR. KIM: Thank you. Mr. Sinenci, my appointed attorneys, my Deputy Prosecuting Attorneys are salaried, and so, under the Fair Labor Standards Act they're expected to work for what the County pays them, and they do not receive any overtime.

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COUNCILMEMBER SINENCI: So, you were mentioning that your Clerks receive overtime?

MR. KIM: That's correct. Our Law Clerks and our Investigators as well as the Victim Witness Counselors are all under collective bargaining agreements. We have Unit 2 for our Secretaries, Unit 4 for the Supervisors, Unit 13 for the Investigators as well as the Victim Witness Counselors.

COUNCILMEMBER SINENCI: Thank you.

MR. KIM: They receive overtime.

COUNCILMEMBER SINENCI: Okay. I'm in receipt of a May 2018 where there was amendments to the Fiscal Year Budget to authorize transfers relating to categories of use within a program of Department to address some of those overtime overtures.

MR. KIM: That's correct.

COUNCILMEMBER SINENCI: Can you explain?

CHAIR MOLINA: Mr. Kim?

MR. KIM: Yeah. Currently, the court system is going over to electronic filing which cause some concern with the staff that has been there longer than this newer staff that's been hired. That takes scanning as well as a lot of computer work to scan and file documents, which we used to do by hand. Now, all the Clerks that come in currently that haven't been working for the Department don't know about hand filing documents. They only know about electronic filing, so they pick it up quickly. There are others who are reticent in accepting this technology but it's the way the court system is going. It takes time for our staff to actually do some of this work. The other things they no longer taking handwritten notes. It's all done electronically. Our files have to be kept up-to-date. We're trying to go paperless in keeping or maintaining our court files as well as the minutes as to what goes on in court. And so, that's being inputted into our records management system, and that takes time; more time than what it used to be. So, yeah, we could use more staff and that would cut down on the overtime.

COUNCILMEMBER SINENCI: Thank you. You know, as a new Councilmember, I'm still getting . . . familiarizing myself with the technical jargons of the . . . Could you explain what "forfeiture funds" are?

CHAIR MOLINA: Mr. Kim?

MR. KIM: Forfeiture funds is under Chapter 712A of the Hawaii Revised Statutes, which allows us to go in and seize assets used by criminals to you further their criminal activity. Whether it be making drug deals in their car, seizing monies from drug dealers, taking

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their cellphones. In the old days, when I first started was taking their beepers . Anything that was used in committing or allow them to commit the crime, we're allowed to go before a Magistrate or before the Attorney General who decides whether or not we're able to seize those property, that once was evidence as forfeiture property. Those properties are then turned over to the AG's office, they in turn return the bulk of it to the Police Department. And normally, we get anywhere from 10 to 25 percent of what was seized. And it also depends, under the Obama Administration he stopped having the DEA do the forfeitures. The DEA was more lucrative I would say to the law enforcement because we did not have to have a prosecution or a conviction. We just had to show that it was used during the commission of those crimes. Mostly, I'm talking about drug dealers. If you went federally, the Police makes that choice whether or not they want to do it federally or by State forfeiture. If it goes by Fed., we get like 10 percent. If it goes by State, we get 25.

COUNCILMEMBER SINENCI: So, those forfeiture . . .

MR. KIM: Those monies are specifically designed to only be used for equipment or training.

COUNCILMEMBER SINENCI: And that's part of your budget – the forfeiture?

MR. KIM: Yes, but we cannot use that for salaries though.

COUNCILMEMBER SINENCI: Okay. Thank you.

CHAIR MOLINA: Thank you, Mr. Sinenci. Chair King?

COUNCILMEMBER KING: Thank you, Chair. Yeah, I have similar concerns as my colleague, Councilmember Kama. I don't think it's going to do any good to go into executive session because we won't get both sides there anyway. And, there's, you know, there's been multiple letters that we received, and some have names to them, and some don't but there seems to be intimidation on some of these. But I have couple things I would like to ask in public. And one of them is about the overtime. So, if you got, I think Councilmember Paltin said 96,000 is that the figure you have? But when I hear that the Investigators and their Clerks and there's been two openings in Investigators and two openings in Clerks, I remember these numbers being fairly similar couple of years ago. So, why isn't that we're aren't able to fill those positions in your office? What's the difficulty? And we keep paying overtime rather than getting those extra positions, those vacancies filled?

CHAIR MOLINA: Mr. Kim?

MR. KIM: One of the issues is our low unemployment in keeping staff. The other one is retaining staff. We've had people just get up and leave. The Investigator that we had, yeah, he just decided he was done and for his own personal reasons he left. We had another one who was out on injury leave, not on the job and she finally decided

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that . . . we had to hold the position open if she had come back but that didn't occur. So, that was the two vacancies. As far as the Legal Clerks, we had some movement in the office and we still need to recruit on that level.

COUNCILMEMBER KING: Okay. I got some notes from April 2018 from a meeting that I was in and I know I asked you if you have any calculations or analysis of how much overtime you expect and the answer was, well, we haven't done a specific analysis. I wouldn't know how to start doing that type of analysis. But with having these high numbers every year of overtime that would kind of be my expectation as watching that Department is trying to do some kind of an analysis of what overtime is recurring, why we're unable to retain and I'm going through that right now in OCS from the previous years of having multiple vacancies and trying to make some adjustments, and we're getting some extremely high level people applying. So, I know they're out there. It's just a matter of applying that management principles so that, to me, is a little bit disappointing. But I also wanted to ask you about multiple reports I've gotten about two years when you were reappointed and there had been a . . . couple of incidents or issues. One of them is considerable backlog of cases, high employee turnover. This is reading from the article that were reported on. Most distressing to County Councilmembers Mike White and Don Guzman, who was a former Deputy Prosecuting Attorney. Seems to be the news then in 2009 then Deputy Prosecuting Attorney Kim was reprimanded by superiors. White and Guzman referred to the reprimand during a Special Maui County Council meeting on March 3<sup>rd</sup>. Both Members said they learned about the reprimand was discovered in a court document that was not explained and it was not disclosed, and they had issues with these incidents should have been disclosed before the first appointment back in 2011. So, can you speak to that? Do you know what I'm talking about because I've got minutes from the meetings, and there are articles about the meetings. I've got emails from people that were in those meetings.

CHAIR MOLINA: Mr. Kim, are you able to answer that in open session? Mr. Kushi?

MR. KIM: Well, I can answer that in closed session because it deals with my personnel file and what occurred, as to why I was removed as the Circuit Court Supervisor when I was a Deputy.

COUNCILMEMBER KING: I'll withdraw the question, Chair. I don't want to go into closed, executive session.

CHAIR MOLINA: Thank you, Chairman King. Councilmember Lee? Councilmember Rawlins-Fernandez?

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. I'll follow up with that question that Councilmember King withdrew. So, I guess I don't need the details of why you were reprimanded but I understand that part of the requirement as an attorney is to disclose that information and that information wasn't disclosed.

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MR. KIM: That information was disclosed to Alan Arakawa who hired me as his Prosecutor.

VICE-CHAIR RAWLINS-FERNANDEZ: But it wasn't disclosed to the Council --

CHAIR MOLINA: Mr. Kim?

VICE-CHAIR RAWLINS-FERNANDEZ: --during the initial confirmation process.

MR. KIM: I believe I disclosed and the reason why in closed session.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Since your nomination, my office has been flooded with emails and visits, you know, similar to the other Councilmembers, which ought to me to warn me of behavioral and the culture of your office, and that, you know, your behavior and office culture has been described as hostile, retaliatory, discriminatory, and promoting favoritism and sexual harassment in the workplace. Many of these same concerns were brought up at your previous nomination by different individuals. So, how do you respond to the flood are very concerning and serious allegations that I have received about this from the community, current and former employees of the County?

CHAIR MOLINA: Mr. Kim, are you . . . *(inaudible)* . . . in open session?

MR. KIM: I don't know what these allegations entail. I don't believe I've been accused of sexual harassment in any shape or form nor in my tenure as the Prosecutor or as a Deputy. I don't know where these are coming from so, if you want to discuss this, we can go into executive session.

VICE-CHAIR RAWLINS-FERNANDEZ: All right. Thank you. So, I'll just throw it out there and if it cannot, I'll withdraw. What would you do if you're appointed to ensure that the culture in your Department is improved?

CHAIR MOLINA: Mr. Kim?

MR. KIM: If I'm reappointed or confirmed, I was reappointed but if I'm confirmed by Council, my policy is an open-door policy in my office. I did explain to one of your Councilmembers on an anonymous letter about retaliation. Our County's policy is there's no such thing as retaliation because we open the County up for liability, if we retaliate, even on frivolous claims. And so, I know that as a Department head, I would not jeopardize the County assets by retaliating. It's no sense. Life is too short. I believe the morale in my office is good. I don't believe that, well, I did explain to the Mayor that I do have favorites in the office and those are the people who show up, they do their work, and they go above and beyond what they need to do. And it's the same way when you have a team. You don't put in a guy who doesn't have the talent or doesn't play or doesn't come to practice and expects to play. That's not how it works in our Department. You have to be able to be a talented attorney to do these types of cases. We deal with

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the scum of the earth and you have to understand that. And it takes a certain type of person, certain type of an attorney to deal with that on a day-to-day basis. The paperwork is demanding. It's voluminous. It's exactly. If we get a word wrong, the documents get kicked out or they get misconstrued, so they have to be read and re-read, proofread over and over, and so it is not an easy task. I heard an attorney to come and testify before you regarding how he has the biggest law firm in the County. He's wrong. The Department of the Prosecuting Attorney is the biggest law firm in the County with 33 attorneys and 55 Support staff. And we do the work to protect our community and we continue to do that work. We're very sensitive to our victims.

VICE-CHAIR RAWLINS-FERNANDEZ: I think the testifier was saying that Corporation Counsel was the largest law firm.

MR. KIM: No.

VICE-CHAIR RAWLINS-FERNANDEZ: I don't know the size in comparison.

MR. KIM: If you go by numbers, he's also wrong on that.

MR. KUSHI: . . . *(inaudible)* . . .

CHAIR MOLINA: Ms. Fernandez *[sic]*, another question?

VICE-CHAIR RAWLINS-FERNANDEZ: Uh, yes. So, in response to Chair King, it sounds like there's a high turnover in your office. What is the current turnover rate?

CHAIR MOLINA: Mr. Kim?

MR. KIM: Currently, I don't know what the turnover rate is other than I lost two attorneys in the last year. I lost an Account Clerk, and we've had maybe two Law Clerks that left but we've also replaced them. I had two attorneys and one passed away, so we just hired three attorneys.

VICE-CHAIR RAWLINS-FERNANDEZ: So, in comparison to previous Administrations leadership from what I understand a lot of Clerks who go to work at the Prosecuting Office, Prosecutor's Office, go there and plan to stay until retirement. So, do you see like long time employees leaving your office?

CHAIR MOLINA: Mr. Kim?

MR. KIM: Currently, there is one Legal Clerk that can retire, and she won't retire until I retire. And the others have already retired. I think February of last year we lost a lot at two who ran one of the courtrooms . . . yeah, and they took a wealth of knowledge with them. So, if, yeah, once you . . . and it's a tradition that's been carried on by my predecessors that our Law Clerks are treated as gold.

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VICE-CHAIR RAWLINS-FERNANDEZ: I'm sorry, treated as . . .

MR. KIM: Gold. G-O-L-D. Very, very valuable.

CHAIR MOLINA: Excuse me, Councilmember and Mr. Kim. I'd like to call for a brief recess subject to the call of the Chair. . . . (*gavel*) . . .

**RECESS: 8:01 p.m.**

**RECONVENE: 8:04 p.m.**

CHAIR MOLINA: . . . (*gavel*) . . . The recessed GET meeting of January 23<sup>rd</sup>, 2019 is now back in session. Members, it is four minutes after the hour of 8 p.m. on Wednesday, January 30<sup>th</sup>. Thank you for that brief recess, Members, to address a personal matter. Councilmember Rawlins [*sic*], please continue, and Mr. Kim.

VICE-CHAIR RAWLINS-FERNANDEZ: Gold – that's where we left off, okay. So speaking of money – overtime. So, we've been alerted to . . . it sounds like the other Councilmembers and myself have been alerted to a breakdown of the overtime that your office workers received - the Admin. Clerks, Law Technicians. And it sounds like you're supportive of having more staff versus having current staff work overtime. And, I mean, I support that. I think it's a better management practice to ensure less burn out by your employees. So, have you requested more positions to prevent this type of overtime, you know, over like \$100,000 that I'm looking at in overtime from 2018? So, yeah, have you requested more positions in your Admin. staff during budget?

CHAIR MOLINA: Mr. Kim?

MR. KIM: Thank you. Ms. Rawlins-Fernandez, we have asked for additional positions. I was given, I've asked for two Clerk positions. I was given one, limited term appointment for eight months last fiscal year. I asked for an additional position because Judge Cardoza did increase the court dates in Molokai by one so it's three per week, I mean, three per month instead of two. And also, one Family Court they extra in Lanai and we got one limited term position so, I'll be coming back, if confirmed by this Council, and ask for more positions. It's just that I've been constantly asking for positions. I just remind you that my budget is a little over one percent of the total County budget for my Department.

VICE-CHAIR RAWLINS-FERNANDEZ: Thank you. Do you know when the last time your Department was audited?

MR. KIM: I believe Councilmember Victorino called for an audit and we're waiting for that to happen. I don't know what happened. I guess he became Mayor, so he'll probably audit us.

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VICE-CHAIR RAWLINS-FERNANDEZ: What year was that?

MR. KIM: Two years ago. Probably two years ago when he was on Council.

COUNCILMEMBER PALTIN: May 5, 2015.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. When were your Department . . . when were Department internal personnel policies and procedures last updated in your office?

CHAIR MOLINA: Mr. Kim?

MR. KIM: I haven't up . . . I've only updated on an as needed when things change, for example, the electronic filing, this issue with bill reform, we still push for high bail. As far as electronic filing, there are things that we have to do that we used to do manually but we cannot do electronically, which is big heartache for us. So, there are other issues that have changed like making sure that the Deputies are keeping up with the records management system – the electronic management system. So, we didn't update the whole manual, but we do it on a catch-as-catch-can.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. So, it was asked before and as one lawyer to another, I know you're more prepared than that, what is your current case backlog?

CHAIR MOLINA: Mr. Kim?

MR. KIM: Currently, I know I have 215 drug cases pending screening. I have another 94 Family Court cases with respect to domestic violence. I think that's in that area. I believe we caught up with most all of our cases, except for the drug cases that I found. As far as the sex assault cases, that may be about 15 or 20 cases.

VICE-CHAIR RAWLINS-FERNANDEZ: Fifteen to 20. Okay. So, from 2015 when it was closer to 460 to 665, its gone down from that?

CHAIR MOLINA: Mr. Kim?

MR. KIM: I don't know where you got those numbers and I don't know who spouted those numbers and to take that as gospel but, yeah, I mean, if you're going to compare it with those numbers to what I got now, then, yes, it has gone down.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. So, that 350ish. Okay. Shifting to victims' rights. So, victim rights have also been brought up to my attention as a grave and growing concern under your directorship. I have received a multitude of complaints from victims and their families alleging that you specifically have been treating them with disregard and disrespect. If you have a victim centered approach to prosecution,

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how do you integrate the victim's experience, evidence, and necessity to be present during trial?

CHAIR MOLINA: Mr. Kim?

MR. KIM: What was that last part?

VICE-CHAIR RAWLINS-FERNANDEZ: The question? How do you integrate the victim's experience, evidence, and necessity to be present during trial?

MR. KIM: You gotta understand that if the victim testifies, there's such a thing in court as an exclusionary rule. If the defendant exercises that right, the victims and all witnesses cannot sit in court to listen to testimony of other witnesses. So, that if they're called back, they don't fashion their testimony as to what they heard that's on the stand, and that's just to be fair to everybody. That's the due process rights. So, there is an exclusionary rule. We didn't make this up. It's part of the Judiciary system as well as in civil court and criminal court. So, we're not going to railroad anybody by having our victims or witnesses sit and fashion their testimony. So, that's just one of those things.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay.

MR. KIM: And we explained that to our victims and witnesses that once you testify unless we get specific permission from the court as well as permission from the defendant, they cannot sit and listen. That's . . . cases can get thrown out or cases can get appealed and we lose; we'd have to do it all over again.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. And the exclusionary rule is applied consistently?

MR. KIM: Yes.

VICE-CHAIR RAWLINS-FERNANDEZ: How do you justify dismissing charges and abuse cases that lead to little or no jail time and probation or probation only given the severity or reoccurrence of some of the charges?

CHAIR MOLINA: Mr. Kim?

MR. KIM: These cases are probably the toughest cases for our young Deputies to prosecute. Oftentimes there's a recantation from the victim because they depend on the perpetrator for financial support and believe that they can't do otherwise. Lot of it is just the cycle of violence that they've gotten into and we have our Victim-Witness Counselors try to break that cycle. There is a new, not a new, there is a strategy that comes out of the DA's office in Queens but that takes a concerted effort by our patrol officers as well as working with our Deputies. So, when you go to court and your victim or witness gets on the stand says, uh, I fell down. I say, well, isn't it true that you stated to the police

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officer that you got hit, the defendant hit you? Oh, oh, I don't recall. They're faced with that day in and day out with their cases that they do. And so, oftentimes it's better to deal the case than have some hammer hanging over the head of the defendant so that in case they violate those terms and conditions of probation they can be prosecuted without that victim. It's only the court order.

CHAIR MOLINA: Member Rawlins [sic], if you'll allow the Chair to just make a quick comment before you continue?

VICE-CHAIR RAWLINS-FERNANDEZ: Sure.

CHAIR MOLINA: Members, as you all know, I had told you previously about your commitment for tonight and it was for 8 p.m. It is 15 minutes after the hour of 8 and I know Ms. Rawlins [sic] may have a few more questions. So, the Chair is just checking the pulse of you, the Members, are you still available to stay because the Chair, once the line of questionings are completed, the Chair will make a recommendation. I would like to have a full body to vote with regards to Mr. Kim's nomination. So, just wanted to drop that in. Ms. Rawlins-Fernandez, you have more questions to ask?

VICE-CHAIR RAWLINS-FERNANDEZ: Yes.

CHAIR MOLINA: Please proceed.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Thank you.

CHAIR MOLINA: And Members, if there's any of you that have, you know, a personal commitment that you must attend to, please make the Chair aware. Proceed, Ms. Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Okay. In your role as a Prosecuting Attorney seeking justice, how do you ensure that if one of the parties in a case requires an accommodation – interpreter, special devices, et cetera, that the necessary measures to seek justice are taken?

CHAIR MOLINA: Mr. Kim?

MR. KIM: We . . . once we're made aware of the special accommodations and if that can be accomplished, we'd do that. We do do it. I had to present a case once from a lady on Molokai who suffered from light allergies. And so any type of electro-magnetic waves would set her off. So, she was from Maunaloa. We had to take the grand jury away from the, at that time, Hawaiian Tel side of the building put her on the State side of the building in the jury room just to receive her testimony. And so, we are victim sensitive and we do those things and I understand that not everybody, you know, does the same. So, those are the accommodations, I mean, that's as far as we would go.

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VICE-CHAIR RAWLINS-FERNANDEZ: Uh-huh, uh-huh. So, in a recent case where a defendant was speaking one of the State's official languages he wasn't accommodated.

MR. KIM: That wasn't by me. That was by the court. You gotta understand that prior to whenever Kanaka came to testify or came in and refused to identify himself because the court wasn't speaking Hawaiian, they were held in contempt. So, Judge Kobayashi, at that time, was only following what was normally done until the CJ decided he needed to correct that. And so, that was not done by my office.

VICE-CHAIR RAWLINS-FERNANDEZ: Are any of your staff members or attorneys fluent in our official State language - olelo Hawaii?

MR. KIM: The answer is no. I have one who is a kumu hula but is very uncomfortable in speaking legalese in Hawaiian, but they'll teach you hula.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. So, how will you address this as a deficit in your office given that the members of our community that may require a translator especially for particularly sensitive issues?

CHAIR MOLINA: Mr. Kim?

MR. KIM: Are you speaking specifically about the Hawaiian language?

VICE-CHAIR RAWLINS-FERNANDEZ: Uh-huh.

MR. KIM: Then I would get an interpreter from the University of Hawaii – Maui College. In fact, I would probably . . . no, I couldn't ask him because he's a defendant. But maybe his fellow professor I think his name is Professor Raymond, Kiope Raymond. We could use him but, of course, he again came to the court and told 'em I cannot do this. In fact, the court did not have anyone on Maui that they could get to come and interpret for that defendant. So, it's not a Maui issue; it's a Statewide issue. We would have to bring someone from Hawaii County. I don't think there's anyone available in Honolulu to come in. But at the time we were told the court would have to bring in somebody from Hawaii County.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Thank you, Mr. Kim. Chair, I yield the floor.

CHAIR MOLINA: Thank you, Ms. Rawlins-Fernandez. And . . . (*inaudible*) . . . very extensive line of questioning. It was quite thorough. I'll just say that. Chair would like to make a comment with regards to Mr. Kim. I certainly wouldn't want your job. I mean, as you stated, you deal with the worst of humanity and now we're a common thread that many of us have been hearing is the issue of morale in the office. And it's certainly not a, I would guess, not a pleasant place to always work in because of the nature of the type of work you're dealing with and stress levels may be high. I'm not sure if it's a manpower issue because of the workload. I've read in one comment about the crime rates going

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down but yet the caseloads and so forth. I'm not sure, now if you could me how do you measure your Department's efficiency? I mean, you base it on the number of cases you win, I mean, you could have cases closed but it may not necessary reflect a win on the part of the County. That's just my one question there. How do you measure that in terms of determining that you're operating efficiently?

MR. KIM: Our performance measures is not done by wins or losses because we can't control what a juror or judge would decide on one day to the next. Our efficiency is measured by how many cases that we can actually process and try to decide whether or not we will file charges or won't file charges. We're in a very particular situation because our victims are not our clients. The police are not our clients. We have an obligation to do justice, which means if we believe or we don't believe the witnesses, and they lied to us or they can't remember, we cannot go forward. My mandate to our Deputies is if you have a case and you're screening it for criminal charges if you do not have enough evidence to prove the case beyond a reasonable doubt, do not take the case and do not prosecute the case because that's a waste of court time, a waste of our time, a waste of resources. You cannot civilly to protect the Deputies they can file charges on any case that there's probable cause, which is the lowest standard. A strong suspicion that a crime was committed, and the person accused committed that crime. Proof beyond a reasonable doubt is the highest standard of proof in any courtroom. And so, because we have such a number of cases, we cannot take them all. We have to make sure that the investigation is complete and done and that we have enough evidence to prove the case beyond a reasonable doubt. And so, once that occurs, we can go forward. Those cases that we do not take, processed through our system we return them back to the police or the investigative agency for further investigation. It's no sense in us keeping or holding on to those files hoping the cases will get better because each Detective down in the CID for Police Department every day they're getting assigned different cases. So, our efficiency in processing those cases is our performance measure.

CHAIR MOLINA: Thank you, Mr. Kim. Members, any final questions before the Chair makes a recommendation? Mr. Hokama?

COUNCILMEMBER HOKAMA: Chairman, just a couple more quickly. So, again, we've heard comments this evening, Mr. Kim, about morale and other things so tell me if . . . what is your status regarding grievances filed in your Department?

CHAIR MOLINA: Mr. Kim?

MR. KIM: Currently, I have one grievance that's been around for five years, six years.

COUNCILMEMBER HOKAMA: And that is before the Civil Service Commission?

MR. KIM: No. That is before, I believe, Peter Trask now assigned as the lawyer for the union. So, that is going to arbitration. I had a second grievance that was settled.

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COUNCILMEMBER HOKAMA: At Step 3, 4?

MR. KIM: At Step 2. At my level.

COUNCILMEMBER HOKAMA: On your collective bargaining that's Step 2?

MR. KIM: Yes.

COUNCILMEMBER HOKAMA: Arbitration?

MR. KIM: No, we didn't go to arbitration. We just settled it.

COUNCILMEMBER HOKAMA: The reason I'm asking is that by agreements we allow the employees to have certain protective rights, especially a grievance procedure agreed to --

MR. KIM: Yes.

COUNCILMEMBER HOKAMA: --by both the employers and the employee's agent? Hearing some of the comments this evening, I'm wondering what was the role of our collective bargaining in the process of grievances to have a union representative assist the employee. What's happening with that legal process we already have in place that for whatever reason we still keep hearing about morale and other so-called workplace issues. Why wouldn't this have been brought to the union and a grievance file for corrective measures?

CHAIR MOLINA: Mr. Kim?

MR. KIM: The grievance is still hanging around we had tried with various union agents to settle and like I said, it's at least five to six years old. It's also tied in to a workers' comp claim that is also under appeals so they're both under litigation. The others have been settled.

COUNCILMEMBER HOKAMA: Okay. So, that's a unique or a rarity regarding that five-year case?

MR. KIM: I don't know what the timeline is with Corporation Counsel but certainly I believe so. It's a rarity.

COUNCILMEMBER HOKAMA: Grievances supposed to address a concern sooner than later regarding an employee's situation as far as my experience with collective bargaining work. And then the last one that I've asked everyone. Did you receive any communication prior to this meeting regarding your status whether to be confirmed or not?

MR. KIM: No, I did not.

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COUNCILMEMBER HOKAMA: Okay. Thank you very much, Mr. Kim. Chairman, thank you.

CHAIR MOLINA: Thank you, Mr. Hokama. Any other final questions?

COUNCILMEMBER SINENCI: Chair?

CHAIR MOLINA: Oh, Mr. Sinenci?

COUNCILMEMBER SINENCI: Mr. Kim, you mentioned earlier that, you know, like everyone else you have your favorites in the . . . who performed at a, you know, substantial level. Have you had any instances where there has been a conflict of interest or if you had . . . you had any . . . or nepotism or in the office that you may have been more, you know, unfairly towards some of your staff than to some of the others?

CHAIR MOLINA: Mr. Kim?

MR. KIM: When I was at Corporation Counsel, one of my duties was to advise the Ethics Commission and also teach County ethics to our new employees. And oftentimes we got that question – is there a rule, ethics rule against nepotism in the County? And my answer normally was humorous and said, look, if we had a rule, ethics rule, that relatives could not work in the same Department, Fire Department, Police Department, Public Works, Water Works, there would be nobody working for them. And that's just a nature of things because we live in a community that's so small. And so, as far as favoritism, like I said, you know, it appears that we don't discipline those people who show up to work, do their work, and you know, they're exemplary employees. The ones that get disciplined they feel that they're not the favorites but that happens. It happens on any team that you belong on. And, you know, with the younger generation it's like you're always picking on them because you're reviewing their work and asking them to do better and that's part of the counseling, as part of the grievance process, all the seven steps to, eight steps to just cause. And that's been embroiled in my not only the Administration but the mid-management team that if you're going to discipline anybody, you've gotta have those seven steps of just cause, not eight, seven. And so we go over that.

COUNCILMEMBER SINENCI: Thank you.

CHAIR MOLINA: All right. Thank you, Member Sinenci. Member Paltin?

COUNCILMEMBER PALTIN: Thank you, Chair. So, couple more questions. Sorry about that. But, so, I received this document and it goes over a lot of cases, you know, and a lot of them are like . . . people getting murdered and things like that most times by I guess their significant other like you would call it domestic violence and even in our newspaper we see a lot about that. There was someone that killed his aunty and then was released and then killed his mother. And then over at Foodland, somebody killed . . . and in my

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interview with you, you had said the number one problem we face is methamphetamine, which I can agree with. And the number two issue, you said, that our County faces is marijuana use, which with all these murders and like household violence case I wonder are you not aware of the seriousness of domestic violence in our community?

CHAIR MOLINA: Mr. Kim?

MR. KIM: I recall telling you that our number one problem was methamphetamine followed by theft to support those habits. And I said, marijuana because of the way it's been treated culturally now is this gateway drug. Once our youth start, there's no turning back after that for some of them. When I was in Drug Court everyone who was a meth addict smoked marijuana. So, if you say, no, you cannot say it's a gateway drug. All I can say, well, those guys who started - or ended up with methamphetamine started with marijuana. And so, I am very sensitive and aware, yeah, of domestic violence.

COUNCILMEMBER PALTIN: Where would that be on your list of problems facing our County?

MR. KIM: Well, as far as violence, we propose legislation, but the women's caucus has been against that as well as Ms. Scott came out against that. But we put in a lot of resources. I have four Deputies attending two domestic violence cases and they're considered misdemeanors until a strangulation occurs or three or more convictions have occurred then they become felonies.

COUNCILMEMBER PALTIN: So, number three, four, five, where?

MR. KIM: I would not put a number on that. That is a priority for our Deputies. And that they don't dismiss it, it's a no dismissal case when they're faced with the prospect of not having a witness present or not being served with a subpoena so they're not coming to court, we have to deal with those cases.

COUNCILMEMBER PALTIN: And then just following up on Councilmember Sinenci's claim and a little bit about overtime budget, how is the overtime allocated?

MR. KIM: It's on a voluntary basis.

COUNCILMEMBER PALTIN: Is it spread evenly amongst all the employees?

MR. KIM: It is spread evenly among those who volunteer to do overtime.

COUNCILMEMBER PALTIN: And it's pre-assigned by a Supervisor?

MR. KIM: No. It's not pre-assigned by a Supervisor. They have to get pre-approval for their overtime, and they have to justify it. And so the mid-line Supervisors look at it and they take care. And if I'm satisfied, then I sign off and then it gets paid.

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COUNCILMEMBER PALTIN: And have you taken any steps to lessen it and do you know the current amount 'cause the numbers I have is only as of February 28, 2018, and I think the proposed budget it's already double of what it was for the Prosecutors Admin. program and over double for the general prosecution program.

MR. KIM: That was an issue in learning with the new budget that was given to us with respect to "A", "B" and "C" accounts. And so, we didn't have to shift monies. And I think this Budget would be able to cover that without having to go in for a budget amendment to cover the overtime. That was a learning process for our Department.

COUNCILMEMBER PALTIN: So, have you been fiscally responsible over the last eight years?

MR. KIM: I believe so.

COUNCILMEMBER PALTIN: And what is the plan to reduce the overtime?

MR. KIM: Hire more people.

COUNCILMEMBER PALTIN: And if that's not possible?

MR. KIM: Then we might end up losing cases or not charging cases.

COUNCILMEMBER PALTIN: Isn't that what's currently going on?

MR. KIM: No. That's why we have overtime.

COUNCILMEMBER PALTIN: I'd like to yield at this time.

CHAIR MOLINA: All right. Thank you, Member Paltin. Member Rawlins-Fernandez?

VICE-CHAIR RAWLINS-FERNANDEZ: I'd like to follow up on Councilmember Paltin's question. So, where does the money come from for the overtime?

CHAIR MOLINA: Mr. Kim?

MR. KIM: Our budget. Either General Prosecution budget or if we need to move monies, we come before Council for the budget amendment and move it from either the Admin. or the "C" account, the "A" account or the "C" account. Normally, it comes from the "B" account, General Prosecution. So, we have "A", "B", "C" account for Admin. And we have a "A", "B", "C" account for General Prosecution. And so, if we need to move those monies we come before Council and ask permission.

VICE-CHAIR RAWLINS-FERNANDEZ: And so, I think one of the Members asked about estimating how much overtime that you . . . in the eight years that you've been head Prosecutor. Is this on average how much it is each year?

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CHAIR MOLINA: Mr. Kim?

MR. KIM: I would have to go back and compare those numbers. But just to let you know, prior to me taking this job, there was only one person that had overtime in the office. Now, there was a Department decision that no one would get overtime. You can imagine what the workload was like and what the morale was like because of that.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. And then I wanted to clarify one of my questions that I asked earlier. So, in *The Maui News* it reports that the court earlier had granted the prosecution's request to have the trial conducted in English. And so, the court was just following the request of your office to conduct the trial in English.

CHAIR MOLINA: Mr. Kim?

MR. KIM: That's correct.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. So, your response to my previous question was that if accommodations were needed, it would be granted.

MR. KIM: That's correct to our victims and witnesses.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. So, in this situation, the defendant's right to speak on official language of our State would be denied?

MR. KIM: That would be on the judge, not on us. We always understood that he spoke English. I believe some of the members in my staff took classes from him at UH, well, not UH at that time, Maui Community College. And so, we were of the understanding that he spoke English and understood English. He wanted to make a political statement by having it in Hawaiian. The judge refused his request and that became our point of contention that was appealed, and the Chief Justice came back and said, no, we're going to have interpreters. Now, finding those interpreters has become very, very difficult for the court system.

VICE-CHAIR RAWLINS-FERNANDEZ: I'm going to respectfully push back on that characterization of speaking Hawaiian as a political statement alone. Are you aware that in all languages, not everything is . . . can be interpreted in English exactly any language not just olelo Hawaii but there isn't always the right word to match. I wanted to express that.

MR. KIM: We understood that, and he wanted to be able to express himself in the Hawaiian language so that the court would understand where he was coming from with respect to his protest on the desecration of Haleakala. Now, to find an interpreter to duper that for him was a task that the court was not willing to do because he spoke English. But now when he won his appeal, they have to find somebody, and it's been a monumental

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task to find somebody to speak the Hawaiian language so that the judge can understand the pain and hurt that he was going through with what he believes to be the desecration of Haleakala. So, I understand.

CHAIR MOLINA: John, so Mr. Kim, Councilmember Rawlins-Fernandez, we're getting a little too restrained too much into the specifics of the case. Again, I'd like to kind of pull you guys back in terms of maybe discussing Mr. Kim's relation to the Department's efficiency or how it ties in to a specific case. So, just kind of want to remind you to pull it back. You had asked some very pertinent questions earlier so I'm seeing a trend here to go start discussing more specifics about a particular case. And again, the Chair's preference at the start of all of these proceedings was let's make sure we get the role of the, focus on the Director's role rather than the additional specifics of the case. So, my apologies for my little interruption here. But, anyway, the Chair is going to . . . is coming to a point where I'm going to close off questions. I think there's been a ton of questions asked. Very good ones I might add but I'm pretty saturated already. I think a lot of issues that have been brought up in open session are pertinent. There are certainly some matters that would require executive session and, Members, you've chosen to not go that route. So, I don't --

COUNCILMEMBER SUGIMURA: Recommendation?

CHAIR MOLINA: --know how you feel but I'm ready for a recommendation.

COUNCILMEMBER SUGIMURA: Recommendation?

CHAIR MOLINA: Members, recommendation?

UNIDENTIFIED SPEAKER: Yes.

CHAIR MOLINA: And again, Members, you have additional opportunity. This is just one hurdle depending on what happens with the vote you'll still have an opportunity to discuss sensitive matters with Mr. Kim. And, again, as it was stated also by Corp. Counsel what you discuss with Mr. Kim as far as anything confidential is to be kept strictly between you and him especially if there's matters related to litigation. So, I thank you for your patience, Members. We're certainly running the gamut here, but it's been very thorough. All right, Members, Chair is going to recommend adoption of the revised proposed resolution entitled "APPROVING THE MAYOR'S APPOINTMENT FOR PROSECUTING ATTORNEY", and the motion will also include nonsubstantive revisions that may be needed, and the filing of the proposed resolution entitled "DISAPPROVING THE MAYOR'S APPOINTMENT TO THE PROSECUTING ATTORNEY'S OFFICE."

COUNCILMEMBER SUGIMURA: So move.

CHAIR MOLINA: That's my motion. Motion been made by Councilmember Sugimura. Is there a second?

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COUNCILMEMBER LEE: Second.

CHAIR MOLINA: Second been made by Member Lee. The floor is open for discussion. Member Sugimura?

COUNCILMEMBER SUGIMURA: So, I think that Mr. Kim has gone through rigorous questions tonight. I kind of didn't expect to go through a lot of budget questions but very interesting. Members did their homework besides, you know, just understanding how he's run his Department. I believe that confirmation that came up when, you know, two years ago, four years ago, with Mr. White and Mr. Guzman, I wasn't here, present, but I did read the paper. That's behind us. It sounds like where he's, if there was a problem, that's gone. We don't hear the number of testifiers, you know, that had come during that time. I support him and I look forward to continuing the work that he has established and done for the County of Maui and protected us in the best way that he has. And I appreciate all his years of experience as a . . . I gotta say I didn't realize at the beginning of how hard you worked to get where you are, and I really appreciate that. It says volumes about your character. So, thank you.

CHAIR MOLINA: Thank you, Member Sugimura. Discussion? Member Lee?

COUNCILMEMBER LEE: Thank you, Mr. Chair. I had known Mr. Kim for many years and do also appreciate your service to the County. I do have some questions about some of the issues raised and I will make contact with you and sit down and try to go over these things in private. But I will be supporting his nomination . . . his confirmation.

CHAIR MOLINA: Thank you, Member Lee. Discussion, Members? Chairman King?

COUNCILMEMBER KING: Thank you, Chair. I speak against the motion and I think it would have been very difficult to go into executive session because a lot of it is, he said, she said. So, without both sides present, it's hard to make that determination. But like my colleagues have gotten a lot of people contacting me, victims' rights who feel like they've been trampled on, people who had comments about how the office is run and I had comments too that had been carried over from last term. I had concerns about the management about not being able to fill positions, asking for new positions when there were vacant positions, about the manner of overtime that has been asked for. I think we funded all the attorney positions at the top level even though they were coming in at various skill levels. And I understand that all the supporting testimony came from the attorneys in that office, but I think we have a matter of public trust here and so it's nothing personal. I don't really know Mr. Kim that well but from what I see I cannot support this nomination. So, that's where I stand. Thank you.

CHAIR MOLINA: Thank you for your thoughts, Chairman King. Members, any other discussion as it relates to the motion on the floor?

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COUNCILMEMBER SINENCI: Yes, Chair.

CHAIR MOLINA: Mr. Sinenci.

COUNCILMEMBER SINENCI: I also do not support the motion, the recommendation. And a lot of it has to do with just not knowing a lot of the details of the things we cannot speak to because we're not in executive session. And I would want to, you know, just kind of ask him, I mean, personally, a lot of these things. From listening to a lot of the questions tonight, you know, some of my reasons, of course, would be about, you know, efforts to reduce the overtime and better manage the budgetary appropriations. Also, addressing some of the ongoing issues that it seems that it's gone on for years or maybe some of the victims and the personal litigations that continue. Also, maybe following through with the 2015 motion to audit the office that was somehow filed and wasn't pursued. So, it's . . . that's some of the reasons why I want to . . . I'm not supporting the recommendation tonight. Thank you, Chair.

CHAIR MOLINA: Thank you, Mr. Sinenci. Members, any other discussion as it relates to the motion? Mr. Hokama?

COUNCILMEMBER HOKAMA: Chairman, thank you. Quickly, I'll support your position with a few reservations. Again, yeah, Members, I especially look at this Department and over time it's a Department that is hired to forecast workload. If there's no crime out there, there's less need for overtime. There's more crime out there or our Police does a great enforcement job, the workload increases and need to get cases completed for either prosecution or dismissal increases. So, I understand the overtime component, Chair. Okay. It's a hard thing to forecast. And, again, past workload and internal operational situation. I will say that for Mr. Kim, he has provided his request that he believed it was in the best interest of his Department. Council made certain budgetary positions regarding operations in Departments. And one of the reasons we looked at limited term not because we didn't want to support Mr. Kim, is because we felt through improvements of efficiency in operations in our technology investment would have additional positions either being vacated or be able to be transferred and redescribed to fill those other departmental needs, which means we don't need to increase work force number. We're just going to re-deploy to more efficient and better use positions. And so, for me, one of the things that maybe since the Mayor is here to assist all his Directors down the road would be to conduct desktop audits because there seems to be in some areas, and I don't know about Mr. Kim's, but we can verify whether or not the collective bargaining agreements for the positions is actually what the employee is doing. So, stating that, and again, part of the key in why we look at this also is do we support internal advancement of employees? Do we motivate our employees to strive for the higher positions? Is there a work force achievement growth ladder? Okay. Council has supported that. And that's why we look at positions in a particular way, Chairman. Okay. I just want it made clear because maybe at times people like me who take it for granted our residents and our fellow members understand some of the things we've been doing from a policy standpoint as it relates to the money. Thank you, Chairman.

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CHAIR MOLINA: Thank you, Mr. Hokama. Members, any other discussion before the Chair calls for the vote? Chair's comments is, again, crime is a somewhat a . . . or cases are somewhat cyclical like as Member Hokama stated difficult to forecast. With regards to the stress levels in the office, concerns expressed about morale, whether it's a morale problem or just as a workload issue or management issue it's yet to be determined. So, while I am making the recommendation, well, I do have slight reservations and I do have some questions that would need to be answered in a one-to-one conversation with Mr. Kim. But for the sake of moving this on for final consideration at the Council level I will state my support with reservations. So, Ms. Rawlins-Fernandez?

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. After careful consideration and giving great weight to all testimonies provided to my office over the last several weeks, I will not be supporting the appointment of Mr. Kim. Clear and recognizable pattern has developed over the years that is magnified during the Council's approval process each time. Complaints from the general public who have had personal experiences with the Prosecutor and with his Department as well from personnel from within Department willing to step forward and share their experiences. I recognize that it takes a lot to speak one's truth especially when it pertains to the individual themselves. And it can be uncomfortable much like this is uncomfortable for me to say right now. But I have settled on the awareness I have that I was placed here to make difficult decisions and represent our community's concerns and wishes and to protect the sanctity of our roles as public servants. It is my sincere hope that under new leadership members of our public who have suffered at the hands of criminals will not feel further victimized by our own Prosecuting Attorney's office either by being ignored completely for years on end or by verbally or emotionally abusive behavior. And for all these reasons, I will be voting against the motion.

CHAIR MOLINA: Thank you, Councilmember Rawlins [sic]. Chair will take the last privilege to speak before the vote is called. And I appreciated Councilmember Rawlins-Fernandez mentioning this is uncomfortable. Look at City and County, the electorate decides the City Prosecutor. For me, in a perfect world, I prefer the electorate decide this. But it is what it is. This individual's fate is in the hands of the nine of us. So, with that being said, Chair is going to call for a roll call vote. Staff?

MS. ESPELETA: Mr. Chair, starting with Councilmember Sinenci.

COUNCILMEMBER SINENCI: No.

MS. ESPELETA: Councilmember King.

COUNCILMEMBER KING: No.

MS. ESPELETA: Councilmember Lee.

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COUNCILMEMBER LEE: Aye.

MS. ESPELETA: Councilmember Hokama.

COUNCILMEMBER HOKAMA: Aye.

MS. ESPELETA: Councilmember Paltin.

COUNCILMEMBER PALTIN: No.

MS. ESPELETA: Councilmember Sugimura.

COUNCILMEMBER SUGIMURA: Aye.

MS. ESPELETA: Councilmember Kama.

COUNCILMEMBER KAMA: No.

MS. ESPELETA: Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Aole.

MS. ESPELETA: Chair Molina.

CHAIR MOLINA: Aye with reservations.

MS. ESPELETA: The votes are four ayes, five noes.

**VOTE:           AYES:   Chair Molina, Councilmembers Hokama, Lee, and Sugimura.**

**NOES:       Vice-Chair Rawlins-Fernandez, Councilmembers Kama, King, Paltin, and Sinenci.**

**ABSTAIN:   None.**

**ABSENT:    None.**

**EXC.:       None.**

**MOTION FAILS.**

CHAIR MOLINA: Okay. Thank you, Staff. So, stating again for the record - four ayes, five noes.

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MS. ESPELETA: Four ayes, five noes. The motion fails.

CHAIR MOLINA: The motion fails. Okay, so now we will consider the other resolution, which is disapproving the Mayor's appointment for Prosecuting Attorney. And this motion will include any nonsubstantive changes and also the filing of the resolution approving the Mayor's appointment for Prosecuting Attorney. So, that is the motion. The motion is to disapprove on the resolution. Anyone want to make that motion?

VICE-CHAIR RAWLINS-FERNANDEZ: So moved.

CHAIR MOLINA: Okay.

COUNCILMEMBER PALTIN: Second.

CHAIR MOLINA: Moved by Member Rawlins-Fernandez, and who is the second by?

COUNCILMEMBER PALTIN: Second.

CHAIR MOLINA: Member Paltin. Discussion? Okay. Seeing none. The Chair will again call for a roll call vote on the resolution to disapprove the Mayor's appointment for --

COUNCILMEMBER SUGIMURA: Chair?

CHAIR MOLINA: --Prosecuting Attorney.

COUNCILMEMBER SUGIMURA: Chair?

CHAIR MOLINA: Yes, Ms. Sugimura?

COUNCILMEMBER SUGIMURA: I just have a kind of question --

CHAIR MOLINA: Okay.

COUNCILMEMBER SUGIMURA: --before you call for the vote. So, as we're going through the discussion tonight, it sounds like some of the Members received testimony or concerns in private meetings that I wasn't aware of to tell you the truth 'cause those people never came to see me. I did speak to Kimberlyn Scott but that was, you know, the only person. And I just want to say that I think that Mr. Kim is getting judged partially on his overtime, which if you ever sat through budget sessions with Council is that he asked for the staff. But one of the things that Council doesn't like to do through the budget process is to give the Departments, you know, a lot more what we call E/Ps because it also involves besides the salaries, it involves the, you know, the retirement and involves, you know, a lot more than just the person. So, in his defense, I want to say that he has asked for and we have not given just because of kind of our general philosophy. And I

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will say that because of those kinds of philosophies that our County is fiscally sound. Maybe we are too narrow in terms of or maybe too strict but if the Members are taking a position because of overtime, which I really didn't expect tonight as I said earlier, there is a process that the Departments have to get in terms of approvals and it's not really a reflection only on the Department and the management but it is in terms of the scope of the whole County budget that I think, you know, that we're pretty fiscally sound. I didn't receive the same complaints so to speak that maybe the other Members did. My email was not flooded with complaints. And I am a little . . . I did hear and asked a question about Kimberlyn Scott because she did come and see me and she had, besides testifying, she had submitted written testimony, you know. She was pretty . . . pretty passionate and she has a cause, so I understand that. But I just want to say that I appreciate the work and, you know, what he has to do. It's a hard job. But overtime, you know, cannot judge him. You gotta maybe judge ourselves as we go through the budget process for being, you know, with fiscally sound decisions that we've made. And I stand by those decisions and he's trying to do the best to run his Department based upon what the Council has decided. So, I just want to make all those comments. If you're going to be asking us to vote on the motion to --

CHAIR MOLINA: Disapprove.

COUNCILMEMBER SUGIMURA: --disapprove him then as you can tell, I do not agree with that. So, I just wanted to make that statement.

COUNCILMEMBER KING: Chair?

CHAIR MOLINA: So noted. Chairman King?

COUNCILMEMBER KING: Yeah, I would just ask my colleague respectfully to speak for herself because I think all of us have done due diligence and I don't think it's just about overtime and it's not just about what we approved or didn't approve. I'm sorry that people didn't feel comfortable to come to you with the same kinds of complaints that we've gotten. But, you know, every Councilmember makes up our mind based on the research that we've done and the testimony we received, and I would hope that everybody would respect each other's opinion on these approvals and not try to put words in our mouth.

COUNCILMEMBER SUGIMURA: I'm not trying to. . .

COUNCILMEMBER KING: My . . .

CHAIR MOLINA: Okay, Members.

COUNCILMEMBER KING: My disapproval comes from a wide range of aspects of this nominee.

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CHAIR MOLINA: Thank you, Chairman King. Any other discussion with regards to the motion on the floor, which is to disapprove before the Chair calls for the vote. Seeing none. Staff, please proceed with the roll call vote.

MS. ESPELETA: Mr. Chair, starting with Councilmember Sinenci.

COUNCILMEMBER SINENCI: Yes.

COUNCILMEMBER KING: Yes.

COUNCILMEMBER LEE: No.

MS. ESPELETA: Hokama.

COUNCILMEMBER HOKAMA: No.

MS. ESPELETA: Paltin.

COUNCILMEMBER PALTIN: Aye.

MS. ESPELETA: Sugimura.

COUNCILMEMBER SUGIMURA: No.

MS. ESPELETA: Kama.

COUNCILMEMBER KAMA: Yes.

MS. ESPELETA: Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Aye.

MS. ESPELETA: Chair Molina.

CHAIR MOLINA: No.

MS. ESPELETA: The vote is five ayes, four noes. Motion passes.

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**VOTE: AYES: Vice-Chair Rawlins-Fernandez, Councilmembers  
Kama, King, Paltin, and Sinenci.**

**NOES: Chair Molina, Councilmembers Hokama, Lee, and  
Sugimura.**

**ABSTAIN: None.**

**ABSENT: None.**

**EXC.: None.**

**MOTION CARRIED.**

**ACTION: ADOPTION OF RESOLUTION TO DISAPPROVE THE  
APPOINTMENT OF JOHN KIM AS THE PROSECUTING  
ATTORNEY AND FILING OF REVISED RESOLUTION TO  
APPROVE.**

CHAIR MOLINA: Okay. The motion to disapprove has passed out of Committee. This will go on to the full Council for a final vote. So, I believe that concludes our discussion on --

COUNCILMEMBER KING: Chair?

CHAIR MOLINA: --Mr. Kim.

COUNCILMEMBER KING: Chair, do we move to file this one or we just . . .

CHAIR MOLINA: Yeah, I'm sorry. Let me add this motion includes our Staff to make any nonsubstantive changes and also the filing of the resolution to approve the Mayor's appointment for Prosecuting Attorney. Okay. Is that clear, Staff, am I correct on that?

COUNCILMEMBER KING: Well, I think we need to file the disapproval as well. Don't we file that after we make the vote or no?

MS. ESPELETA: No. The motion to disapprove passed - 5-4.

COUNCILMEMBER KING: Right. But we don't need to file . . . okay.

CHAIR MOLINA: Yeah. Okay. Is that . . . can we file, may we file? Okay, Members, I'll entertain a motion to file the resolution to disapprove.

COUNCILMEMBER KING: No, --

COUNCILMEMBER HOKAMA: So move.

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COUNCILMEMBER KING: --well, she just said that we don't file --

COUNCILMEMBER SUGIMURA: Second.

COUNCILMEMBER KING: --the resolution.

CHAIR MOLINA: Okay. Hang on. Sorry. Okay, Members, Chair would like to take a recess for a procedural matter. . . . *(gavel)* . . .

**RECESS: 8:56 p.m.**

**RECONVENE: 8:57 p.m.**

CHAIR MOLINA: . . . *(gavel)* . . . The recessed GET meeting of January 23rd, 2019 is now back in session. Members, it's just about 9 p.m. Today is Wednesday, January 30<sup>th</sup>. Just getting back to the matter of the vote, which was just taken for clarification sake. The motion to disapprove has passed by a 5-4 vote. The resolution to approve the Prosecuting Attorney as a nominee has been filed in that motion along with the allowance for nonsubstantive changes to the resolution. So, now, there is a consideration from Member Hokama to file the resolution to disapprove. Member Hokama, I'll give you the floor to discuss your rationale for this?

COUNCILMEMBER HOKAMA: Chairman, that is the power of this Committee to recommend to Council. So, since the Chair brought it up, I agree with her and I'm making that motion to file it.

CHAIR MOLINA: Okay.

COUNCILMEMBER SUGIMURA: Second.

CHAIR MOLINA: Motion has been made by Chairman, uh, Councilmember Hokama; seconded by Member Sugimura to file the motion to --

COUNCILMEMBER KING: Chair?

CHAIR MOLINA: --disapprove, Mr. Hokama, the motion that passed?

COUNCILMEMBER KING: Chair?

CHAIR MOLINA: The resolution.

COUNCILMEMBER HOKAMA: . . . *(inaudible)* . . .

COUNCILMEMBER KING: Chair?

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CHAIR MOLINA: Chair King?

COUNCILMEMBER KING: My question was, is this an item that we would need to file after we pass it? The answer was no because it's a resolution. So, there's no need to file it. Normally, if we pass an ordinance, we file the issue in the Committee. But if it's a resolution, there's no need to file it. Correct, Ms. Espeleta?

MS. ESPELETA: And this is an umbrella communication so . . .

COUNCILMEMBER KING: Right.

MS. ESPELETA: County Communication.

COUNCILMEMBER KING: Right. So, there wouldn't be a need to file it because this item stays on the Committee agenda.

CHAIR MOLINA: Mr. Hokama?

COUNCILMEMBER HOKAMA: Chairman, we're not filing the communication. We're filing the resolution, okay. Let's be clear on what action we're taking. This is the Council. We're at a level to conduct the business. Know the matter before the body.

CHAIR MOLINA: Thank you, Mr. Hokama. Members, we have a motion on the floor to file the motion to disapprove. It's a motion made by Councilmember Hokama; seconded by Member Sugimura. Any other discussion?

COUNCILMEMBER KING: I have a question of Corp. Counsel. What does that mean because I've been told in the past that we don't file resolutions after we vote on them.

CHAIR MOLINA: Mr. Kushi?

MR. KUSHI: Well, this is a Committee meeting. It goes . . . the full Council still has the authority, I mean, it has to pass full Council. So, if you file a motion that was docked in the Committee, and the Council meeting that motion will not even show up on your agenda.

COUNCILMEMBER KING: Okay. So, we don't want to file it if we want to move forward.

MR. KUSHI: Well, you're talking about it now.

COUNCILMEMBER KING: Well, . . .

MR. KUSHI: If anything, you need to file a motion to approve, which did not pass.

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COUNCILMEMBER KING: No. We filed the motion to disapprove so, I think, in my opinion, that we're done. We don't need any additional action. If we take additional action on this, then we're basically killing it . . . the motion that just passed.

MR. KUSHI: If you file the motion to disapprove, which was passed, you're undoing what you just did.

COUNCILMEMBER KING: Right. Okay. So, anyway, . . .

CHAIR MOLINA: So, Mr. Kushi, if I can ask for clarification. If we . . . this motion passes to disapprove, then it will just basically . . . it would come out as like a no recommendation from the Committee?

MR. KUSHI: If you're filing the motions that you deliberated on today and you're filing both of 'em, then really it's a no recommendation to the full Council.

COUNCILMEMBER KING: Okay.

MR. KUSHI: Where on the Council agenda, I would imagine you would have still both motions, you know.

CHAIR MOLINA: Okay.

COUNCILMEMBER KING: Chair?

CHAIR MOLINA: Member Lee followed by Chairman King.

COUNCILMEMBER LEE: Mr. Chair, I think we should ask Councilmember Hokama to reconsider that motion because what if somebody changes his or her mind, you know, at first reading? So, you would want that resolution to approve to be alive.

CHAIR MOLINA: Interesting.

COUNCILMEMBER KING: Chair? We did file . . .

CHAIR MOLINA: Although the motion did include the filing of the resolution to approve as part of this disapproval which passed the resolution. So, technically, if I can clarify or corrected, the action we just took we passed the resolution to disapprove and filed the resolution to approve. So, now, as it goes on to the full Council as is, then basically would not exist, am I correct? The resolution to approve. But at Council level, you know, anything can happen. The vote could change again, you know, --

COUNCILMEMBER KING: Chair?

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CHAIR MOLINA: --because you'll have a recommendation not to approve. So, anyway . . . Chair King?

COUNCILMEMBER KING: Right now, we have a recommendation to disapprove at the Council level. We have no recommendation to approve. That's been filed. And I think what is trying to be done is to undo what we just did. So, why would we do that? And I speak against filing the motion. When I asked that question, it was not a motion to file. It was a question of whether we needed to do that to take it out of Committee. And the answer was, no, this is an umbrella item in the Committee. There's no need to file. If we file, we undo what we just did. So, I would just, you know, like Ms. Lee said I would ask the maker of the motion . . . or we can vote on it and just vote it down. But it's a little ingenuous to try to file, to undo what we just did as a Committee.

CHAIR MOLINA: Okay. Members, the floor is open for discussion on the motion to file the resolution to disapprove. Okay.

COUNCILMEMBER HOKAMA: Chairman?

CHAIR MOLINA: Mr. Hokama?

COUNCILMEMBER HOKAMA: Again, we provide a recommendation to Council, that mean the Council may or will make a final determination. Stating that, Chairman, I expect those that take leadership positions to know our rules and regulations and how we proceed with the business of the County. Okay. To ask this type of question in this type of meeting about a confirmation, to me, tells me where we are with understanding the process, and I'm disappointed.

CHAIR MOLINA: Okay. Thank you, Member Hokama. Any final comments before the vote is called for? Chair King?

COUNCILMEMBER KING: And so, Chair, you intend to take a vote on the motion to file. So, I speak against the motion to file. I'm very disappointed at the disingenuous attempt to kill the motion we just passed from somebody who claims to know the process. So, using the process against this Council. So, I hope we can just take a voice vote and vote no and not file this and send it forward to the full Council.

CHAIR MOLINA: Thank you, --

VICE-CHAIR RAWLINS-FERNANDEZ: Chair?

CHAIR MOLINA: --Chairman King.

VICE-CHAIR RAWLINS-FERNANDEZ: Chair?

CHAIR MOLINA: Councilmember Rawlins-Fernandez?

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VICE-CHAIR RAWLINS-FERNANDEZ: I will also be voting against the motion to file the resolution to disapprove. As I understand it, we as the GET Committee is recommending to the full Council to disapprove, and that's my understanding and that is why I will be voting against the motion.

CHAIR MOLINA: So noted, Councilmember. Thank you. Any other considerations? Member Lee?

COUNCILMEMBER LEE: Mr. Chair, can we ask, I ask a question of Corp. Counsel?

CHAIR MOLINA: Proceed.

COUNCILMEMBER LEE: Okay. Just wanted some clarification, Mr. Kushi. If we send this matter to the Council approving the disapproval, yeah, with the disapproval resolution, it is possible at first reading to change. To reconsider that vote and to change the vote to aye.

CHAIR MOLINA: So, Mr. Kushi, proceed?

COUNCILMEMBER LEE: To the approval resolution.

MR. KUSHI: Mr. Chair, Member Lee, resolutions only take one vote, yeah, not . . . (*inaudible*) . . . per se.

COUNCILMEMBER LEE: Okay.

MR. KUSHI: So, again, if this Committee sends out in this Committee Report the Committee approved a motion to disapprove and is making its recommendation to the full body, which is all of you here anyway. But anyway, at the Council meeting on the agenda it should just list GET recommendation motion to disapprove the appointment. Now, at that Council meeting, if the majority does not hold up and you need five, okay, then the motion to disapprove fails the appointment to, I mean, the disapproval of Mr. Kim that fails. Now, the Charter says, if you don't do it by March 9<sup>th</sup>, he's automatically in. The question becomes can you schedule another Council meeting before that time.

COUNCILMEMBER LEE: Uh-huh.

MR. KUSHI: So, I don't think you need to file a motion to approve. I don't think you need to file that. I mean, you don't need to forward that because automatically if it doesn't pass, he's automatically approved by Charter.

COUNCILMEMBER LEE: Okay. So, continuing on we could just follow the motions that were taken, yeah, and then this matter goes to the Council and the Council . . . someone who

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was on the prevailing side could make a motion to reconsider, right, and at that time the Council members then again open this item and vote on it again.

CHAIR MOLINA: Mr. Kushi?

MR. KUSHI: Chair, I might be wrong, but I don't think you need a motion to reconsider because it's just a recommendation. You just take a full vote at the Council level.

COUNCILMEMBER LEE: No, because that's the reason why you gave us two resolutions – one for aye and one for no.

MR. KUSHI: But you're filing the aye.

COUNCILMEMBER LEE: Okay, so even though . . . okay, let's say . . . okay, it's filed the aye, approval of resolution is filed.

MR. KUSHI: It won't even be brought up at the Council meeting.

COUNCILMEMBER LEE: Okay. But the disapproval resolution will be brought up.

MR. KUSHI: A recommendation.

COUNCILMEMBER LEE: Yeah, so . . .

MR. KUSHI: Through a motion to disapprove.

COUNCILMEMBER LEE: So, we can . . . okay, now, we can reverse that vote?

MR. KUSHI: Full Council needs to take a vote on that Committee's recommendation.

COUNCILMEMBER LEE: Yeah, and if it's, you know, if it's over turned then the next step would be not for approval but to just let it go pass the deadline.

MR. KUSHI: A default appointment.

COUNCILMEMBER LEE: Yeah, default appointment. Okay, that's what's available to us.

MR. KUSHI: Yes.

COUNCILMEMBER LEE: Yeah. Okay. I got my answers. Thank you.

CHAIR MOLINA: Thank you, Member. Mr. Kushi, one question for again clarification. So, the recommendation goes to full Council as a disapproval. If a Member on the prevailing side decides to switch his or her vote and it doesn't get the necessary five votes at the Council level, can a Member at that same Council meeting then make a motion to

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reconsider to approve rather than just have it end there and then having to look at another Council meeting in the future? Can a motion then be made at Council to reconsider?

MR. KUSHI: The motion to approve would not be listed on the agenda. So, again, this is just my response now. I think the County Clerk needs to chime in on this because it's a matter of rules, parliamentary rules. I don't believe a motion to reconsider is necessary. As long as the majority shows up and votes the same way, everything will go accordingly. Now, if one of the majority switches and goes the other way, then the motion to disapprove --

COUNCILMEMBER SUGIMURA: Fails.

MR. KUSHI: --is not approved. And there's no motion to approve on deck. So, if the time expires, it's a default appointment. Now, if the majority of five if one of you don't show up for whatever reason, and the vote stays the same, it's a default too. I'm not saying it will happen but, you know, these are the situations.

CHAIR MOLINA: Thank you, Mr. Kushi. We're certainly getting a lesson in parliamentary procedure here. Now, what the consideration Mr. Hokama is making is not anything subversive. It's all part of strategy. Perfectly legal. I'll leave it to Mr. Hokama. Do you want to keep your motion in to file the motion, the resolution to disapprove?

COUNCILMEMBER HOKAMA: Let's vote.

CHAIR MOLINA: Let's vote? Okay, Members, so be it. The Chair will cut off questioning on the matter. I think we've beat this up. Staff? Mr. Hokama, as the maker of the motion?

COUNCILMEMBER HOKAMA: Yeah, thank you, Chair. Just so we're clear, procedure is a matter of the body. It is not Corp. Counsel's role to rule on parliamentary procedure nor is it the Clerk. It is within the bounds of the Members of this body that deals with procedure.

CHAIR MOLINA: Thank you, Mr. Hokama. And no matter what the outcome of this vote we're about to take, everybody is entitled to her opinion about what they feel. But, again, it's part of procedure and this body is making a decision to act this way. So, Ms. Espeleta, I will ask you now to do a roll call vote on the motion to file the resolution to disapprove the Mayor's nominee for Prosecuting Attorney.

MS. ESPELETA: Okay. Councilmember Sinenci.

COUNCILMEMBER SINENCI: No.

MS. ESPELETA: Councilmember King.

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COUNCILMEMBER KING: No.

MS. ESPELETA: Councilmember Lee.

COUNCILMEMBER LEE: Aye.

MS. ESPELETA: Councilmember Hokama.

COUNCILMEMBER CHAIR HOKAMA: Aye.

MS. ESPELETA: Councilmember Paltin.

COUNCILMEMBER PALTIN: No.

MS. ESPELETA: Councilmember Sugimura.

COUNCILMEMBER SUGIMURA: Aye.

MS. ESPELETA: Councilmember Kama.

COUNCILMEMBER KAMA: No.

MS. ESPELETA: Vice-Chair Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Aole.

MS. ESPELETA: And Chair Molina.

CHAIR MOLINA: Aye.

MS. ESPELETA: That would be four ayes; five noes.

CHAIR MOLINA: Okay, the motion to file the disapproval resolution fails.

MS. ESPELETA: Yes.

CHAIR MOLINA: So, we're back to status quo. So, the motion to disapprove on the resolution to disapprove will now move to the full Council. We're not pau yet, Members. Thank you, thank you. Irregardless of the outcome, it's quite an exercise in democracy and procedure here. So, with that being said here, Members, we do have two more items left on the agenda and you have worked well beyond what the Chair had asked you to. So, we will recess this January 23, 2019 meeting now to another date. Chair is looking at Tuesday, February 5<sup>th</sup>, 9 a.m. Okay, Members. Pardon me?

UNIDENTIFIED SPEAKER: In this Chambers?

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CHAIR MOLINA: In this Chambers, yes.

COUNCILMEMBER SUGIMURA: 9 a.m.

CHAIR MOLINA: 9 a.m. Members, questions or clarifications?

COUNCILMEMBER KING: We're still within the two weeks, correct?

CHAIR MOLINA: Well, we're still within that time parameters. Now, what is our deadline is March 9<sup>th</sup> for Council to . . .

COUNCILMEMBER KING: No, I'm talking about to recess because you can't . . .

CHAIR MOLINA: Yeah, I believe February 5<sup>th</sup> falls roughly six days away? So, we're within that one-week parameter. So, we're safe as far as Sunshine Law goes. So, again, it is 9:15 so, Members, if there are no other questions, again, just as a reminder, this meeting is recessed till Tuesday, February 5<sup>th</sup>, 9 a.m. right here in the Chambers where we will take up the nomination considerations of the Planning Director nominee, Ms. Michele McLean, and the Corporation Counsel nominee of the Mayor, Mr. Patrick Wong. So, with that being said, Members, this meeting is in recess. Tonight is Wednesday, January 30<sup>th</sup>, 9:15. Meeting in recess. . . . *(gavel)* . . .

**RECESS: 9:15 p.m.**

APPROVED BY:



MICHAEL J. MOLINA, Chair  
Governance, Ethics, and Transparency  
Committee

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Transcribed by: Jo-Ann Sato

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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 1<sup>st</sup> day of March, in Pukalani, Hawaii

  
Jo-Ann Sato