

COUNCIL OF THE COUNTY OF MAUI

GOVERNMENT RELATIONS COMMITTEE

May 23, 2003

Committee
Report No. 03-37

Honorable Chair and Members
of the County Council
County of Maui
Wailuku, Maui, Hawaii

Chair and Members:

Your Government Relations Committee, having met on May 1, 2003, makes reference to County Communication No. 03-25, from the Council Chair, relating to the matter of nominations to boards, committees and commissions.

By correspondence dated March 31, 2003, the Council Chair transmitted correspondence dated March 31, 2003, from the Mayor, transmitting a listing of nominees to various boards, committees and commissions for terms expiring on March 31, 2008, unless otherwise indicated, along with their personal history forms. The nominees are as follows:

- A. BOARD OF ETHICS
 - 1. Sandra Silva.

- B. COMMISSION ON CULTURE AND THE ARTS
 - 1. Russel Gushi (replacing Jeff Rogers), expiring on March 31, 2006.

- C. COMMITTEE ON STATUS OF WOMEN
 - 1. Gabriele Worst (replacing Cynthia Cary), expiring on March 31, 2005.

- D. HANA ADVISORY COMMITTEE
 - 1. Kau'i Kanaka'ole (replacing Ruth Ann Tolentino), expiring on March 31, 2005.

- E. LANAI PLANNING COMMISSION
 - 1. Dwight Gamulo (replacing Nora Kawasaki), expiring on March 31, 2005.

- F. LIQUOR CONTROL COMMISSION
 - 1. Frances Meshulam.

COUNCIL OF THE COUNTY OF MAUI

GOVERNMENT RELATIONS COMMITTEE

May 23, 2003
Page 2

Committee
Report No. 03-37

- G. MOLOKAI PLANNING COMMISSION
 - 1. DeGray Vanderbilt; and
 - 2. Lance "Kip" Dunbar.

- H. REAL PROPERTY TAX REVIEW BOARD
 - 1. Bonnie Baxter.

- I. SALARY COMMISSION
 - 1. Michael Westfall.

- J. SUBDIVISION ENGINEERING STANDARDS COMMITTEE
 - 1. Nolan Perreira (engineer) (replacing Derick Yoro), expiring on March 31, 2005.

The Mayor's correspondence indicated that the Administration is seeking a volunteer from the Maui Humane Society Board to serve on the Animal Control Board. His correspondence also transmitted correspondence dated March 28, 2003, from Joseph J. Olsen, Maui Humane Society (MHS) Executive Director, expressing concerns about the requirement for an MHS Board member to serve on the Animal Control Board.

By correspondence dated March 31, 2003, the Council Chair transmitted correspondence dated March 31, 2003, from the Mayor, noting that he was submitting the following renomination at the Council's request:

- A. BOARD OF VARIANCES AND APPEALS
 - 1. Lance Holter (replacing Joy White), expiring on March 31, 2007.

Your Committee notes the following appointment procedures for the various boards, committees and commissions:

- 1. For most of the boards, committees, and commissions, the Mayor is required to submit nominees 60 to 70 days before the prior members' terms expire, and the Council must approve or disapprove the nominee within 60 days thereafter or the nominee is deemed appointed. If the Council disapproves of a nominee, it

COUNCIL OF THE COUNTY OF MAUI

GOVERNMENT RELATIONS COMMITTEE

May 23, 2003
Page 3

Committee
Report No. 03-37

shall immediately notify the Mayor of its action. In the event that the Council fails to approve or disapprove of a nominee within the time period provided, the nominee shall be deemed appointed to fill the vacancy upon its occurrence. This procedure applies to the following boards, committees and commissions:

- A. Affirmative Action Advisory Council (Maui County Code, Sections 2.29.010, 2.29.020 and 2.40.080; Maui County Charter, Section 13-2);
- B. Animal Control Board (Maui County Code, Section 6.04.095; Maui County Charter, Section 13-2.17);
- C. Board of Code Appeals (Maui County Code, Sections 2.40.190 and 16.20A.190; Maui County Charter, Section 13-2);
- D. Board of Ethics (Maui County Charter, Sections 10-2, 13-2);
- E. Board of Variances and Appeals (Maui County Charter, Sections 8-8.7, 13-2);
- F. Board of Water Supply (Maui County Charter, Sections 8-11.3, 13-2);
- G. Civil Service Commission (Maui County Charter, Sections 8-9.4, 13-2; Hawaii Revised Statutes, Section 76-71 and 76-47);
- H. Commission on Children and Youth (Maui County Code, Section 2.39.010; Maui County Charter, Section 13-2);
- I. Commission on Culture and the Arts (Maui County Code, Section 2.37.020 and Section 2.40.200; Maui County Charter, Section 13-2);
- J. Commission on Naming Streets, Parks, and Facilities (Maui County Code, Section 2.38.030 and Section 2.40.140; Maui County Charter, Section 13-2);

COUNCIL OF THE COUNTY OF MAUI
GOVERNMENT RELATIONS COMMITTEE

May 23, 2003
Page 4

Committee
Report No. 03-37

- K. Commission on Persons With Disabilities (Maui County Code, Chapter 2.32.020 and 2.32.030; Maui County Charter, Section 13-2);
- L. Cost of Government Commission (Maui County Charter, Section 8-15.2, 3-15.3 and 13.2);
- M. Council on Aging (Maui County Code, Sections 2.34.020, 2.34.030 and 2.40.010; Maui County Charter, Section 13-2);
- N. Fire and Public Safety Commission (Maui County Charter, Sections 8-7.2, 13-2);
- O. Hana Advisory Committee (Maui County Code, Sections 2.28.060 and 2.40.130; Maui County Charter, Section 13-2);
- P. Lanai Planning Commission (Maui County Code, Section 2.28.025; Maui County Charter, Sections 8-8.4, 13-2);
- Q. Liquor Control Adjudication Board (Maui County Charter, Sections 8-13.3, 13-2);
- R. Liquor Control Commission (Maui County Charter, Sections 8-13.2, 13-2);
- S. Maui County Cultural Resources Commission (Maui County Code, Sections 2.88.030 and 2.40.110; Maui County Charter, Section 13-2);
- T. Maui County Grants Review Committee (Maui County Code, Sections 2.40.160 and 3.36.020; Maui County Charter, Section 13-2);
- U. Maui Planning Commission (Maui County Code, Section 2.28.010; Maui County Charter, Sections 8-8.4, 13-2);

COUNCIL OF THE COUNTY OF MAUI

GOVERNMENT RELATIONS COMMITTEE

May 23, 2003
Page 5

Committee
Report No. 03-37

- V. Molokai Planning Commission (Maui County Code, Section 2.28.020; Maui County Charter, Sections 8-8.4, 13-2);
 - W. Police Commission (Maui County Charter, Sections 8-12.2, 13-2);
 - X. Real Property Tax Review Board (Maui County Code, Sections 2.40.170 and 3.48.620; Maui County Charter, Section 13-2);
 - Y. Salary Commission (Maui County Code, Section 2.40.210 and Chapter 2.42; and Maui County Charter, Sections 8-17.1 and 13-2);
 - Z. Street Lighting Committee (Maui County Code, Sections 2.40.030, 12.17.010, and 12.17.020; Maui County Charter, Section 13-2);
 - AA. Subdivision Engineering Standards Committee (Maui County Code, Sections 2.40.020 and 18.40.010; Maui County Charter, Section 13-2); and
2. For the following boards, committees and commissions, the Mayor is required to submit nominees for Council approval, but there is no time limitation for the Council's approval. These boards, committees and commissions are:
- A. Kula Agricultural Park Committee (Maui County Code, Sections and 2.40.180 and 22.04.070);
 - B. Maui Redevelopment Agency (Maui County Code, Section 2.40.050; Hawaii Revised Statutes, Section 53-2);
 - C. Napili Bay Civic Improvement District Advisory Committee (Maui County Code, Section 19.34.030); and

COUNCIL OF THE COUNTY OF MAUI

GOVERNMENT RELATIONS COMMITTEE

May 23, 2003
Page 6

Committee
Report No. 03-37

- D. Urban Design Review Board (Maui County Code, Sections 2.26.030 and 2.40.100; Maui County Charter, Section 13-2.1).
- 3. For the following boards, committees and commissions, members are appointed by the Mayor with notice to, but without approval by, the County Council. These boards, committees and commissions are:
 - A. Committee on Status of Women (Maui County Code Section 2.40.090; Hawaii Revised Statutes, Section 367-4);
 - B. Maui County Arborist Review Board (Maui County Code Section 12.24A.030; Maui County Charter, Section 13-2); and
 - C. Traffic Safety Council (Maui County Code Section 2.36.010; Hawaii Revised Statutes, Section 286-6).

Your Committee further notes that the deadline for the Council to approve or disapprove of the nominees who are subject to the 60-day Council approval process is May 30, 2003.

By correspondence dated April 9, 2003, your Committee Chair inquired whether there were any requests among the members of the Council to interview the nominees to the various boards, committees and commissions.

Your Committee received requests from members of the Council to interview the following nominees:

- A. MOLOKAI PLANNING COMMISSION
 - 1. DeGray Vanderbilt; and
 - 2. Lance "Kip" Dunbar.
- B. BOARD OF VARIANCES AND APPEALS
 - 1. Lance Holter (replacing Joy White), expiring on March 31, 2007.

COUNCIL OF THE COUNTY OF MAUI

GOVERNMENT RELATIONS COMMITTEE

May 23, 2003
Page 7

Committee
Report No. 03-37

Your Committee is in receipt of 17 testimonies in support of Mr. Holter's nomination to the Board of Variances and Appeals, and 3 testimonies in opposition to his nomination.

By correspondence dated April 16, 2003, your Committee Chair confirmed the attendance of Messrs. Vanderbilt, Dunbar and Holter at your Committee's meeting of May 1, 2003.

By correspondence dated April 27, 2003, Mr. Holter refuted allegations made by a local contractor who had submitted testimony in opposition to his nomination.

By correspondence dated April 28, 2003, Mr. Holter refuted allegations made by a local land use consultant who had submitted testimony in opposition to his nomination.

By correspondence dated April 29, 2003, Russel Y. Gushi stated that he was unable to serve on the Commission on Culture and the Arts.

By correspondence dated April 30, 2003, your Committee Chair requested information from the Planning Director on whether Mr. Holter's property has ever been used illegally as a transient vacation rental as alleged by a testifier who opposed his nomination.

By correspondence dated April 30, 2003, the Council Chair transmitted a legal opinion dated February 22, 2001, from a Deputy Corporation Counsel, regarding (1) the procedure for the disapproval of nominees, (2) the parameters for appropriate lines of questioning for nominees, and (3) whether the breadth of questions posed to the nominees could be so broad as to violate the Sunshine Law.

At its meeting, your Committee met with the Senior Executive Assistant to the Mayor, an Executive Assistant to the Mayor, the Corporation Counsel and a Deputy Corporation Counsel.

Your Committee is in receipt of correspondence dated May 1, 2003, from the Planning Director, who provided a timeline detailing Mr. Holter's attempts to obtain various permits to operate a transient vacation rental on his Paia property.

COUNCIL OF THE COUNTY OF MAUI

GOVERNMENT RELATIONS COMMITTEE

May 23, 2003
Page 8

Committee
Report No. 03-37

Your Committee is also in receipt of correspondence dated May 1, 2003, from the Senior Executive Assistant to the Mayor, who stated that Mr. Gushi and Ms. Baxter would not be able to serve on the Commission on Culture and the Arts and the Real Property Tax Review Board, respectively.

Your Committee is also in receipt of Mr. Holter's personal history forms and resume.

Your Committee received oral and written testimony from six individuals. Two people supported the nominations of Messrs. Holter and Vanderbilt. Three people supported the nomination of Mr. Holter. One person opposed the nomination of Mr. Holter.

Your Committee proceeded to conduct interviews with Messrs. Vanderbilt, Dunbar and Holter.

Your Committee Chair noted that the nominations of Mr. Gushi and Ms. Baxter should be disapproved because they both requested to be withdrawn from consideration.

Your Committee deliberated at length on Mr. Holter's nomination to the Board of Variances and Appeals. Your Committee noted that there appeared to be confusion, and at times inconsistency, in statements made between members of the public, the nominee, and the Department of Planning about various allegations made against the nominee. As such, your Committee stated that it would be more appropriate to recommend discharge of consideration of this nomination in order to allow the full Council the opportunity to form its own position.

Further, your Committee requested that Mr. Holter consider withdrawing from the Department of Planning any application that would allow him to operate a transient vacation rental, and that he also consider making greater attempts to remove any Internet presence or advertisement of the availability of his property located in Paia for transient vacation rental purposes.

COUNCIL OF THE COUNTY OF MAUI

GOVERNMENT RELATIONS COMMITTEE

May 23, 2003
Page 9

Committee
Report No. 03-37

Based on public testimony and the information received, your Committee voted to recommend (1) approval of the nominations of Ms. Silva, Ms. Kanaka`ole, Mr. Gamulo, Ms. Meshulam, Mr. Vanderbilt, Mr. Dunbar, Mr. Westfall, and Mr. Perreira; (2) disapproval of the nominations of Mr. Gushi and Ms. Baxter; and (3) discharge of the nomination of Mr. Holter.

Your Government Relations Committee RECOMMENDS the following:

1. That the following nominees to County boards, committees and commissions be APPROVED (for terms expiring on March 31, 2008, unless otherwise indicated):
 - A. BOARD OF ETHICS
 1. Sandra Silva.
 - B. HANA ADVISORY COMMITTEE
 1. Kau`i Kanaka`ole (replacing Ruth Ann Tolentino), expiring on March 31, 2005.
 - C. LANAI PLANNING COMMISSION
 1. Dwight Gamulo (replacing Nora Kawasaki), expiring on March 31, 2005.
 - D. LIQUOR CONTROL COMMISSION
 1. Frances Meshulam.
 - E. MOLOKAI PLANNING COMMISSION
 1. DeGray Vanderbilt; and
 2. Lance "Kip" Dunbar.
 - F. SALARY COMMISSION
 1. Michael Westfall.
 - G. SUBDIVISION ENGINEERING STANDARDS COMMITTEE
 1. Nolan Perreira (engineer) (replacing Derick Yoro), expiring on March 31, 2005.

COUNCIL OF THE COUNTY OF MAUI
GOVERNMENT RELATIONS COMMITTEE

May 23, 2003
Page 10

Committee
Report No. 03-37

2. That the following nominees be DISAPPROVED:
 - A. COMMISSION ON CULTURE AND THE ARTS
 1. Russel Gushi (replacing Jeff Rogers), expiring on March 31, 2006.
 - B. REAL PROPERTY TAX REVIEW BOARD
 1. Bonnie Baxter.
3. That your Committee be DISCHARGED from consideration of the following nominee:
 - A. BOARD OF VARIANCES AND APPEALS
 1. Lance Holter (replacing Joy White), expiring on March 31, 2007.
4. That a copy of this committee report be TRANSMITTED to the Mayor of the County of Maui.

Adoption of this report is respectfully requested.

COUNCIL OF THE COUNTY OF MAUI
GOVERNMENT RELATIONS COMMITTEE

May 23, 2003
Page 11

Committee
Report No. 03-37

DAIN P. KANE **Chair**

MICHAEL J. MOLINA **Member**

G. RIKI HOKAMA **Vice-Chair**

CHARMAINE TAVARES **Member**

DANNY A. MATEO **Member**