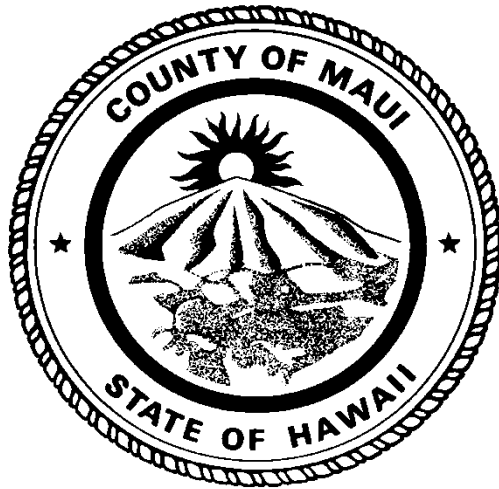


# COUNTY OF MAUI



## COST OF GOVERNMENT COMMISSION

### ANNUAL REPORT

2022 – 2023

# **COST OF GOVERNMENT COMMISSION COUNTY OF MAUI**

## **ANNUAL REPORT 2022 – 2023**

*The Commission shall have the power and duty to:  
Study and investigate the organizations and methods of operations of all departments,  
commissions, boards, offices, and other instrumentality of all branches of the county government  
and determine what changes, if any, may be desirable to accomplish the policy set forth herein.<sup>1</sup>*

### COMMISSIONERS<sup>2</sup>

Michael Williams, Chair  
Daniel O'Brien, Vice Chair  
Evan Dust, Member  
Paula Heiskell, Member  
Lu Ann Lankford-Faborito, Member  
Spencer Lau, Member  
Sarah Simmons, Member  
Poerava Tehiva, Member

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<sup>1</sup> Charter, County of Maui, Section 3-9.3 (2021 ed.).

<sup>2</sup> The Commission is comprised of nine members. There are currently eight members serving on the Commission and one vacancy. Commissioners Noemi Barbadillo and Susan Pu resigned in April 2022, just after the 2022 – 2023 term had begun.

# COST OF GOVERNMENT COMMISSION 2022 – 2023 ANNUAL REPORT

## I. INTRODUCTION

The Cost of Government Commission (“COGC” or “Commission”) was created in 1976, when voters approved the recommendation of the Charter Commission. In its final report dated February 19, 1976, the Charter Commission stated, “The Cost of Government Commission would provide a cyclical review of cost and efficiency of both the legislative and executive branches of County government. The [Charter] Commission believes that this Commission [COGC], if adopted, will be one of the first of its kind in local government.”<sup>1</sup>

According to the County Charter, the purpose of the Commission is to “[s]tudy and investigate the organizations and methods of operations of all departments, commissions, boards, offices, and other instrumentality of all branches of the county government and determine what changes, if any, may be desirable to accomplish the policy set forth herein.”<sup>2</sup> These responsibilities correspond to the County’s policy “to promote economy, . . . efficiency and improved service in the transaction of the public business in the legislative and executive branches of the county . . . .”<sup>3</sup>

The Charter also requires that the Commission present an annual report of its findings and recommendations to the Mayor, County Council, and County Auditor. For the prior Commission term (April 1, 2021 – March 31, 2022), the Commission issued its annual report on June 22, 2022. This Annual Report covers the activities from April 1, 2022 to March 31, 2023.

## II. COMMISSION COMPOSITION

The Commission is comprised of nine (9) volunteers with various educational and employment backgrounds. The cumulative wisdom and experience of its members are notable and, collectively, the commissioners have dedicated their time and knowledge to improving Maui County. The Commission believes its investigations and recommendations should be a catalyst for more in-depth discussions and a foundation for the development of legislation and improved processes and/or policies on the subject investigated.

There are currently eight appointed commissioners and one vacancy. The Commission has not had a full slate of nine commissioners since April 2021 — almost two full years. Between April 2021 and April 2022, four commissioners resigned due to extenuating circumstances, including moving to the Mainland and family and work commitments. Three new commissioners were appointed, with term expiration dates of March 31, 2023, and

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<sup>1</sup> Report of the Maui County Charter Commission, p. 5 (1976), located at [http://mauicharterarchive.org/pdf/COM\\_76\\_760219\\_REP\\_Final\\_Report.pdf](http://mauicharterarchive.org/pdf/COM_76_760219_REP_Final_Report.pdf).

<sup>2</sup> Revised Charter of the County of Maui (Jan. 2023 ed.) Section 3-9.3(1), located at <https://www.mauicounty.gov/DocumentCenter/View/139187/CHARTER---January-2023>.

<sup>3</sup> *Id.*, Section 3-9.

March 31, 2024. The last position, with a term expiration date of March 31, 2023, was never filled after a commissioner resigned in April 2022. The lack of a full slate over the last two years has posed challenges for the Commission and its ongoing investigations, but the volunteer commissioners have remained dedicated to ensuring that their work continues.

There are four commissioners whose terms are scheduled to end on March 31, 2023. Evan Dust, Lu Ann Lankford-Faborito, and Michael Williams will end their terms; the fourth position (formerly held by Noemi Barbadillo who resigned in April 2022) is the continuing vacancy.

Commissioner Dust has applied for and been reappointed to a second term.<sup>4</sup> Mayor Bissen nominated three individuals, and the County Council approved the appointment of two of the three, to fill the additional vacancies beginning in April 2023. Unfortunately, one vacancy remains, and the Commission will begin its 2023–2024 term once again without a full slate of commissioners.

The following individuals served on the Commission during some or all of the period from April 1, 2022 to March 31, 2023:

NAME	APPOINTMENT	TERM EXPIRATION <sup>5</sup>	RESIGNATION
Paula Heiskell	April 2017 (reappointed 2019)	March 2024	
Noemi Barbadillo	June 2018		April 2022
Sarah Simmons	March 2019	March 2024	
Michael Williams	May 2019	March 2023	
Lu Ann Lankford-Faborito	February 2020	March 2023	
Susan Pu	July 2020		April 2022
Spencer Lau	October 2021	March 2024	
Daniel O'Brien	November 2021	March 2024	
Evan Dust <sup>6</sup>	April 2022	March 2023	
Poerava Tehiva <sup>7</sup> (replaced Ms. Pu)	July 2022	March 2024	
VACANT (position formerly held by Ms. Barbadillo)	VACANT	March 2023	

<sup>4</sup> Maui County Charter Section 13-2(6) provides: “No member of any board or commission shall be eligible for a second appointment to the same board or commission prior to the expiration of two (2) years, provided that members of any board or commission initially appointed for a term not exceeding two (2) years shall be eligible to succeed themselves for an additional term.”

<sup>5</sup> Commission terms expire on the last day of March.

<sup>6</sup> Commissioner Dust was reappointed to a second term. *See supra* n. 4.

<sup>7</sup> Commissioner Tehiva is eligible for reappointment in 2024. *See supra* n. 4.

### III. COMMISSION TERMS

A recurring theme over the course of the past few years has been the term expiration dates for the commissioners. Four commissioners will end their terms in 2023, and five commissioners will end their terms in 2024.<sup>8</sup>

The Cost of Government Commission has gone through various iterations under the County Charter over the last 46 years. Notably, in 2012, the Commission terms increased from two-year terms to staggered five-year terms. Following the 2012 Charter amendment, commissioner terms were adjusted to meet the five-year requirement, but they remained “unstaggered.” Over the next eight years, no one noticed the administrative error, in part because there were 12 resignations. In 2020, the number of resignations declined significantly (in large part due to meetings being held remotely via BlueJeans), and when there was no scheduled turnover of commissioners at the end of the 2020 – 2021 term, the Commission took notice. It was then that they realized that the next scheduled appointments of new commissioners were not until 2023 and 2024. The Commission is concerned with the potential loss of “institutional memory” that accompanies losing all commissioners in the course of a year, as well as the energy and new ideas that accompany the addition of one or two new commissioners each year.

The Commission asked the Charter Commission to review the issue in 2020, but the Charter Commission decided not to move forward. The Commission has also discussed the issue with the Mayor’s Office and the Department of the Corporation Counsel and would like to find ways, within the confines of the Charter and County Code, to resolve the issue.

### IV. COMPLETED INVESTIGATIONS AND REPORTS

The Commission has continued its active role in investigating a broad range of issues affecting the economy and efficiency of Maui County. The Commission issued three reports during its 2022 – 2023 term.

A. Report on Managing Visitor Numbers by Managing Visitor Accommodations  
(Issued March 2023)

This TIG investigation, led by Chair Williams,<sup>9</sup> began in August 2019 with a look at the enforcement of the rules about operating *permitted* short-term rentals (STRs) in the County. In February 2021, the Temporary Investigative Group expanded its scope to include policy options for managing visitor accommodations.

The report provides historical context to the growth of visitor numbers, a description of the various types of visitor accommodations, a dwelling and bedroom count in the different real property classes, and a summary of the various efforts to manage the growth of visitor numbers by managing the number of visitor accommodations. The report also suggests policy options available to the County to improve its management

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<sup>8</sup> See *supra* n. 5

<sup>9</sup> Commissioner Noemi Barbadillo was also a member of the TIG until her resignation in April 2022. Vice-Chair Daniel O’Brien was added to the TIG at the May 22, 2022 meeting. The Commission voted in December 2022 to dissolve the TIG and to allow Commissioner Williams to complete the investigation and draft report as a non-TIG investigation.

of visitor numbers by reducing the number of visitor accommodations and adding them into the residential inventory.

Chair Williams presented a draft report to the full Commission on March 9, 2023. The Commission approved the report at its March 28, 2023 meeting, and the final report, entitled, “Report on Managing Visitor Numbers by Managing Visitor Accommodations, was issued on March 31, 2023.

In its report, the Commission offered the following policy options to manage visitor accommodations:

1. Continue Enforcement Efforts Against Illegal Transient Vacation Rentals
2. Cap the Number of Hotel and Timeshare Units
3. Increase Real Property Taxes on Transient Vacation Rentals
4. Rezone Some or All “Minatoya Condominiums” to Ban Short-Term Rental Use
5. Enhance and Improve Enforcement of Transient Accommodations Tax and General Excise Tax for Short-Term Rentals
6. Modify Long-Term Rental Qualification Rules
7. Increase Real Property Tax Rate on Non-Owner-Occupied Parcels
8. Adopt a Real Property Tax Subsidy to Encourage Long-Term Rentals at Affordable Rates

The Commission’s Report on Managing Visitor Numbers by Managing Visitor Accommodations can be found on the Commission’s website at <https://www.mauicounty.gov/DocumentCenter/View/139683/Report-on-Managing-Visitor-Numbers-by-Managing-Visitor-Accommodations-March-2023--44-MB>.

**B. Report on Real Property Tax Options for Maui County (Issued October 2022)**

In June 2020, the Commission authorized an investigation into real property tax policies regarding agricultural lands. Chair Williams led the investigation. Over the course of the investigation, it became apparent that any significant reform to one property class of the County’s RPT system could affect and have repercussions on other classes. Accordingly, in May 2021, the Commission authorized the expansion of the investigation’s scope to include potential improvements to the entire set of RPT policies, not just those applying directly to land zoned or used for agriculture.

In October 2022, the Commission issued its Report on Real Property Tax Options for Maui County. In its report, the Commission set forth recommendations and policy options the County could pursue to achieve a more equitable tax burden on property owners based on their ability to pay, as well as ways to generate additional tax revenue to meet the County’s critical needs.

In its report, the Commission made the following recommendations:

1. That the County take a hard look at the disproportionately light Real Property Tax rates for Hotel and Resort property classes, and recommended a minimum Hotel and Resort property tax rate of \$25.00 to align more with Oahu's RPT rate as measured by its ratio to visitor room charges.
2. That the County equalize the tax rates for the Hotel/Resort and Timeshare classifications, and that property tax rates for both be raised to \$25.00 to align with Oahu.
3. That the Real Property Assessment Division be authorized to write regulations to allow for tenant turnover and temporary vacancies, as well as provide more flexibility in the submission of Long-Term Rental applications and the commencement of LTR exemptions.
4. That Maui County Code Section 3.48.290 be amended to add the income approach to its toolbox of real property assessment methods.
5. That the Administration and County Council adjust the method of setting the value tier thresholds for the Owner-Occupied, Non-Owner-Occupied, Short-Term Rental, and Long-Term Rental property classes, so that Tier 3 (the highest value tier) consists of all parcels with values above the median parcel value, and Tiers 1 and 2 equally divide the remaining parcels with values below the median.
6. That County elected officials and its employees stop referring to "taxpayers" generically — there are distinct classes of property taxpayers, and their tax rates and ability to pay vary significantly. There simply is no generic "Maui County taxpayer."

The Commission's Report on Real Property Tax Options for Maui County can be found online at <https://www.mauicounty.gov/DocumentCenter/View/138757/Report-on-Real-Property-Tax-Policy-Options-for-Maui-County-October-2022-62MB>.

C. Report on Homelessness in Maui County (Issued April 2022)

In June 2020, the Commission formed a TIG to evaluate whether there is an attainable set of policies that would reduce or eliminate homelessness in Maui County. The TIG was led by Chair Williams and Commissioner Lankford-Faborito.<sup>10</sup>

The Commission interviewed Administration officials who oversee homelessness issues, as well as individuals from the nonprofit sector who work with the homeless. The Commission also reviewed and compiled discussions, presentations, and actions taken over the past two years by the Affordable Housing Committee, Budget Committee, County Council, and newly-created Commission on Healing Solutions for Homelessness.

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<sup>10</sup> Former commissioner Hannah Werth initiated and led the investigation until her resignation in April 2021.

The TIG presented its initial findings and recommendations to the full Commission on December 9, 2021. The Commission approved the TIG recommendations at its March 17, 2022 meeting, and the final report was issued in April 2022.

In its “Report on Homelessness in Maui County,” the Commission found that despite the years of hard work by the County’s Homeless Division and dedicated nonprofit organizations, whose common goal it is to end homelessness in Maui County, there is persistent disagreement as to how to move toward that goal and no comprehensive plan in place. In addition, the Division does not have the necessary staff, expertise, and resources to develop the type of comprehensive plan that is so desperately needed. County Council members have repeatedly asked for such a plan, but none has been produced, and none is underway. The Commission therefore offered the following recommendations.

1. That the Administration or the County Council issue a request for proposals to create a comprehensive plan to end homelessness in Maui County; and
2. That the County use unencumbered money from the Fiscal Year 2022 Affordable Housing Fund to pay for the contract.

The Report also identified topics that the comprehensive plan should address, including the following:

1. Assess the scope and demographics of those who are houseless.
2. Determine the need for additional emergency shelters.
3. Determine the need for additional wrap-around service workers.
4. Determine how many additional permanent housing units are needed.
5. Evaluate the Kauhale model from Oahu’s Kama’oku development.
6. Determine what changes are needed to the County’s public transportation system.
7. Determine what is needed to ensure discharged prisoners have a safe landing.
8. Catalog all County grants to organizations working on homelessness.
9. Identify State and Federal funds available for reducing homelessness in Maui County.
10. Evaluate whether the County should require that all newly arriving visitors have a verifiable place to stay to prevent imported homelessness.
11. Determine whether and how the County should revise its laws and policies about people camping in parks, on beaches, in hidden areas behind trees and buildings.



The Commission's report has been well received by the County Council. In May 2022, the Council voted unanimously to earmark \$250,000 from the Affordable Housing Fund in the Fiscal Year 2023 Budget to complete a Maui County Comprehensive Plan to End Homelessness. In October 2022, the Department of Housing and Human Concerns issued a request for Proposals for a Strategic Plan to Address Homelessness. The Department received nine proposals and in January 2023, selected the Seattle-based consulting firm of Eco-Northwest to draw up the. The plan should be finalized sometime this spring.

The Commission's Report on Homelessness in Maui County can be found online at <https://www.mauicounty.gov/DocumentCenter/View/133555/COGC-Report-on-Homelessness-in-Maui-County-April-2022>.

## V. CONTINUING INVESTIGATIONS

The Commission currently has three ongoing investigations that will continue into its 2023 – 2024 term.

### A. County Road Safety

In December 2020, the Commission authorized a TIG investigation into road safety issues in Maui County, especially as it relates to roads in and around Hāna. TIG members included Susan Pu, the Commission's East Maui representative, and Paula Heiskell. In June 2021, the Commission heard a presentation from Councilmember Shane Sinenci and public testimony from Hāna residents about the visitor impacts and traffic hazards on Hāna Highway.

Commissioner Pu resigned in April 2022. At the Commission's May 2022 meeting, newly-appointed Commissioner Evan Dust joined the TIG, which subsequently widened its scope to look more generally at what procedures the County uses to prioritize its road funds for safety projects, whether the County is working in cooperation with other transportation facility partners (State Department of Transportation and Federal Highway Administration), whether there is adequate signage in areas where there are known dangers, and whether the County's process can identify where there are road safety problems that are not being adequately addressed.

### B. County of Maui Unfunded Liabilities

In December 2022, the Commission authorized a TIG investigation into the County's unfunded liabilities. The investigation is led by Commissioners Lau and Simmons. The scope of the investigation includes a review of the County's unfunded liabilities related to employee retirement benefits to determine if there are additional strategies available to reduce the balance more expediently.

### C. Capital Project Delivery Process

In January 2023, the Commission authorized a non-TIG investigation into the County's capital project delivery process. The investigation is led by Commissioner Dust. The

purpose of the investigation is to determine and document the project delivery practices being used by County departments responsible for capital projects and to assess opportunities for improving those processes that may result in cost savings to Maui County.

## **VI. UPDATE ON PREVIOUS INVESTIGATIONS AND REPORTS**

### **A. Report on Financing of the Wailuku Parking Structure (Issued November 2020)**

In November 2020, the Commission issued a report following a nine-month investigation into the financing of the County-owned Wailuku Parking Structure. The Commission reviewed the Federal Opportunity Zones program, which encourages private investors to start new businesses in economically depressed areas of the country. Wailuku is one of the federally-designated Opportunity Zones. The Commission opined that the County could save \$5-6 million if it were to lease the land to an investor or qualified investment fund, transfer the construction contract to that investor, and have that investor own and operate the garage for at least ten years.

In its report, the Commission recommended that the County solicit bids for private financing, ownership, and management of the Wailuku Parking Structure. Specifically, the Commission recommended that the County issue a Request for Proposals to determine whether there is any investor or investor group interested in constructing and operating the Wailuku Parking Structure for ten or more years as an Opportunity Zone investment.

In August 2021, Chair Williams was informed by Erin Wade, County of Maui Redevelopment Program Planner, that the County had decided to accept the COGC's recommendation to solicit investors who might want to purchase the garage and build it with private money. In May 2022, Ms. Wade told Chair Williams that the County still plans to seek an Opportunity Zone investor, but not until three cost factors are settled: (1) a modification of the construction contract that extends it by about nine months due to discovery of iwi kūpuna; (2) a contract for the garage access equipment and technology; and (3) a management contract. Ms. Wade expected these issues to be resolved by the fall of 2022.

At the Commission's August 2022 meeting, Ms. Wade stated that the Departments of Finance and Corporation Counsel wanted to make sure they knew what the total construction costs would be before selling off the garage. They also wanted to ensure that the garage would operate and support the system of parking in the neighborhood, and they were not sure how to do that if the garage were sold. She added that PARK MAUI would manage parking in the neighborhood, which would provide the County with a better idea of what the expectations would be if the garage were sold. For that to happen, the County needed to be able to control the rates in the facility, which would be possible if the investor does not need any oversight in the ongoing revenue generated from the facility. The garage is expected to open in June 2023.

### **B. Access to Public Documents Filed in County Litigation**

In June 2020, the Commission decided to investigate whether the County could provide public access to civil litigation documents where the County is a party. The Department of the Corporation Counsel had hesitated to provide access to these documents, citing the administrative and financial challenges to setting up a publicly-accessible database of all civil litigation documents. The Department did, however, notify the Commission in March 2021 that it had started to post a list of its open litigation matters on its webpage to assist the public with finding documents and committed updating the list twice per year. To date, only partial pleadings of three cases have been uploaded to its website.

The Commission continued searching for ways to make civil litigation documents accessible to the public and received funding in Fiscal Year 2022 for a pilot project to upload documents to the Commission’s website. The Commission’s Technical Writer assisted with the database.

The Commission received additional funding in Fiscal Year 2023, but decided not to extend the project.

C. Capital Improvement Project Budgets of Department of Water Supply and Department of Environmental Management

This TIG investigation, led by Chair Williams,<sup>11</sup> was formed in August 2019 to investigate how the Department of Water Supply (DWS) manages its capital expenditures. TIG objectives included identifying projects specified and funded by the County Council, but not implemented by the DWS, and evaluating the DWS Countywide five-year capital improvement plan.

The Commission discharged the TIG from its investigation in December 2022.

D. State-County Partnership to Provide Solar Energy Power to Wailuku-Kahului Wastewater Reclamation Facility

In March 2022, the Commission authorized an investigation into whether a State-County partnership could be formed to provide solar energy power to the Wailuku-Kahului Wastewater Reclamation Facility. The State Department of Transportation (DOT), which owns and controls the Kahului Airport, was evaluating whether to issue an RFP for a solar panel and battery storage just to the Hāna side of the airport; a private company would construct the solar installation that would power the airport. Because the County’s wastewater treatment plant is immediately adjacent to the airport and sits on land that the County leases from the State, the Commission decided to investigate whether it might be feasible for the County to enter into a partnership with the State to obtain renewable solar energy to operate the WWRF, and whether such a partnership could result in a significant reduction in energy costs to the County.

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<sup>11</sup> The two previous commissioners who were on the TIG, Michelle Del Rosario and Patrick O’Neil, resigned from the Commission in May and August 2021 respectively.

Chair Williams and Vice-Chair O'Brien led the investigation. In March 2023, the Commission decided to suspend its investigation and terminate the TIG.

## VII. COMMISSION MEETING SUMMARIES

When COVID-19 closed government buildings in March 2020, the Commission transitioned quickly, becoming the first Maui County board or commission to use the BlueJeans remote meeting application. Since its first BlueJeans meeting in April 2020, the Commission has continued to meet virtually on the second Thursday of each month from 10:00 a.m. to noon. Beginning in April 2022, in compliance with Senate Bill 1064 amending the Sunshine Law, the Commission also began offering a physical location for those commissioners or members of the public who wish to participate or testify in person. Individuals are now able to attend meetings remotely via BlueJeans or in person in the Mayor's conference room on the ninth floor of the Kalana O Maui Building. The Commission decided to continue this "hybrid" meeting approach through the end of its 2022 – 2023 term.

The Commission receives support during its meetings from the County Auditor, the Office of the Corporation Counsel, the Office of the Mayor who designates an Ex-Officio Member, and the Commission's Technical Writer.

A general summary of each meeting, including attendance, is provided below.<sup>12</sup>

### **April 14, 2022 Meeting**

Seven members were present, including new Commissioner Evan Dust. Commissioner Lau was excused. Vice-Chair Barbadillo resigned on April 4, 2022, which created a new vacancy. The Commission also began its "hybrid-remote" meeting schedule, holding its meeting remotely via BlueJeans and in-person at the Mayor's Conference Room on the 9<sup>th</sup> floor of the County Building. There was no public testimony.

The Commission elected Michael Williams as Chair, and Daniel O'Brien as Vice Chair for the 2022 – 2023 term.

The Commission briefly discussed the continued issue of commissioners not being appointed for staggered terms as required by the Charter. Term expiration dates for all nine commissioners are either 2023 or 2024. Ms. Pellegrino stated that she is working with the Department of Corporation Counsel to create a staggered term schedule that possibly could be approved by ordinance.

Chair Williams reported that soon after the Commission issued its "Report on Homelessness in Maui County," Councilmember Gabe Johnson proposed funding to issue an RFP to review the homelessness issue in Maui County.

No new topics for investigation were proposed or discussed.

### **May 12, 2022 Meeting**

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<sup>12</sup> Meeting minutes can be found at <https://www.mauicounty.gov/Archive.aspx?AMID=60>.

Six members were present, with Commissioner Lankford-Faborito absent. Commissioner Pu resigned on April 15, 2022, which created a second vacancy. There was no public testimony.

Deputy Corporation Daniel Kunkel provided an overview of the Sunshine Law, the Commission's Rules of Practice and Procedure, the County Charter, and the Code of Ethics, as they related to the Commission.

Chair Williams reported that the Fiscal Year 2023 proposed budget now includes \$250,000 to hire a consultant to produce a Comprehensive Report to End Homelessness in Maui County, as recommended by the COGC. Chair Williams also noted that Civil Beat published an article on the COGC Report.

The Commission approved the selection of Vice-Chair O'Brien to serve on the Visitor Accommodations TIG and Commissioner Dust to serve on the County Road Safety TIG.

The Commission briefly discussed its other TIG and non-TIG active investigations.

No new topics for investigation were proposed or discussed.

### **June 9, 2022 Meeting**

Six members were present, with Commissioner Lau excused, and two vacancies.

Public testimony was offered by Dick Mayer on agenda Item X (Other Potential Topics) of the agenda. Mr. Mayer explained that the County was now entitled to receive 3% of the Transient Accommodations Tax (TAT) and he wanted to ensure that the County was receiving its proper share. Mr. Mayer stated that it was his understanding that the County does not currently collect the TAT, but instead uses the State Department of Taxation to collect the funds. He asked the Commission to investigate whether the funds are being collected properly, but also to ensure that all people who should be paying the TAT in Maui County are doing so.

County Auditor Lance Taguchi stated that an audit or assessment of the TAT implementation was under consideration by his office and that his audit plan would be coming out at the end of June 2022.

The Commission reviewed and approved the Cost of Government Commission 2021–2022 Annual Report.

The Commission briefly discussed its active investigations.

Vice-Chair O'Brien suggested a review of the Hālau of 'Oiwī Art construction. He noted that he fully supported the project and that it would benefit Wailuku Town, but he was unclear how the \$54 million budget figure was calculated and wanted to see a breakdown of the project's funding needs. The Commission voted 5-1 (Commissioner Lankford-Faborito voting no; 1 excused; 2 vacancies) to invite Erin Wade to speak to the Commission about the Hālau of 'Oiwī Art as well as to follow up on the Commission's previous report on the Wailuku parking garage.

### **July 14, 2022 Meeting**

Six members were present, with Commissioner Simmons excused, and two vacancies. There was no public testimony.

Chair Williams stated that the Commission had considered reviewing the manner in which the County can enforce proper registration of TAT and GET for short-term rentals, but because the County Auditor included it in his audit plan, the Commission would refrain from investigating the issue.

Commissioners Dust and Heiskell proposed a revised scope and parameters of their TIG investigation into County road safety. They decided to widen the scope and look more generally at what procedures the County uses to prioritize its road funds for safety projects, examine whether the County is working in cooperation with other transportation facility partners (State Department of Transportation and Federal Highway Administration), whether there is adequate signage in areas where there are known dangers, and whether the County's process can identify where there are road safety problems that are not being adequately addressed.

The Commission voted unanimously (6-0, 1 excused, 2 vacancies) to expand the scope of the investigation.

### **August 11, 2022 Meeting**

Six members were present, including new Commissioner Poerava Tehiva; Commissioners Lau and Simmons were excused; there was one vacancy.

Chair Williams welcomed Erin Wade, Redevelopment Program Planner with the Department of Management. She provided an overview of the Hālau of 'Ōiwi Art (HOA), an update on the Wailuku Parking Garage financing and construction, and a presentation on the PARK MAUI Parking Management Program.

The Commission briefly discussed its TIG and non-TIG active investigations.

The Commission considered potential new topics to review. The Commission decided not to further review the Hālau of 'Ōiwi Art and subdivision deferral agreements. There was no additional discussion regarding the PARK MAUI program and County of Maui unfunded liabilities.

The Commission also reviewed the list of Cost of Government Commission Reports (2008 – Present) prepared by Technical Writer Shelley Pellegrino.

### **September 8, 2022 Meeting**

Seven members were present, with Commissioner Tehiva absent, and one vacancy. There was no public testimony.

Chair Williams explained that Deputy Corporation Counsel Daniel Kunkel informed him that the State Office of Information Practices (OIP) recently issued guidance that once a TIG investigation has started, a commission may no longer discuss the status of any TIG

investigation until the TIG has completed its report. Consequently, the COGC can no longer receive TIG updates at monthly commission meetings.

Chair Williams also explained that OIP guidance stated that if a TIG loses one of its members, the TIG may continue its investigation, but if the TIG wants to change its membership, the TIG must be dissolved. At a subsequent meeting, the Commission may create a new TIG to carry on the work of the dissolved TIG.

Because TIG updates were no longer permissible under OIP's new guidance, the Commission did not receive updates from the following TIG investigations:

1. Visitor Accommodations — Policy Options for Management (Chair Williams, Vice-Chair O'Brien)
2. State-County Partnership to Provide Solar Energy Power to Wailuku-Kahului Wastewater Reclamation Facility (Chair Williams, Vice-Chair O'Brien)
3. Homelessness Issues in Maui County (Commissioner Lankford-Faborito, Chair Williams)
4. County Road Safety (Commissioners Dust and Heiskell)

The Commission briefly discussed the following non-TIG active investigations:

1. Access to Public Documents Filed in County Litigation (Chair Williams)
2. County Real Property Tax Policies (Chair Williams)
3. Capital Improvement Project Budgets of Department of Water Supply and Department of Environmental Management (Chair Williams)

The Commission voted unanimously (7-1, one absence, one vacancy) to begin an investigation into the County's unfunded liabilities. Commissioners Lau and Simmons would lead the investigation.

### **October 19, 2022 Meeting**

Seven members were present, with Commissioner Simmons excused, and one vacancy. There was no public testimony.

The Commission decided to continue its "hybrid" meeting approach through the end of the Commission's 2022 – 2023 term, noting that its commissioners from Hāna and Moloka'i had found it easier than having to travel to attend in-person meetings.

The Commission reviewed and voted unanimously (7-0, one excused, one vacancy) to approve the Cost of Government Commission Report on County Real Property Tax Options.

The Commission received brief updates on its non-TIG investigations:

1. Access to Public Documents Filed in County Litigation (Chair Williams)
2. County Real Property Tax Policies (Chair Williams)
3. Capital Improvement Project Budgets of Department of Water Supply and Department of Environmental Management (Chair Williams)

The Commission then voted unanimously (7-0, one excused, one vacancy) to dissolve its TIGs and convert them to non-TIG investigations. Chair Williams suggested the conversion

because under the Sunshine Law, the Commission cannot receive updates from TIGs; however, because the Commission does not have TIGs with more than two people, it is redundant to call them TIGS. Consequently, he preferred to remove the TIG designation.

The Commission then received updates from the additional non-TIG investigations:

1. Visitor Accommodations — Policy Options for Management (Chair Williams, Vice-Chair O'Brien)
2. State-County Partnership to Provide Solar Energy Power to Wailuku-Kahului Wastewater Reclamation Facility (Chair Williams, Vice-Chair O'Brien)
3. County Road Safety (Commissioners Dust and Heiskell)
4. County of Maui Unfunded Liabilities (Commissioners Lau and Simmons)

No new topics for investigation were proposed or discussed.

### **November 10, 2022 Meeting**

Six members were present, with Commissioner Simmons excused, Commissioner Poerava absent, and one vacancy. There was no public testimony.

The Commission welcomed its new Deputy Corporation Counsel Caleb Rowe, accompanied by First Deputy Corporation Counsel Richelle Thompson.

Ms. Thompson raised concerns about the Commission's prior-month decision to dissolve the two-person TIG investigations in favor of calling them non-TIG investigations. Ms. Thompson explained that the Sunshine Law is clear that a Temporary Investigative Group is comprised of two or more commissioners, but less than a quorum. In other words, an investigation undertaken by two (2) to four (4) commissioners should be considered a TIG. Ms. Thompson recommended that the Commission reestablish the TIGs, so the investigations with two or more commissioners can establish their scope and parameters.

The Commission voted unanimously (6-0, one excused, one absent, one vacancy) to reestablish the following TIGs:

1. Visitor Accommodations — Policy Options for Management (Chair Williams, Vice-Chair O'Brien)
2. State-County Partnership to Provide Solar Energy Power to Wailuku-Kahului Wastewater Reclamation Facility (Chair Williams, Vice-Chair O'Brien)
3. County Road Safety (Commissioners Dust and Heiskell)
4. County of Maui Unfunded Liabilities (Commissioners Lau and Simmons)

The Commission received brief updates from its non-TIG investigations.

No new topics for investigation were proposed or discussed.



### **December 8, 2022 Meeting**

Six members were present, with Commissioner Lankford-Faborito excused, Commissioner Poerava absent, and one vacancy.

Chair Williams expressed his concern about the four upcoming Commission vacancies at the end of March 2023, followed by another five at the end of March 2024.

Chair Williams proposed that the Visitor Accommodations TIG, comprised of himself and Vice-Chair O'Brien, be dissolved, and that he be allowed to complete the investigation and report as a non-TIG investigation. The Commission voted unanimously (6-0, one excused, one absent, one vacancy) to change the TIG to a non-TIG investigation.

Commissioners Dust and Heiskell proposed revisions to the parameters and scope of the TIG investigation into County road safety. The TIG plans to consider the following questions:

1. Is the County using Best Practices in prioritizing its assessment of road safety maintenance and design on County roads?
2. Is the County maximizing its cooperation with the state Department of Transportation, and with the Federal Highway Administration Local and Rural Road Safety Program on road safety maintenance and design?
3. Is there adequate signage in areas where there are known dangers that may not be obvious to drivers?
4. Are there any serious road safety problems that are not being adequately addressed in Maui County?

The Commission voted unanimously (6-0, one excused, one absent, one vacancy) to approve the revised parameters and scope.

The Commission also voted unanimously (6-0, one excused, one absent, one vacancy) to approve the proposed scope and parameters of the TIG investigation into the County's unfunded liabilities.

The Commission received brief updates from its non-TIG investigations.

The Commission voted unanimously to end its investigation into the Capital Improvement Project Budgets of Department of Water Supply and Department of Environmental Management (Chair Williams).

No new topics for investigation were proposed or discussed.

### **January 12, 2023 Meeting**

Seven members were present, with Commissioner Lankford-Faborito excused, and one vacancy.

Chair Williams again expressed his concern about the four upcoming Commission vacancies at the end of March 2023.

The Commission briefly discussed its non-TIG investigations.

The Commission voted unanimously (7-0, one absent, one vacancy) to approve the proposed scope and parameters of a new investigation into the County of Maui Capital Project Delivery Process, led by Commissioner Dust. The purpose of the investigation is to determine and document the project delivery practices being used by County departments responsible for capital projects and assess opportunities for improvements in those processes that may result in cost savings to Maui County.

### **February 9, 2023 Meeting**

Seven members were present, with Vice-Chair O'Brien excused, and one vacancy.

Chair Williams expressed his concern about whether the Commission appointment process would be completed prior to the Commission's April meeting and the risk that there might not be a quorum for that meeting with four commissioners' terms ending at the end of March. He stated that he sent a letter to Mayor Bissen alerting him to the situation

Chair Williams provided brief updates to his two investigations on Visitor Accommodations and County Real Property Tax Policies, and Commissioner Dust provided an update on his County of Maui Capital Project Delivery Process investigation.

No new topics for investigation were proposed or discussed.

### **March 9, 2023 Meeting**

Eight members were present, with one vacancy. The Commission welcomed the Office of the Mayor's representative and Commission Ex-Officio Member Sharon Banaag.

The Commission voted unanimously (8-0, one vacancy) to elect Vice-Chair Dan O'Brien to serve as interim chair for the April 2023 meeting.

The Commission discussed a draft report prepared by Chair Williams on Managing Visitor Numbers by Managing Visitor Accommodations. Commissioner Dust offered suggestions regarding the information provided and analysis of policy options. Chair Williams agreed to consider Commissioner Dust's suggestions and welcomed other commissioners to provide comments to him.

No new topics for investigation were proposed or discussed.

The Commission decided to meet a second time in March to review a revised Visitor Accommodations report, as well as the Commission's draft annual report.

### **March 28, 2023 Meeting**

Six members were present, with Commissioners Lau and Simmons excused, and one vacancy.

The Commission discussed the "Report on Managing Visitor Numbers by Managing Visitor Accommodations." Commissioner Dust expressed his concern that the report did not touch on the potential unintended consequences that could result from capping or reducing the number of visitor accommodations. Specifically, he was concerned that limiting supply might increase prices to the extent that it would work against the concept of "regenerative

tourism.” He noted there is a movement toward attracting visitors interested in learning more about the host culture and giving back to the community and environment by volunteering in a lo'i kalo (taro patch), for example. These types of visitors generally would be less interested in or possibly even be priced out of a high-end resort.

The Commission voted unanimously (6-0, 2 excused, one vacancy) to approve the Cost of Government Commission 2022–2023 Annual Report, to include a summary of the recently-approved visitor accommodations report.

#### **VIII. FINAL COMMENTS**

The Commission continues to welcome suggestions from the Mayor, County Council, and general public on issues of County economy and efficiency that the Commission might consider reviewing. The Commission encourages the Mayor and the County Council to implement policies that will continue to give taxpayers the best value for their money. Best management practices are strongly recommended to increase systemic efficiencies while reducing uneconomical or wasteful expenditures. The Mayor and the County Council should collaborate to improve government processes, increase efficient implementation of these processes and policies, and balance spending against the efficiency of the provided service.

#### **IX. ACKNOWLEDGMENTS**


The Commission would like to thank former Mayor Michael Victorino and Mayor Richard Bissen Jr., as well as the members of the Maui County Council, who have continued to support and consider the Commission's work.

The Commission also thanks Department of the Corporation Counsel attorneys Caleb Rowe and Daniel Kunkel for their guidance, advice, and assistance in ensuring that the Commission is adhering to all legal matters correctly and efficiently.

The Commission would like to thank Ipo Mossman, former Community Liaison for the Office of the Mayor and Sharon Banaag, Executive Assistant for the Office of the Mayor and the Ex-Officio Member of the Commission. Their time, attention, and assistance in communicating our concerns and questions to the Mayor are greatly appreciated.

Finally, the Commission would like to thank the Office of the County Auditor and Shelley Pellegrino, Technical Writer to the Commission, for their professionalism and support.

**Respectfully Submitted:**

  
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**MICHAEL WILLIAMS, CHAIR**

3/31/23  
\_\_\_\_\_  
**DATE**