

MINUTES
COMMITTEE OF THE WHOLE

Council of the County of Maui

Council Chamber

November 28, 2006

CONVENE: 9:05 a.m.

PRESENT: Councilmember Michael J. Molina, Chair
Councilmember Dain P. Kane, Vice-Chair
Councilmember Robert Carroll, Member
Councilmember G. Riki Hokama, Member
Councilmember Danny A. Mateo, Member
Councilmember Joseph Pontanilla, Member
Councilmember Charmaine Tavares, Member

EXCUSED: Councilmember Michelle Anderson, Member
Councilmember Jo Anne Johnson, Member

STAFF: Richelle Kawasaki, Legislative Attorney
Clarita Balala, Committee Secretary

ADMIN.: David DeLeon, Senior Executive Assistant, Office of the Mayor (Item No. 2(24))
David Taylor, Wastewater Reclamation Division Chief, Department of Public Works and Environmental Management (Item No. 1(44))
Moana Lutey, Deputy Corporation Counsel, Department of the Corporation Counsel (Item Nos. 2(24) and 1(44))
Traci Fujita Villarosa, First Deputy Corporation Counsel, Department of the Corporation Counsel (in the gallery)

OTHERS: Stephen E. Goldsmith (Item No. 2(24))

PRESS: AKAKU – Maui Community Television, Inc.

CHAIR MOLINA: . . .*(gavel)*. . . The Committee of the Whole meeting for November 28, 2006 is now in session. For the record we have in attendance Members Kane, Mateo, Hokama, Pontanilla, Tavares, and Carroll. Excused are Members Anderson and Johnson. We have as our Legislative Analyst, Richelle Kawasaki Lu, and Committee Secretary, Clarita Balala.

Good morning, Members. We have three items on our agenda today. I would ask for your consideration to take one item out of order. That would be Committee of the Whole Item 2(24) to put that before Committee of the Whole Item 1(44). The reason we're taking it out of order is the applicant for the Cost of Government Commission is on a time sensitive schedule and he's parked. . .and as we know, we have

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parking limitations out at the County Building. So if there are no objections, the Chair would like to take that item up first.

COUNCIL MEMBERS VOICED NO OBJECTIONS.

CHAIR MOLINA: Okay. Thank you, Members.

COW-2(24) NOMINATIONS TO BOARDS, COMMITTEES, AND COMMISSIONS (COST OF GOVERNMENT COMMISSION) (C.C. No. 05-20)

CHAIR MOLINA: Okay. Committee of the Whole Item 2(24), the Committee is in receipt of a correspondence dated November 17, 2006, received on November 20, 2006, from the Mayor's Office, requesting consideration of the nomination of Stephen E. Goldsmith to the Cost of Government Commission for a term expiring on March 31, 2008. And for the record the Council must approve or disapprove this nomination by January 19, 2007 or the nominee will be deemed approved. And at this juncture we have from the Mayor's Office, Mr. DeLeon, to give us an overview of the applicant for the Cost of Government Commission.

MR. DELEON: Good morning. This is to fill a vacancy on the commission. Mr. Goldsmith has actually been interactive with the commission and has been actively involved with it and expressed an interest to serve so we got his nomination down here. Might as well feel the vacancy, and then. . .and move it forward especially when you have a. . .an individual is already demonstrating interest in such a commission.

CHAIR MOLINA: Okay. Thank you, Mr. DeLeon. Members, before I open the floor up for questions, the applicant is in the gallery and available for questions from you as well. Any questions, Members, with regards to the applicant for the Cost of Government Commission?

COUNCILMEMBER HOKAMA: One question, Mr. Chair.

CHAIR MOLINA: Mr. Hokama.

COUNCILMEMBER HOKAMA: I would ask, Mr. DeLeon, you mentioned his interest in currently participating in the commission?

MR. DELEON: In the sense of he's, he's there, and you know, and listening in, and part, you know, being in the attendance. Not acting as a member.

COUNCILMEMBER HOKAMA: No, no, no. I was wondering if he was, you know, able to share some comments to assist the current commission in their. . .in their efforts?

MR. DELEON: Well, I, I don't participate in the actual meetings so I don't know what the. . .what goes on actually.

COUNCILMEMBER HOKAMA: Okay. Thank you. Has he. . .has Mr. Goldsmith applied for commissions previously?

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MR. DELEON: I don't remember his name from previously.

COUNCILMEMBER HOKAMA: Okay. Thank you, Mr. DeLeon.

CHAIR MOLINA: Thank you, Mr. Hokama. Mr. Goldsmith, if the Members don't have any objections, I'd like to ask Mr. Goldsmith if you would like to just introduce yourself to the Committee and be made available to answer any questions if you will. Okay. Please come on up to the lectern there and thank you for applying.

MR. GOLDSMITH: Just not to confuse you, there's a person by the same name as an attorney in town, I am not him. . . .*(laughter)*. . . I've lived here for a few years but I'm not Stephen Goldsmith, the attorney.

CHAIR MOLINA: Okay. Mr. Goldsmith, could you bring your mike up a little bit. There you go.

MR. GOLDSMITH: Certainly.

CHAIR MOLINA: Thank you.

MR. GOLDSMITH: Sorry.

CHAIR MOLINA: Okay.

MR. GOLDSMITH: And to answer your question, I attended the last two meetings just to see if I was interested. They let me contribute as a member of the public and I, I have various backgrounds I think could be of assistance to you and the commission.

CHAIR MOLINA: Okay. Member Hokama.

COUNCILMEMBER HOKAMA: Chairman, thank you. Mr. Goldsmith, thank you, first of showing your interest and your willingness to participate in our government commissions. I just wanted to ask. . . your experience is, you know, I would assume. . . is that elective offices that you were in, Deputy Sheriff and District Court Clerk, or were they appointed positions of your. . . in Colorado?

MR. GOLDSMITH: They were employment so they were appointed by the. . . when I was a Deputy, it was through the Sheriff. . . through the process of becoming a Deputy Sheriff, and as a Court Clerk, it was an employee of the District Court.

COUNCILMEMBER HOKAMA: So you're also appointed by, by a judge or a judicial panel?

MR. GOLDSMITH: I was hired really by the State of Colorado--

COUNCILMEMBER HOKAMA: Okay.

MR. GOLDSMITH: --through the Court Clerk's office and I ended up working for a judge.

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COUNCILMEMBER HOKAMA: Okay, and, and currently you are a owner of invest. . .various investments and businesses?

MR. GOLDSMITH: Semi-retired is I guess the best way to put it – having enough time to spend the middle of a day at a Cost of Government Commission. . . .*(laughter)*. . .

COUNCILMEMBER HOKAMA: Are your businesses on Maui, Mr. Goldsmith, or are they part of your investments so they're located in various areas?

MR. GOLDSMITH: Actually, they are all passive investments right now that or. . .of financial nature that are not geographic based.

COUNCILMEMBER HOKAMA: Okay. Thank you very much. Appreciate meeting you.

MR. GOLDSMITH: You're welcome.

CHAIR MOLINA: Okay. Thank you, Member Hokama. Committee Members, any other questions for the applicant? Member Kane.

VICE-CHAIR KANE: Thank you, Chair. Good morning.

MR. GOLDSMITH: Good morning.

VICE-CHAIR KANE: Thank you for being here.

MR. GOLDSMITH: You're welcome.

VICE-CHAIR KANE: I see you have a Master's in Psychology and, and with government, you know, in a lot of people's perspective, government should be run like a business. Do you have that. . .do you have that train of thought that government should be run like a business?

MR. GOLDSMITH: I think there is certain efficiencies that can be brought to government but whereas often. . . I also have my MBA in Finance so I come from that side and . . .*(chuckles)*. . . I've spent many hours talking about this philosophically in school and in other places, but whereas a corporation that used to be the profit was the motive. Now they're trying to make it a little nicer but it's still profit is the motive. Whereas the government is what is for the greater good of the community and that cannot always be measured in dollars. So even on the Cost of Government Commission, even if you can save a dollar, how. . .what effect does that have on the people we're serving. So rather than strictly just the bottom line there are many things that come into play.

VICE-CHAIR KANE: You know what, I appreciate your answer. I appreciate that answer. Thank you very much.

MR. GOLDSMITH: You're welcome.

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CHAIR MOLINA: Thank you, Member Kane. Mr. Goldsmith, Chair has one question for you. Can you I guess just give us in a broad sense one area of government that you would like to see I guess improved and that if elect. . .or if selected to this commission, what particular area of government you would seek to improve its. . .I guess the efficiency of?

MR. GOLDSMITH: I really don't have an answer to that question yet. I really. . .by just attending two meetings and I think there's a lot to learn. I'd like to be able to look at the big picture and see even if there's something that can be improved, where is it gonna have the most effect. And the other thing, you know, I'm learning quickly is how realistic is it to make changes. I mean there's unions, personnel, everything involved. So even if there's something to be more efficient, if it's gonna take ten years to do, that might go more on the backburner or start versus something more on the short term where you can see some results. And I imagine I'll be guided also by what I'm reading and hearing from the Council and the Mayor what they want to bring to the community.

CHAIR MOLINA: Okay. Thank you. Members, any other questions for the applicant? Seeing none. Thank you, Mr. Goldsmith.

MR. GOLDSMITH: Thank you.

CHAIR MOLINA: Okay, Members, any other questions for Mr. DeLeon at this point before the Chair offers his recommendation? Okay. Seeing none. The Chair will recommend the approval of Mr. Goldsmith to the Cost of Government Commission.

VICE-CHAIR KANE: So moved.

COUNCILMEMBER TAVARES: Second.

CHAIR MOLINA: Okay. It's moved by Member Kane, seconded by Member Tavares. Any discussion? Member Kane, as the maker of the motion.

VICE-CHAIR KANE: No further discussion.

CHAIR MOLINA: Okay. Seeing no other discussion. All those in favor signify by saying aye.

COUNCIL MEMBERS VOICED AYE.

CHAIR MOLINA: All those opposed?

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VOTE: AYES: Councilmembers Carroll, Hokama, Mateo, Pontanilla, and Tavares, Vice-Chair Kane, and Chair Molina.

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmembers Anderson and Johnson.

MOTION CARRIED.

ACTION: APPROVE NOMINATION.

CHAIR MOLINA: Thank you. The Chair will mark it 7-0 with two excusals, Members Anderson and Johnson. Thank you, Mr. Goldsmith.

COW-1(44) SETTLEMENT AUTHORIZATION OF CLAIMS AND LAWSUITS (CLAIM OF REVITALIZE WAILUKU, LLC, CLAIM NO. 1808669-0251) (C.C. No. 05-24)

CHAIR MOLINA: Next on our agenda is Committee of the Whole Item 1(44). Committee is in receipt of a correspondence dated November 8, 2006, from the Corporation Counsel's Office, requesting consideration of a proposed resolution entitled "AUTHORIZING SETTLEMENT OF CLAIM NO. 1808669-0251 BY REVITALIZE WAILUKU, LLC", and transmitting a copy of the claim. The claim alleges damages due to a sewer line blockage on or about December 8, 2005 in Wailuku, Maui. The purpose of the proposed resolution is to authorize settlement of the case. And to give us an overview of the matter we have from the Corporation Counsel's Office, Ms. Moana Lutey, and we also have from the Public Works Department, Mr. David Taylor. Ms. Lutey.

MS. LUTEY: Thank you, Chairman. Good morning. On December 8, 2005, raw sewage was discovered on the ground floor of a building located at 2005 Mokuhan Road in Wailuku. It was later determined that a collapsed and partially blocked sewer line owned by the County had caused this sewer backup into that building. Claimants are seeking reimbursement for cleanup costs, repair costs, and lost lease revenue. I am requesting executive session to discuss settlement of this claim.

CHAIR MOLINA: Okay. Thank you. Mr. Taylor, do you have any opening comments before I open the floor to questions in open session?

MR. TAYLOR: No, I don't, Mr. Chair.

CHAIR MOLINA: Okay. Thank you. Member Kane, questions in open session.

VICE-CHAIR KANE: Yeah. Question for Corporation Counsel. The request for executive session what, what's your. . . what's your angle on that?

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MS. LUTEY: There's an issue over some of the reimbursement being requested in this claim that I would like to discuss including the defenses to a particular very specific portion of their claim that could be appropriately discussed in executive session.

VICE-CHAIR KANE: Okay. Thank you, Chair.

CHAIR MOLINA: Okay. Thank you, Member Kane. Any other questions in open session? Seeing none. Before the Chair makes his recommendation for executive session, Chair would like to state for the record the floor has been open for public testimony and seeing that there is no one here in the gallery to testify on any of our agenda items, if there are no objections, the Chair will close public testimony for our agenda today.

COUNCIL MEMBERS VOICED NO OBJECTIONS.

CHAIR MOLINA: Okay. Thank you. Okay, Members, the Chair will recommend a motion for executive session pursuant to Section 92-5(a)(4) of the Hawaii Revised Statutes to consult with legal counsel on questions and issues pertaining to the powers, duties, privileges, immunities, and liabilities of the County, the Council, and the Committee.

VICE-CHAIR KANE: So moved.

COUNCILMEMBER TAVARES: Second.

COUNCILMEMBER HOKAMA: Second.

CHAIR MOLINA: Moved by Member Kane, seconded by Member Tavares. Any discussion? Seeing none. All those in favor signify by saying aye.

COUNCIL MEMBERS VOICED AYE.

CHAIR MOLINA: All those opposed?

VOTE: AYES: Councilmembers Carroll, Hokama, Mateo, Pontanilla, and Tavares, Vice-Chair Kane, and Chair Molina.

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmembers Anderson and Johnson.

MOTION CARRIED.

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ACTION: EXECUTIVE SESSION.

CHAIR MOLINA: Okay. Thank you. The Chair will mark it 7-0. We will now prepare the chambers for executive session. Meeting in recess. . . .(gavel). . .

RECESS: 9:15 a.m.

(THE COMMITTEE OF THE WHOLE MEETING ENTERED INTO EXECUTIVE SESSION AT 9:20 A.M. AND ENDED AT 9:32 A.M.)

RECONVENE: 9:35 a.m.

CHAIR MOLINA: . . .(gavel). . . The Committee of the Whole meeting for November 28, 2006 is now reconvened in open session.

COW-1(44) SETTLEMENT AUTHORIZATION OF CLAIMS AND LAWSUITS (CLAIM OF REVITALIZE WAILUKU, LLC, CLAIM NO. 1808669-0251) (C.C. No. 05-24)

CHAIR MOLINA: Members, we are discussing Committee of the Whole Item 1(44), which is authorizing settlement of Claim No. 1808669-0251 by Revitalize Wailuku, LLC. If there are no questions for Corporation Counsel or the Public Works Department, the Chair will offer a recommendation. Any final questions in open session? Okay. Seeing none. The Chair will ask for a motion to approve the revised resolution to authorize settlement of this case.

VICE-CHAIR KANE: So moved.

COUNCILMEMBER HOKAMA: Second.

CHAIR MOLINA: Okay. It's been moved by Member Kane, seconded by Member Hokama. Any discussion? Seeing none. All those in favor signify by saying aye.

COUNCIL MEMBERS VOICED AYE.

CHAIR MOLINA: All those opposed?

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VOTE: AYES: Councilmembers Carroll, Hokama, Mateo, Pontanilla, and Tavares, Vice-Chair Kane, and Chair Molina.

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmembers Anderson and Johnson.

MOTION CARRIED.

ACTION: APPROVE RESOLUTION.

CHAIR MOLINA: Okay. Thank you, Members. The Chair will mark it 7-0 with two excusals, Members Anderson and Johnson.

COW-60 AUTHORIZING PROCEEDINGS IN EMINENT DOMAIN FOR THE ACQUISITION OF REAL PROPERTY AT UKUMEHAME

CHAIR MOLINA: Members, we are on our last matter for today, which is to . . . Chair will be recommending that the following items or item be referred to the Council Chair for the term beginning January 2, 2007 pursuant to Section 19 of the Rules of the Council and that is Committee of the Whole Item 60, which is authorizing proceedings in eminent domain for the acquisition of real property at Ukumehame. Any questions on the matter? Member Kane.

VICE-CHAIR KANE: Mr. Chair, your recommendation?

CHAIR MOLINA: Okay. The Chair's recommendation is to . . . a motion to approve.

VICE-CHAIR KANE: So moved.

COUNCILMEMBER HOKAMA: Second.

CHAIR MOLINA: Okay. Moved by Member Kane, seconded by Member Hokama. Any discussion? Seeing none. All those in favor signify by saying aye.

COUNCIL MEMBERS VOICED AYE.

CHAIR MOLINA: All those opposed?

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VOTE: AYES: Councilmembers Carroll, Hokama, Mateo, Pontanilla, and Tavares, Vice-Chair Kane, and Chair Molina.

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmembers Anderson and Johnson.

MOTION CARRIED.

ACTION: APPROVE REFERRAL OF COMMUNICATION TO THE COUNCIL CHAIR FOR THE TERM BEGINNING JANUARY 2, 2007.

CHAIR MOLINA: Okay. Thank you. The Chair marks it 7-0 with two excusals, Members Anderson and Johnson. That concludes our matters for today on our agenda. Members, any announcements? Okay. Member Hokama, followed by Member Kane.

COUNCILMEMBER HOKAMA: Chairman, thank you. First, I would want to express my appreciation to you in conducting our Committee of the Whole responsibilities for the term and also to send my appreciation to your staff, your Committee Secretary, Ms. Balala, and to your Committee Analyst, Ms. Richelle Kawasaki Lu, who I am not pleased is leaving our . . .our family – our Council family. And so if Mr. Wes Lo is listening, he can hear that I am one person that is not too thrilled with him taking some of the best that we have, but I wish her well. I believe if anything, we have the sympathies of her daughter on our side, Mr. Chairman, so I can appreciate that. . . .*(laughter)*. . . But to Ms. Lu. . .Kawasaki Lu, the years we have had the pleasure of your. . .your presence was much appreciated and I can tell you that I only wish you the very, very best in your future endeavors and know that you will be a great success and addition to the MMMC family. So our best wishes to you. Thank you, Chairman.

CHAIR MOLINA: Okay. Thank you, Member Hokama. Okay. Any other announcements or comments from the Members before the Chair offers his thoughts? Member Tavares.

COUNCILMEMBER TAVARES: Yeah, I just want to ditto what Mr. Hokama said. It has been a real pleasure working with you and the Committee of the Whole affairs during this term and I think we've treated all of the issues very fairly and under your leadership I think we have speedily addressed those items that needed to be addressed in a timely manner and I appreciate that very much.

CHAIR MOLINA: Thank you very much, Member Tavares. Any other comments? Seeing none. The Chair would like to thank all of you for working very hard. I know we were inundated with a lot of settlements and other issues ranging from lawsuits to superferrys and we had all kinds of things we had to deal with, but the Chair appreciates all of your work. Many of you spent a lot of additional time,

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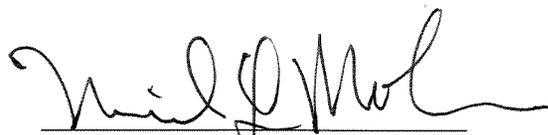
more than anticipated, and as always the Chair appreciates your professionalism and dedication to all of the issues that we had to deal with in the Committee of the Whole.

And the Chair would like to express his appreciation also to for Staff, Clarita Balala, thank you for being on top of it all as far as the secretarial duties, and of course, Richelle Kawasaki Lu, who will be sorely missed. Richelle, thank you for all of your work. I know you're on to what I believe, hopefully, greener pastures, and maybe even a less stressful job. I don't know, but you know, the County's loss will be Maui Memorial Hospital's or Maui Memorial Medical Center's gain. So with that being said, thank you for all of your work and dedication to the County.

So with that being said, if there are no other announcements, the Chair will adjourn this final Committee of the Whole meeting for the 2005-2006 term. So I'd like to wish all of you a very good day. And members of the public, thank you for all of your comments and thoughts with regards to the issues. It is 9:40. The Committee of the Whole meeting for November 28, 2006 is now adjourned. . . .(gavel). . .

ADJOURN: 9:40 a.m.

APPROVED BY:



MICHAEL J. MOLINA, Chair
Committee of the Whole

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Transcribed by: Clarita Balala