

**COST OF GOVERNMENT COMMISSION
MINUTES
Via BlueJeans Videoconference
Thursday, November 12, 2020**

PRESENT: Michael Williams, Chair
Michelle Del Rosario, Vice Chair (arr. 10:10 a.m.)
Noemi Barbadillo, Member
Paula Heiskell, Member
Lu Ann Lankford-Faborito, Member (arr. 10:10 a.m.)
Patrick O'Neil, Member
Susan Pu, Member
Sarah Simmons (arr. 10:10 a.m.)
Hannah Werth, Member (dep. at 10:15 a.m. due to connectivity issues)

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

ADMIN. Ipo Mossman, Ex-Officio Member, Office of the Mayor (arr. 10:20 a.m.)
Darlene Endrina, Community Liaison, Office of the Mayor (arr. 10:22 a.m.)
Sandy Baz, Managing Director
Erin Wade, Department of Management

DOCUMENTS RECEIVED:

Minutes

- Draft October 8, 2020 Meeting Minutes

Informational Documents Related to COVID-19 and Open Meetings

- Governor's COVID-19 Fourteenth Supplemental Proclamation (October 20, 2020)

Private Financing of the Wailuku Parking Garage Via Opportunity Zones

- Proposed Report Recommending that the County Issue a Request for Proposals Seeking Private Financing for the Wailuku Parking Garage

Information Technology

- Draft Information Technology Recommendations

I. CALL MEETING TO ORDER

Chair Williams called the meeting to order at 10:00 a.m.

II. ROLL CALL

Chair Williams took roll. Commissioners Barbadillo, Heiskell, O'Neil, Pu, Werth, and Chair Williams were present. [Vice Chair Del Rosario, Commissioner Lankford-Faborito, and Commission Simmons arrived at approximately 10:10 a.m.]

III. PUBLIC TESTIMONY

There was no public testimony.

IV. REVIEW AND APPROVE OCTOBER 8, 2020 MEETING MINUTES

Commissioner O'Neil moved to approve the October 8, 2020 meeting minutes, and Commissioner Heiskell seconded the motion. There was no discussion. The motion was approved 6-0.

V. COUNTY AUDITOR'S UPDATE

County Auditor Lance Taguchi did not have anything to report.

VI. DISCUSS COST OF GOVERNMENT COMMISSION FISCAL YEAR 2022 PROPOSED BUDGET

Chair Williams stated that he had received an email from the Office of Council Services staff, who noted that Council Chair Alice Lee would be willing to entertain an increase in the Commission's budget: (1) to provide the Technical Writer with more time to assist the Commission draft reports and (2) to fund through the Auditor's Office the database that would hold civil litigation documents from the Department of the Corporation Counsel.

County Auditor Taguchi explained that the Mayor's Office has requested that all departments turn in their budget requests by the next week.

Chair Williams stated that he anticipated the Commission would product three to four more reports by the end of its term, and proposed requesting an additional \$10,000 for the Technical Writer. He added that it was more difficult to determine how much it would cost to run the litigation document database, so he proposed requesting an additional \$10,000.

Commissioner O'Neil asked when the Commission's budget had last been increased. Mr. Taguchi stated that the Commission increased its budget by \$6,000 in Fiscal Year 2019 (beginning July 1, 2018), and by another \$6,000 in Fiscal Year 2020 (beginning July 1, 2019). He stated that some of it was for the Technical Writer and some for travel expenses for the new Lanai commissioner.

Deputy Corporation Counsel Gary Murai questioned whether drafting multiple reports, as opposed to a single annual report, was taking more of the Technical Writer's time. Ms. Pellegrino responded that assisting the Commission with the additional reports does take more time, as does other additional administrative tasks. Mr. Murai stated that as the Commission takes on more work, there is a corresponding demand on staff time. Chair Williams responded that the Commission is more effective when it can issue reports at the time it completes its investigations.

Commissioner O'Neil agreed that reports need to be issued at the time investigations are completed. Commissioner Heiskell stated that the Commission seems to be just as efficient working remotely as it was working in person. Commissioner Pu stated that online meetings are helpful because she would need to take a whole day to attend a meeting, but she added that the Commission should meet in person at least once or twice per year. Vice-Chair Del Rosario stated that she would support continuing remote meetings because it supports the County's green initiatives. Commissioner Lankford-Faborito supported meeting in person once per year.

Mr. Taguchi commented on the Chair's support for additional personnel, but stated that he cannot commit to loading the Corporation Counsel's civil litigation documents onto a website. He added that he thinks it would be more appropriate for the Department of the Corporation Counsel to load the documents and that he does not want to infringe on that department's functions. Chair Williams stated that he would speak with Chair Lee and the Office of Council Services further regarding the appropriate entity to upload the documents.

Vice-Chair Del Rosario moved to increase the Commission's budget request from \$30,000 to \$50,000. Commissioner Heiskell seconded the motion. The motion was approved 7-1 (yes: Chair Williams, Vice-Chair Del Rosario, Commissioner Barbadillo, Commissioner Heiskell, Commissioner Lankford-Faborito, Commissioner O'Neil, and Commissioner Pu; no: Commissioner Simmons), with Commissioner Werth excused.

VII. REVIEW AND DISCUSS PROPOSED EDITS TO OFFICE OF INFORMATION PRACTICES OCTOBER 22, 2020 DRAFT BILL ENTITLED, "A BILL FOR AN ACT RELATING TO SUNSHINE LAW BOARDS" (PREPARED BY CHAIR MICHAEL WILLIAMS)

Chair Williams stated that the proposed bill will allow the Commission to meet remotely even after the pandemic has ended. The bill will be reviewed in the upcoming legislative session.

VIII. TEMPORARY INVESTIGATIVE GROUP (TIG) UPDATES

A. Enforcement of Short-Term Rental Laws (Chair Williams and Commissioner Barbadillo)

Chair Williams stated that he is involved in a bill that would eliminate a tax relief measure that short-term rental condominiums have been receiving. He anticipates starting to work on the report soon.

B. Capital Improvement Project Budgets of Department of Water Supply and Department of Environmental Management (Chair Williams, Vice-Chair Del Rosario, Commissioner O'Neill)

Chair Williams stated that the TIG is monitoring the Water Use and Development Plan approval process.

C. Wildfire Costs and Responsibility of Private Landowners (Commissioner Heiskell, Commissioner O'Neill)

Commissioner O'Neil stated that he is continuing to research wildfire cost information.

D. Homelessness Issues in Maui County (Commissioner Werth, Commissioner Lankford-Faborito, Chair Williams)

Chair Williams stated that the TIG continues to interview key players and has a detailed task list. Chair Williams also mentioned a controversial proposal on the Council agenda that drew adverse testimony from the community that services the homeless. He added that he would like to have a report completed prior to the Council's budget deliberations in April 2021.

IX. INVESTIGATION (NON-TIG) UPDATES

A. Private Financing of the Wailuku Parking Garage Via Opportunity Zones (Chair Williams)

1. Review and Possibly Approve Proposed Report Recommending that that the County Issue a Request for Proposals Seeking Private Financing for the Wailuku Parking Garage

Chair Williams stated that the proposed report had been distributed to the Commission for its review and approval.

Vice-Chair Del Rosario moved that the report be approved, and Commissioner O'Neil seconded the motion.

Erin Wade, Redevelopment Program Manager with the Department of Management, provided comments on the proposed report. She stated that the Department of Management appreciates the Commission identifying opportunity zones as a potential funding mechanism within the Wailuku Town neighborhood, and agrees that opportunity zones are something that should be evaluated. Ms. Wade explained that for the Wailuku Parking Structure project, there are pitfalls to pivoting the funding strategy to opportunity zones at this time. She stated that the Wailuku Structure funding and bond authorization was approved by the County Council in Fiscal Year 2019, and the Department has moved forward in securing the construction contract as well as the bond issuance package in September 2020.

Ms. Wade explained that there are three issues that warrant further study. First, State procurement law dictates how the County contracts and cancels contracts. She noted that the Commission's report discussed transferring contracts, but the Department has not transferred contracts before and County attorneys indicated additional research would need to be done to determine how to do this. Second, dropping a project from the County's authorized bond portfolio could have consequences to the County's bond rating. Third, the County's project is of critical importance to the Wailuku business community, as is the project timing and schedule. Any change to private sector funding would need to be evaluated to determine whether it would cause delays and negatively impact these businesses.

Ms. Wade concluded by agreeing that opportunity zones have potential in Wailuku, but that the Department has concerns about using opportunity zones for this particular project and the timing of making a change.

Chair Williams asked why the bond rating would be driven down, instead of up, if the bond funds do not have to be used for the project. Ms. Wade responded that the investors are looking at the bond package as a whole and their likely return on investment. She added that she has asked the Finance Department for further information based on the Commission's report, but has not received a response to date.

Chair Williams stated that it is the intent of the Commission to encourage the Administration to evaluate the potential to save money on the project. Ms. Wade agreed that the Administration will need to do some additional research.

The Commission voted on the motion to approve the report. The motion was approved 8-0, with Commissioner Werth excused.

Chair Williams asked that the report be transmitted separately to the Mayor, County Council, and County Auditor.

Mr. Murai noted that the report is outside of the Commission's authority under the Charter.

B. Information Technology Issues (Commissioner Simmons)

1. Review Draft Information Technology Recommendations

Commissioner Simmons stated that she drafted a report and received comments from Chair Williams and Ms. Pellegrino. She will continue to work on the report, but welcomed comments from commissioners.

X. Access to Public Documents Filed in County Litigation (Chair Williams)

Chair Williams stated that the Commission needs to figure out where to house the civil litigation database. Commissioner Simmons asked whether the Commission had voted to approve having the database housed with the Auditor. She noted that the State judiciary is revamping its online filing system to make it easier to navigate and access documents. She wondered whether there is a need to incur the additional costs to keep the documents in a separate system.

Chair Williams responded that the Commission has not finalized any recommendations, and agreed that the County should not spend money at the County level if it is being done at the State level. Chair Williams added that he does not know yet whether this is a feasible alternative.

XI. County Real Property Tax Policies Regarding Agricultural Lands (Chair Williams)

Chair Williams reported that he will be meeting with Bobbie Patnode from the Ag Working Group.

XII. DISCUSS OTHER POTENTIAL TOPICS TO REVIEW AND ESTABLISHMENT OF TEMPORARY INVESTIGATIVE GROUPS (TIGS)

Discussion and possible action regarding the establishment of Temporary Investigative Groups (TIGs) to review and investigate the below listed subjects, appointment of members, and setting of the parameters and scope of the investigation and review.

Commissioner Pu stated that she is concerned about the roads in Hana and the Hana Senior Center, which is an old, broken-down house that needs infrastructure improvements.

Chair Williams proposed that Commissioner Pu work with him and Ms. Pellegrino to draw up a proposed scope of investigation to present to the Commission at its next meeting.

Mr. Murai asked for clarification, specifically whether the investigation would be for the Commission's current term or its next term. Chair Williams responded that once approved by the Commission, the investigation would be for the current term. Mr. Murai asked whether the investigation would be included in the Commission's annual report or whether it would be a stand-alone investigation. Chair Williams responded that it would be too soon to say. Mr. Murai reiterated that the only thing the Commission is authorized to do by Charter is to produce an annual report.

Vice-Chair Del Rosario expressed her concern about a consistent theme and message by Administration-level people placing restrictions on what the Commission can and cannot do. Specifically, she referenced comments made that the Commission is “only” authorized to produce an annual report. She added that the community wants transparency, and that the County Auditor and Corporation Counsel should be supportive rather than stonewall the Commission. She pointed out the Auditor’s initial reluctance to purchase a computer for the Commission.

Commissioner O’Neil agreed with Vice-Chair Del Rosario about Mr. Murai’s comment that the Commission can only produce an annual report, which would be tremendously inefficient.

Mr. Murai responded that he is not trying to limit what the Commission does and that he is not advocating secrecy. He stated that he is simply pointing out what the Charter says. He stated that the Commission can produce whatever reports it wishes, but that the Auditor’s Office, the County Council, and the Mayor are only obligated to consider the annual report.

Mr. Taguchi explained why he supported the hiring of a technical writer to support the Commission. He stated that he wants the Commission to be independent of the Auditor’s office, in part because the Commission is comprised of members from the County Council and the Administration (i.e., the ex-officio member). He also wanted to be independent of the Commission. This independence is a two-way street; he allows the Commission to do what it wants without too many restrictions. Mr. Taguchi expressed his disappointment at hearing that the Commission thinks he is trying to hold the Commission back. He also pointed out that his office must follow procurement laws and he must be able to support budget requests.

Vice-Chair Del Rosario thanked Mr. Murai for his clarification. She added that if her employment with Councilmember King is an issue, then perhaps it should be discussed or she should consider resigning because she does not want to limit the Commission in any way. She also opined that the Commission should move to another department if it is difficult for the Auditor’s Office to provide support.

Chair Williams pointed out that Vice-Chair Del Rosario’s proposal would require a Charter amendment.

XIII. DETERMINE NEXT MEETING DATE AND AGENDA

The next meeting is scheduled for Thursday, December 10, 2020, at 10:00 a.m. via BlueJeans teleconference.

XIV. ADJOURNMENT

The meeting adjourned at 11:10 a.m.