

GOVERNMENT RELATIONS, ETHICS, AND TRANSPARENCY COMMITTEE

Council of the County of Maui

MINUTES

May 1, 2024

Online Only via TEAMS

CONVENE: 9:07 a.m.

PRESENT: Councilmember Nohelani U‘u-Hodgins, Chair
Councilmember Tamara Paltin, Vice-Chair
Councilmember, Tom Cook, Member
Councilmember Gabe Johnson, Member
Councilmember Tasha Kama, Member (left at 2:20 p.m.)
Councilmember Alice L. Lee, Member
Councilmember Keani N.W. Rawlins-Fernandez, Member
(arrived at 9:12 a.m./left at 2:20 p.m.)
Councilmember Shane M. Sinenci, Member (arrived at
9:10 a.m./left at 3:10 p.m.)
Councilmember Yuki Lei K. Sugimura, Member (left at
2:20 p.m.)

STAFF: Kasie Apo Takayama, Senior Legislative Analyst
Pauline Martins, Senior Committee Secretary
Richard Mitchell, Legislative Attorney
Criselda Paranada, Committee Secretary
Lenora Dinneen, Council Services Assistant Clerk
Jean Pokipala, Council Services Assistant Clerk

Zhantell Lindo, Council Aide, Moloka‘i Residency Area
Office
Roxanne Morita, Council Aide, Lāna‘i Residency Area Office
Mavis Oliveira-Medeiros, Council Aide, East Maui Residency
Area Office
Jade Rojas-Letisi, Makawao-Ha‘ikū-Pā‘ia Residency Area
Office
Bill Snipes, Council Aide, South Maui Residency Area Office

Angela Lucero, Executive Assistant to Councilmember
Paltin
Axel Beers, Executive Assistant to Councilmember Johnson
Davideane “Lei” Sickels, Executive Assistant to
Councilmember Kama
Dawn Lono, Executive Assistant to Councilmember Sinenci

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Evan Dust, Executive Assistant to Councilmember Kama
Gina Young, Executive Assistant to Councilmember Sinenci
Haunani Madela, Executive Assistant to Councilmember
Rawlins-Fernandez
Jared Agtunong, Executive Assistant to Councilmember
Cook
Kate Griffiths, Executive Assistant to Councilmember
Johnson
Keomailani Hirata, Executive Assistant to Councilmember
Rawlins-Fernandez
Laura McDowell, Executive Assistant to Councilmember
U'u-Hodgins
Michele McLean, Executive Assistant to Councilmember Lee
Nayleen Kamai, Executive Assistant to Councilmember
Kama
Sarah Sexton, Executive Assistant to Councilmember
Rawlins-Fernandez
Stacy Takahashi, Executive Assistant to Councilmember
Cook
Susan Clements, Executive Assistant to Councilmember
U'u-Hodgins

ADMIN.: Mimi Desjardins, First Deputy Corporation Counsel,
Department of the Corporation Counsel
Kristin Tarnstrom, Deputy Corporation Counsel,
Department of the Corporation Counsel
John Gores, Deputy Corporation Counsel, Department of
the Corporation Counsel
Josiah Nishita, Managing Director, Department of
Management

OTHERS: Lex Smith, Kobayashi Sugita & Goda LLP
Ian Chan Hodges
Johann Lall
Jasee Law
Plus (7) other people

PRESS: *Akakū Maui Community Television, Inc.*

CHAIR U'U-HODGINS: . . .*(gavel)*. . . Good morning, Members. Will the Government Relations, Ethics, and Transparency Committee meeting of May 1 please come to order. It is 9:07 p.m.--a.m., I'm sorry. I'm your Chair, Nohelani U'u-Hodgins. Members, in accordance with the Sunshine Law, please identify

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by name who, if anyone, is in the room, vehicle, or workspace with you today. Minors do not need to be identified. Let's begin with Committee Vice-Chair Tamara Paltin, good morning.

VICE-CHAIR PALTIN: Aloha kakahiaka, and hayak ya kākou.

CHAIR U'U-HODGINS: Hayak ya. Okay. We will skip over and go to Council Chair so we can get our daily greeting. Council Chair, good morning.

COUNCILMEMBER LEE: . . .*(inaudible)*. . .

CHAIR U'U-HODGINS: Oh, boy. Okay. We will come back to you. Councilmember Tom Cook.

COUNCILMEMBER LEE: . . .*(inaudible)*. . .

CHAIR U'U-HODGINS: Okay. Chair Lee, hayak ya...or hayako ya?

COUNCILMEMBER LEE: Can you hear me?

CHAIR U'U-HODGINS: We can.

COUNCILMEMBER LEE: Okay. This is from the Country of Oman, and it's in West Asia, near the Persian Gulf, and it's hayak ya, and that's the greeting of the day. Thanks.

CHAIR U'U-HODGINS: Hayak ya. Okay. Thank you. Member Cook, hayak ya.

COUNCILMEMBER COOK: Aloha, and hayak yak [*sic*].

CHAIR U'U-HODGINS: I love it. Councilmember Johnson. Good morning.

COUNCILMEMBER JOHNSON: Oh, hayaku...hayaku [*sic*]. There's no testifiers at the Lānaʻi District Office. I'm alone on my side, and I'm here and ready to work. Thank you, Chair.

CHAIR U'U-HODGINS: Thank you. Councilmember Tasha Kama, good morning. Hayak ya.

COUNCILMEMBER KAMA: Aloha kakahiaka, Chair, and hayak ya to you too.

CHAIR U'U-HODGINS: Member Rawlins-Fernandez, good morning. Is she with us yet? No, she'll join us shortly. She's excused for now. Member Sinenci, hayak ya?

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COUNCILMEMBER SINENCI: Aloha kakahiaka, Chair, and hayak ya, ahn gin sa sama [sic]. I'm here at the East Maui District Office with District Staff Dawn Lono and Mavis Medeiros. No testifiers today, Chair.

CHAIR U'U-HODGINS: Thank you, Member Sinenci. And good morning, Member Sugimura. Hayak ya.

COUNCILMEMBER SUGIMURA: Good morning, and Happy May Day --

CHAIR U'U-HODGINS: Happy May Day.

COUNCILMEMBER SUGIMURA: -- to everyone. I'm looking forward to a productive meeting. Thanks, Chair.

CHAIR U'U-HODGINS: Yes. From Corporation Counsel, we have Kristin Tarnstrom, Deputy Corporation Counsel. Our Committee Staff includes Pauline Martins, Senior Committee Secretary; Cris Paranada--I hope I said your name correct--Committee Secretary; Kasie Apo Takayama, Senior Legislative Analyst; Richard E. Mitchell, Legislative Attorney; David Raatz, Director; Richelle Kawasaki, Deputy Director; and Lei Dinneen, Council Services Assistant Clerk. Please see the last page of the agenda for information regarding connectivity. Testimony. Testifiers wanting to provide testimony should sign up in the lobby, join on the online meeting via the Teams Link, or call in to...to the phone number noted on today's agenda. Written testimony is encouraged and can be submitted via the eComment link at mauicounty.us/agendas as well. Under the Sunshine Law, the Chair will receive oral testimony for agenda items at the beginning of the meeting and as the item is called up. For individuals wishing to testify via Teams, please raise your hand by clicking on the "raise your hand" button. If calling in, please follow the prompts via phone, star-five to raise and lower your hand, star-six to mute and unmute. Staff will add names to the testifier list in the order testifiers sign up or raise their hands. For those on Teams, Staff will lower your hand once your name is added, Staff will then call the name you're logged in under or the last four digits of your phone number when it is your turn to testify. At that time, Staff will also enable your microphone and video. If you wish to testify anonymously please notify Staff, otherwise, please state your name for the record at the beginning of your testimony. Oral testimony is limited to three minutes per item. If you are still testifying beyond that time, I will kindly ask you to complete your testimony. Once you are done testifying or you do not wish to testify, you can also view the meeting on *Akakū* Channel 53, Facebook Live, or mauicounty.us/agendas. We will do our best to take up each person in an orderly fashion. We will now call on the testifiers wishing to testify at the beginning of the meeting. And Staff, if you could please call our first testifier. Thank you.

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MS. APO TAKAYAMA: Chair, Staff has not received any request for testimony at this time. If anyone would like to testify, please raise your hand by clicking the “raise your hand” button or following the prompts via phone. Last call for testimony at the beginning of the meeting...three, two, one. Chair, seeing no individuals wishing to testify.

ACTION: Close oral testimony.

CHAIR U‘U-HODGINS: Thank you. Okay. Let’s move on.

**GREAT-1(5) APPOINTMENT AND REMOVAL OF ADMINISTRATIVE HEADS OF
DEPARTMENTS (RESOLUTION 24-83, RELATING TO THE
APPOINTMENT OF MARIA ZIELINSKI AS DIRECTOR OF FINANCE)**

CHAIR U‘U-HODGINS: Before us we have Resolution 24-83, entitled “APPROVING THE APPOINTMENT OF MARIA ZIELINSKI AS THE DIRECTOR OF FINANCE.” Resolution 24-83’s purpose is to approve the appointment of Maria Zielinski as the Director of Finance under Sections 6-2.5 and...okay. Before...I will finish this sentence, and then I’ll introduce Member Rawlins-Fernandez. And okay, under Section 6-2.5 and 8-4.2 of the Revised Charter of the County of Maui (1983), as amended. The Council must approve or disapprove the appointment by June 10th, 2024, or the appointment will be deemed approved. And before we begin, I would like to say good morning to Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Aloha kakahiaka kākou, mai Moloka‘i Nui a Hina. I’m at my private residence, alone here, and there are currently...well, there weren’t any testifiers at the Moloka‘i District Office. Mahalo, Chair.

CHAIR U‘U-HODGINS: Thank you. Okay. Members, in your Granicus files, you respond...you will find correspondence relating to this item, including a copy of Ms. Zielinski’s resume, also including correspondence from the Mayor dated yesterday, April 30th, withdrawing her name for consideration for the Director of Finance. And before we get into discussion, we will do more testifiers. So, Staff, if you could please call on the next testifier, please.

MS. APO TAKAYAMA: Chair, we see Ian Chan Hodges raising their hand. Can you please let us know if you’d like to testify on this item or another item? Ian Chan Hodges?

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CHAIR U‘U-HODGINS: Mr. Chan Hodges, are you going to testify, or would you like to testify...excuse me, on this item, or the next items we have on the agenda today?

MR. CHAN HODGES: On this...on this item please.

CHAIR U‘U-HODGINS: Okay. Go ahead. Please begin.

MR. CHAN HODGES: Can you guys hear me?

CHAIR U‘U-HODGINS: We can.

MR. CHAN HODGES: Is my camera on?

CHAIR U‘U-HODGINS: No, but we can hear you, we can’t see you.

MR. CHAN HODGES: Oh. Okay, great. Thank you.

CHAIR U‘U-HODGINS: Mm-hmm.

MR. CHAN HODGES: Aloha, Chair U‘u-Hodgins, and Members of the Council. Thank you for the opportunity to testify this morning. My name is Ian Chan Hodges, and I am here to discuss a pivotal opportunity for Maui County as we navigate the devastation after the Lahaina wildfires. With the withdrawal yesterday of Maria Zielinski as the Mayor’s nominee for Director of Finance, the County needs...the County’s need for robust fiscal strategies and external expertise is more pressing than ever. And I want to briefly talk about a nonprofit organization that some of you may already be aware of--the Public Finance Initiative. The Public Finance Initiative is a nonprofit organization specializing in equitable, sustainable, inclusive public finance programs. PFI, as it’s known, has already provided their expertise in Maui County by providing teach-ins for Council and Administrative Staff to demonstrate our commitment to our community’s recovery and long-term resilience. The education is crucial looking at the complexities of recovering a building but with the recent withdrawal of the nominee for Director of Finance, the need for PFI’s expertise and support is even more pronounced. Their ongoing guidance can help bridge the gap in leadership and ensure continuity in our fiscal strategies. Once...I spoke with the...the head of PFI last week, and they are--and this is when we thought that Zielinski would still be the nominee--but they are actually open...open to discussing enter into a pro bono engagement with the Council. They already have a relationship with the Council’s bond advisor, PFM, to both...or provide additional support in terms of figuring out how municipal finance can help the County in moving forward. Additionally, yesterday I spoke with one of the largest foundations in the U.S., they have expressed interest in

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providing credit enhancements for bonds issued by Maui County. These enhancements would be aimed at projects addressing equity and sustainability considif--significantly both to our financial resilience and aftermath on wildfires. They will also very likely reduce the cost of borrowing for the County. Basically, in conclusion, given PFI's proven track record and already...already having won this to provide it by . . . *(inaudible)*. . . expertise, I urge the Council consider deepening the County's engagement with PFI. Also, we should probably look at capitalizing the support offered by Foundation Partners. Again, their willingness to provide credit enhancements could actually lower the cost of borrowing pretty significantly for the County. Thank...thank you for the time for . . . *(inaudible)*. . . consideration for testimony. I look forward to moving forward together for a resilient future for Maui County. Mahalo.

CHAIR U'U-HODGINS: Thank you. Excuse me. Members, does anyone have any clarifying questions for the testifier? Member Kama, go ahead.

COUNCILMEMBER KAMA: Thank you, Chair. Good morning, Ian. So, I just wanted to ask you --

MR. CHAN HODGES: Good morning.

COUNCILMEMBER KAMA: -- in plain English, exactly what did you say?

MR. CHAN HODGES: And I'm sorry for talking quickly. It wasn't...because of the withdrawal of Zielinski was so recent, I wasn't really expecting to testify. But basically, with the withdrawal of the Finance Director--and I'm not sure if she's going to continue to be acting Finance Director--that position is extremely important to the County not only for municipal finance, but for a bunch of other functions. And basically, looking at...looking at opportunities the County has to use its municipal finance going forward, as we look at how much support the State is going to be providing, it would be very helpful to actually have expertise. And the fact that the expertise of Public Finance Initiative can be offered pro bono, and the fact that they already do have a relationship with the County's bond advisor, PFM, there's...there's some opportunities there that actually could be...could help the County, particularly given the fact the County is so understaffed already...and also with the, you know, very recent withdrawal of the name of Maria Zielinski as Finance Director. And then the second thing, Councilmember Kama --

COUNCILMEMBER KAMA: Yes.

MR. CHAN HODGES: -- is the...there's a national foundation we've been working with, it's one of the biggest in the country, that has a program looking at using Public Finance to increase social equity. And they've been following Maui

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County for a long time, even before the wildfires. They just provided a major grant to an organization on Moloka'i, their second major grant, so they are involved in Hawai'i. And they are willing to look at actually providing credit enhancements, which basically means guaranteeing or providing something that would actually lower the cost of borrowing for the County, if those bonds are going to be built towards something.

COUNCILMEMBER KAMA: And Ian, what's the name of the organization again, Ian?

MR. CHAN HODGES: The organization is called Public Finance Initiative.

COUNCILMEMBER KAMA: Okay. Thank you. Thank you, Chair.

MR. CHAN HODGES: You're welcome.

CHAIR U'U-HODGINS: Of course. Members, any other clarifying questions for our testifier? Seeing none. Thank you very much for your testimony.

MR. CHAN HODGES: Mahalo.

CHAIR U'U-HODGINS: Staff, do we have anybody signed up to testify? Anybody else?

MS. APO TAKAYAMA: Chair, Staff has not received any further requests for testimony at this time. If anyone would like to testify, please raise your hand by clicking on the "raise your hand" button, or following the prompts via phone. Last call for testimony on Item GREAT-1(5)...three, two, one. Chair, seeing no individuals wishing to testify.

CHAIR U'U-HODGINS: Thank you. Members, seeing there are no individuals wishing to testify, without objection I would now close oral testimony for this item.

COUNCILMEMBERS VOICED NO OBJECTIONS.

ACTION: Close oral testimony for GREAT-1(5).

CHAIR U'U-HODGINS: Thank you. And as a reminder, written testimony will continue to be accepted. Members, considering the nomination withdrawal, is there any need for any question period? If not, we can move on. Go ahead, Member Sugimura, followed by Member Kama.

COUNCILMEMBER SUGIMURA: Thank you. I understand the withdrawal. Thank you for that clarification with that letter. I'm concerned, I wanted clarity that...I know that we have 60 days to approve, so I wanted to make sure that the clock

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stops, or can somebody explain that so we don't get into a situation where we have a problem again. Thank you.

CHAIR U'U-HODGINS: No worries. We have been going back and forth with this yesterday actually, so Kasie can probably answer that question best--if that's okay, Kasie. Thank you.

MS. APO TAKAYAMA: Yes. Thank you, Chair. Under Charter Section 6-2(5), the Charter provides for the appointment and disapproval of the Director. And in this case, similar to how you would during the nomination process to boards and commissions, the current action here, so that basically as you explained our time stops, would be to administratively basically disapprove the appointment.

CHAIR U'U-HODGINS: Go ahead, Member Sugimura, followed by Member Kama, and then Member Paltin.

COUNCILMEMBER SUGIMURA: Thank you. So, to continue on then with my question, I so move.

CHAIR U'U-HODGINS: Oh, we're almost there.

COUNCILMEMBER SUGIMURA: Okay.

CHAIR U'U-HODGINS: But thank you. Member Kama.

COUNCILMEMBER KAMA: That was my question. Because the Charter just said to either confirm or deny, and the withdrawal doesn't...it doesn't say anything about a withdrawal. So, I just wanted to know what the end product was. But, okay. Thank you.

CHAIR U'U-HODGINS: Yeah, no worries. Member Paltin?

VICE-CHAIR PALTIN: Thank you. I don't know if you know the answer to my question, but...so, my understanding is that's...the former Finance Director, Mr. Teruya, was removed. And it's also my understanding that the Council is supposed to provide oversight of the financials. And so, I was wondering if we were ever going to get explained to what happened with that because I don't think it was voluntary, and...I mean how do we provide the oversight of the financial systems if we're not being communicated with what's going on?

CHAIR U'U-HODGINS: Great question. In going back and forth because I know that this might have been an opportunity for us to get some explanation and then

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considering the withdrawal, if it works with you guys, on May 16th, we can schedule a 7(B) and we can get some clarification and some answers.

VICE-CHAIR PALTIN: Okay. Because I'm reluctant to move forward with any process without figuring out what's going on here with the financial situation in the Finance Department, like --

CHAIR U'U-HODGINS: Yeah.

VICE-CHAIR PALTIN: -- I kind of feel like we're being disrespected by not...you know, just like, this is how it is, and like how are we providing financial oversight.

CHAIR U'U-HODGINS: I hear you. It would be in our best interest to understand what happened, considering we have to approve or disapprove the Director of Finance. So, it would be in our best interest to understand what happens so that we can ensure it doesn't happen again, and we don't have a revolving door of Finance Directors that lays in our hand because we confirm them. I...I agree. So, I'll work on scheduling that, and then we can talk stories as a body and figure out how we can ensure it doesn't happen to us again.

VICE-CHAIR PALTIN: I think May 16th works for me.

CHAIR U'U-HODGINS: Okay. Thank you. Member Johnson?

COUNCILMEMBER JOHNSON: Thank you, Chair. Maybe this question is for you or the Staff, but who will be the Acting Financing [sic] Director presently?

CHAIR U'U-HODGINS: Great question. I don't know if we can answer that because we don't appoint, but...unless Kasie wants to ask. But we also have Managing Director in our audience, if he would like to come to the front.

MS. APO TAKAYAMA: Chair, yeah, I was going to defer to Managing Director, and I'll just add that Ms. Zielinski could remain the Acting Director until Council takes the...their...makes their decision to disapprove.

CHAIR U'U-HODGINS: Got it.

MS. APO TAKAYAMA: So, if we met the next Council meeting date, that would be May 21st.

CHAIR U'U-HODGINS: Okay. Members, Managing Director is here as our resource, whatever rule that is that we need to do. I'm sure we understand his expertise.

MR. NISHITA: Thank you, Chair.

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CHAIR U‘U-HODGINS: Um-hum.

MR. NISHITA: Thank you. I apologize, I can’t remember which Councilmember asked the question, but --

CHAIR U‘U-HODGINS: Member Johnson.

MR. NISHITA: Oh, Councilmember Johnson. Thank you. Yeah, the intention right now is to leave Ms. Zielinski in as Acting Finance Director. And the direction I’ve received from Mayor is to...right now we’re in active recruitment for the Directors of...and Deputy Directors of Housing and ‘Ōiwi Resources to also launch a recruitment for the Director of Finance as well. I guess going back to the...the disapproval piece, I mean obviously I’d defer to the lawyers, but I think, at least from the Administration’s position, you know, the withdrawal occurred for consideration to approve. So, from...from our standpoint, I guess we don’t feel that there’s something for Council to approve or disapprove since we’re notifying Council that we’re withdrawing that from consideration. We’ll, of course, defer to the attorneys as to make sure to meet your Charter obligations, but from our standpoint, we don’t feel disapproval or approval is necessary since we’re withdrawing it completely from consideration. Thank you.

COUNCILMEMBER JOHNSON: So, I’m hearing two...two responses that we should disapprove, and then I hear from Director Nishita not necessary to disapprove. Was there a reason given for the withdrawal, number one, and number two, maybe we could hear from Corporation Counsel. I want to make sure we get this right.

CHAIR U‘U-HODGINS: Sure. So, I’ll answer that before I give the floor back to Managing Director. But the nomination rests with our hands. And considering all the things we’ve been doing, going back and forth with nominations, I feel it’s probably in our best interest to take an active action on it, and disapproval I would prefer to do as the option for withdrawal doesn’t exist. So, I would like to entertain a motion later to disapprove formally, and we can continue to move on from there. But --

COUNCILMEMBER JOHNSON: Okay. That makes --

CHAIR U‘U-HODGINS: -- if you want further clarification--one second, Member Sugimura--Corporation Counsel can answer.

COUNCILMEMBER JOHNSON: I...sure, certainly. And then maybe we could get a reason for the withdrawal. Thank you, Chair.

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CHAIR U‘U-HODGINS: Sure.

MS. TARNSTROM: Thank you, Chair. I haven’t been asked to look into this deeply, but I don’t see that there’s any...any prohibition on taking affirmative action today to...sorry, to--I can’t think of the word--disapprove the appointment...deny the appointment. So, yeah. You’re...you’re fine there.

CHAIR U‘U-HODGINS: Mr. Mitchell?

COUNCILMEMBER JOHNSON: Thank you. So, I guess back to Director Nishita, any...the reason for withdrawal?

MR. MITCHELL: Chair, if I could --

CHAIR U‘U-HODGINS: One second...yeah.

MR. MITCHELL: Thank you, Chair.

CHAIR U‘U-HODGINS: Thank you.

MR. MITCHELL: So, I agree with Corporation Counsel’s comment that there is no prohibition in the Charter to take action after withdrawal. But specifically, the Charter says the Council must confirm or deny, it doesn’t refer to withdrawal. So, in order to be consistent with the Charter, I recommend that we actually take action to disapprove the...the recommendation that, although it’s been withdrawn. Thank you.

CHAIR U‘U-HODGINS: Thank you, Remi. Managing Director Nishita, if you would like to provide a response to Member Johnson’s request...question about the reason for the withdrawal.

MR. NISHITA: Thank you, Chair. I guess all my requests would be if Council does move for consideration for a vote on denial, just that it be on the grounds of the Administration withdrawing the application and not on the merits of the individual. The...the second piece, I guess, was a question about the reason for the withdrawal. Mayor had a conversation with Ms. Zielinski yesterday. Unfortunately, I had conflicting appointments, so I wasn’t able to attend that meeting. So, I could follow up with you folks later as to the discussion that occurred, but I can’t answer that for you accurately at this time. Thank you.

COUNCILMEMBER JOHNSON: Thank you, Chair.

CHAIR U‘U-HODGINS: You’re welcome, Member Johnson. Chair Lee.

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COUNCILMEMBER LEE: Thank you. Is it standard procedure for other nominations that are withdrawn for us to vote on withdrawn nominations?

CHAIR U‘U-HODGINS: I don’t know what standard procedure is, but standard procedure is, it is in our jurisdiction to approve or disapprove, which is what Remi was saying. So, we have...we don’t have the option to take a neutral stance and just allow the Administration to withdraw a nomination that has already been submitted. So, the nomination is in our hands.

COUNCILMEMBER LEE: Okay. Because I...I...because we have other cases where people withdraw for various reasons --

CHAIR U‘U-HODGINS: Um-hum.

COUNCILMEMBER LEE: -- and then I...I can’t recall us voting on people who withdraw because they’re...they’re leaving Maui or something. Is that your recollection, Remi?

CHAIR U‘U-HODGINS: I think we do so too, for boards and commissions, for people who apply and then later withdraw, and their name is already on the agenda. We do take an active vote on them to disapprove.

COUNCILMEMBER LEE: Okay.

CHAIR U‘U-HODGINS: Oh, go ahead.

MS. APO TAKAYAMA: Yes, the stance in the past has been that even with board or commission nominations, we disapprove because if they...if no action is taken, if we don’t disapprove, their name is automatically approved.

COUNCILMEMBER LEE: Okay. Well, I guess there is a fine line because if someone withdraws a nomination, there’s nothing to approve, in my mind. But thank you.

CHAIR U‘U-HODGINS: Mm-hmm. Yeah, at this point it’s pretty much a formality. Like Managing Director said, it’s a formality, not necessarily based on her...the merits of the human. Member Sugimura.

COUNCILMEMBER SUGIMURA: Thank you. And so, to continue on with the questions then, if we proceed and if it does, we decide as a body to...to --

CHAIR U‘U-HODGINS: Disapprove?

COUNCILMEMBER SUGIMURA: -- disapprove, yeah.

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CHAIR U‘U-HODGINS: It’s been a difficult word this morning.

COUNCILMEMBER SUGIMURA: Yeah, that’s the difficult word...to disapprove. Then who will run the Finance Department or what is the next...

CHAIR U‘U-HODGINS: I think Managing Director explained that earlier. So, she will be the acting one until we take final...so this is out of Committee, and then it has to go to full Council. And on that day --

COUNCILMEMBER SUGIMURA: Okay.

CHAIR U‘U-HODGINS: -- that’s when we take our official action, and then she’ll have to vacate. Meanwhile, they’re going to be looking for somebody else to take her place.

COUNCILMEMBER SUGIMURA: Oh, okay. And what about the Deputy, or is it --

CHAIR U‘U-HODGINS: I don’t know. We didn’t ask that question. Managing Director?

MR. NISHITA: Thank you, Chair. Well, currently, the Deputy position is vacant. We did have plans in place assuming that Council would have affirmed Director Zielinski...I think Director Zielinski. So, I mean in essence, we’re going to need to go back to the drawing board and, you know, see what kind of recommendations we can make to you folks. Thank you.

COUNCILMEMBER SUGIMURA: Okay. Thank you. Yeah, I do remember you said that. Thanks.

CHAIR U‘U-HODGINS: Members, any other questions before we take action? Okay. Seeing none. Administratively, I’d like to entertain a motion to recommend the adoption of Resolution 24-83, including any nonsubstantive revisions.

COUNCILMEMBER SUGIMURA: So moved.

CHAIR U‘U-HODGINS: Thank you. Motion made by Member Sugimura. Do I have a second?

COUNCILMEMBER KAMA: Second.

CHAIR U‘U-HODGINS: Thank you. Seconded by Member Kama. Any further discussion? Okay. I would like to entertain a motion to amend Resolution 24-83 by striking the word “approving” and inserting the word “disapproving” in

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title, and to striking the word “approves” and inserting the word “disapproves” in the first be it resolved paragraph.

COUNCILMEMBER SUGIMURA: So moved.

COUNCILMEMBER KAMA: Second.

CHAIR U’U-HODGINS: Thank you. Motion made by Member Sugimura. second by Member Kama. Any further discussion? Again, this is based on the withdrawal, it is not necessarily the merits of Ms. Zielinski. Any discussion? Seeing none. Oh, go ahead, Member...Chair Lee.

COUNCILMEMBER LEE: I just want to say that I do question the process. I can’t imagine why we would vote on somebody who is no longer being nominated. So, I’ll be voting with reservations.

CHAIR U’U-HODGINS: Okay.

COUNCILMEMBER LEE: Aye. Thank you.

CHAIR U’U-HODGINS: No worries. Thank you. Okay. Go ahead, Member Kama, followed by Member Sugimura.

COUNCILMEMBER KAMA: So, thank you, Chair. So, I was just thinking that, you know, we have this resolution before us in some...we have to figure out in some methodology what to do about the reso. So, I guess to respond to this reso is what we’re actually responding to. Yeah. Thank you.

CHAIR U’U-HODGINS: Thank you. Member Sugimura, followed by Member Sinenci.

COUNCILMEMBER SUGIMURA: Yeah. Thank you. So, I just wanted to thank Director Zielinski for contemplating this position, and she’s been acting Finance Director for a while. I did get to work with her as the Budget Director and in that capacity. But I just wanted to thank her for, you know, caring about the County, and doing the things that she has done, and thank you.

CHAIR U’U-HODGINS: Thank you, Member Sugimura. Member Sinenci.

COUNCILMEMBER SINENCI: Thank you, Chair. I can be supportive today with the intention of anticipation of hearing more discussion about the Finance Department to the future. Thank you.

CHAIR U’U-HODGINS: Thank you. Member Paltin.

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VICE-CHAIR PALTIN: I'll just ditto Member Sinenci's comment.

CHAIR U'U-HODGINS: Thank you. Okay. Any further...Member Johnson.

COUNCILMEMBER JOHNSON: Thank you, Chair. Yes, this process is a little bit unusual. I just want to thank Director Zielinski for all her hard work. She's been very approachable, and let's see where this goes. But I, for one, have been really working well with her during this time. Thank you, Chair.

CHAIR U'U-HODGINS: Yeah. Thank you, Member Johnson. Any further discussion? Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Yeah, I just...I'll echo the sentiments that everyone is sharing to Acting Director Zielinski. Mahalo for, you know, rising to the occasion and putting yourself forward to be there for the County in all the ways that is needed. I know it's not an easy time for anyone right now, so I just want to extend my appreciation. Mahalo, Chair.

CHAIR U'U-HODGINS: Thank you. Do we need a roll call, or are you good to vote? Sure, go ahead.

COUNCILMEMBER LEE: Final comments. I, too, would like to express my appreciation for the good work Maria has done and worked well with the Council.

CHAIR U'U-HODGINS: Yes.

COUNCILMEMBER LEE: I hope that we will continue to work with her, and perhaps in a different capacity. Thank you.

CHAIR U'U-HODGINS: Thank you, Chair Lee. Ditto. Member Cook, would you like to say something?

COUNCILMEMBER COOK: Thank you, Chair. I'll be supporting this due to the withdrawal, and not as a reflection on her.

CHAIR U'U-HODGINS: Sure. Same. Thank you. Members, any other comments? Go ahead.

COUNCILMEMBER SUGIMURA: You know, if you look at all of our faces on Teams, we all look so sad. So, I'm going to vote, so sad.

CHAIR U'U-HODGINS: Yeah.

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COUNCILMEMBER SUGIMURA: When you're ready.

CHAIR U'U-HODGINS: Okay. But do we need a roll call so you can say so sad? Can we all raise our hand in favor of the amendment?

COUNCILMEMBER SUGIMURA: We can raise our hand.

CHAIR U'U-HODGINS: Okay. Let's do so, please. All those in favor of the amendment, please raise your hand and say "aye."

COUNCILMEMBERS VOICED AYE.

MS. APO TAKAYAMA: Chair, that's nine "ayes," zero "noes." Motion carries.

**VOTE: AYES: Chair U'u-Hodgins, Vice-Chair Paltin,
 Councilmembers Cook, Johnson, Kama, Lee,
 Rawlins-Fernandez, Sinenci, and Sugimura.**

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: None.

MOTION CARRIED.

**ACTION: AMEND RESOLUTION 24-83 TO DISAPPROVE THE
 APPOINTMENT OF MARIA ZIELINSKI AS DIRECTOR OF
 FINANCE.**

CHAIR U'U-HODGINS: Thank you. Members, any more discussion on the main motion as amended? Seeing none. All those in favor of the main motion as amended, please raise your hand and say "aye."

COUNCILMEMBERS VOICED AYE.

MS. APO TAKAYAMA: Chair, that's nine "ayes," zero "noes." Motion carries.

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VOTE: **AYES:** Chair U'u-Hodgins, Vice-Chair Paltin,
Councilmembers Cook, Johnson, Kama, Lee,
Rawlins-Fernandez, Sinenci, and Sugimura.

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: None.

MOTION CARRIED.

ACTION: ADOPTION OF RESOLUTION 24-83, CD1.

CHAIR U'U-HODGINS: Thank you. Members, this item will move on to full Council for its consideration. Thank you, Managing Director Nishita.

COUNCILMEMBER SUGIMURA: Thank you.

GREAT-5(6) 2024 MASS NOMINATIONS PROCESS (Rule 7(B))

CHAIR U'U-HODGINS: Moving on. We have before us Item GREAT-5(6) as a follow-up to our April 19th Council meeting. I scheduled this item upon the request of the Members to further discuss the 2024 Mass Nominations Process with the Department of Corporation Counsel under Rule 7(B) of Rules of the Council. Before we take testimony, I would like to ask if anyone from the Department would like to provide any opening remarks? So, that's you, Ms. Tarnstrom, if you would like?

MS. TARNSTROM: Thank you, Chair. My position here today is to staff the Committee. I'm not prepared to speak on behalf of the Corporation Counsel. I don't think anyone was requested for this specific item. I would just note that since this item relates to a litigated matter, my advice would be to consider it with the next item, and to maintain discussions as appropriately in executive session if necessary. But again, I'm not the representative of the Department at this time.

CHAIR U'U-HODGINS: Okay. We did ask for somebody because we did schedule this. So, we can get somebody here because this is the whole point, is to ask. And no, you guys cannot be in our next item because we have a special counsel. So,

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we're going to take a recess now, so hopefully we can provide some answers to the Members. So, Members, if you don't mind giving us a ten-minute recess, to come back at 9:50. Thank you, Members. . . .*(gavel)*. . .

RECESS: 9:40 a.m.

RECONVENE: 9:53 a.m.

CHAIR U'U-HODGINS: . . .*(gavel)*. . . Welcome back, Members. It is 9:53. Thanks for allowing us a short recess. Okay. I will re-read this because now we have Corporation Counsel...well, more Corporation Counsel joined us in the meeting. So, this is just a follow up to our April 19th Council meeting where the Members had questions about the 2024 Mass Nomination process with the Department of Corporation Counsel. So, this is just a 7(B), Members. So, before we take testimony, if we could have Ms. DesJardins provide us any opening comments, and then we will take testimony. Thank you.

MS. DESJARDINS: Thank you, Chair, and good morning, Council. And I apologize for not being here, I did not receive a specific request to be here this morning. Ms. Tarnstrom had signed off on our usual request to staff the meeting, so we...I had prepped her about what the 7(B), what my understanding was, and so I had sent her down. So, my apologies for not being here earlier. You know, I think the time to have had this 7(B) presentation and my hopes would have been prior to your vote for special counsel because I think at that point, it would have been good to be able to express what our concerns were, how we thought that we could assist without the need for special counsel. I was not here on Friday. I believe Corporation Counsel Hamilton was here, and my understanding is that you folks did go ahead and vote to have special counsel appointed, and I can completely respect your decision to do that. However, because you now have counsel available to you, I don't believe it would be...I feel like we are in conflict on this subject. And I really don't want to evade you folks because I love working with you, I hope this doesn't have a permanent stain on our ability to move forward after this matter gets resolved. However, I don't feel at this time that this is the appropriate moment for me to try to work out with you what happened. That is now the subject of litigation of which you have your own attorney. I am confident that your attorney and our litigation team are in contact with each other about this subject matter. And so, that's really all that I can say. But I just want to be super clear that I absolutely do not mean to evade any discussion about this, I just think the timing on it would have been better prior to your decision. Because honestly, had you not decided to appoint special counsel, in my reading of the Charter, Corporation Counsel would have been in a position to try to work out presenting both sides to the court. That would have been my hope, but again I respect your decision...your

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vote to get special counsel. So, that's what I have to say. Thank you very much, Chair. I appreciate it.

CHAIR U'U-HODGINS: Thank you, Ms. DesJardins. Remi, do you have anything you would like to add, and then we can take testimony. Thank you.

MR. MITCHELL: Thank you, Chair. The Departmental request for Corporation Counsel to attend the meeting was sent out on April 24th, specifically for GREAT Items (5) and (6) on today's agenda. So, it was signed off by Ms. Tarnstrom, but perhaps there was some confusion about the purpose of her attendance.

CHAIR U'U-HODGINS: Thank you. Staff, can we please call on our testifiers, if we have any?

MS. APO TAKAYAMA: Chair, we see Lohan...Johann Lall raising their hand.

CHAIR U'U-HODGINS: Okay. Mr. Lall.

MR. LALL: Aloha. This is Johann, testifying on my own behalf. I guess...I just wanted to comment generally on this nomination process. From the perspective of, I think, many people out in the public, this kind of looks like a weird shenanigan to us, and we don't fully understand any of it. And there's lawsuits, and seemingly weird things that don't make any sense. But at the Council meeting where this was discussed, several members expressed disappointment with Corporation Counsel, which I think is understandable because it seems like maybe you guys were misled by the advice you got from them. But there was something that didn't make sense, which is that several members also expressed disappointment with Dick Mayer for filing a lawsuit. And so, it doesn't...to me, it doesn't make sense to say, okay, we did something wrong because we were misled, but then the guy who is holding us accountable is the one who is at fault for slowing things down. If things are not fully legal, that's a really good reason to not steam forward and try to jam people into...into offices that are really important. And more broadly, I think there's a problem with Corporation Counsel. From everything I've heard, it's much better than it was under previous leadership, but I think there might be a cultural issue where they don't necessarily view themselves as Government lawyers, and maybe they don't understand that they serve the public, and it seems like they often do give faulty advice. You know, they've told the Maui Planning Commission that it's okay for developers to write staff reports reviewing their own projects, which is the subject of an ethics complaint I have opened now. And like the...I would often hear when I worked for the Planning Department that Corporation Counsel doesn't really understand a lot of the laws, and we're just always given this kind of sketchy advice that would usually be followed to

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the detriment of the public. I think in this case, it didn't pan out because the Mayor is a former judge, and does understand the law and does understand public service. So, I hope this whole affair leads to some kind of reform or reexamination of how things are done. Hopefully things can be better in the future. Mahalo.

CHAIR U'U-HODGINS: Thank you, Mr. Lall. Members, do we have any clarifying questions? Seeing none. Thank you very much. Staff, do we have anybody else signed up to testify?

MS. APO TAKAYAMA: Chair, Staff has not received any further request for testimony at this time. If anyone would like to testify, please raise your hand by clicking the "raise your hand" button or following the prompts via phone. I see someone approaching the podium.

MR. LAW: Aloha kakahiaka. Aloha kākou. Aloha *Akakū*. I'm not sad, Nohelani, I'm happy every time I see your face.

CHAIR U'U-HODGINS: Thank you. Members, any clarifying questions about my face? Seeing none. Thank you.

MS. APO TAKAYAMA: Chair, Staff has not received any further requests for testimony on GREAT Item 5(6). If anyone would like to testify, please raise your hand by clicking on the "raise your hand" button or following the prompts via phone. Last call for testimony on this item...three, two, one. Chair, seeing no individuals wishing to testify.

CHAIR U'U-HODGINS: Members, seeing there are no individuals wishing to testify, without objection, I will now close oral testimony for this item, GREAT-5(6).

COUNCILMEMBERS VOICED NO OBJECTIONS.

ACTION: Close oral testimony for GREAT-5(6).

CHAIR U'U-HODGINS: No objections? Thank you. As a reminder, written testimony will continue to be accepted. Before we go into discussion, Members, I would like to agree with Corporation Counsel...Deputy Corporation Counsel Mimi DesJardins. While we don't agree on this issue, I do still appreciate their advice and their being here. So, I don't want this to just, like she said, stain the whole thing. So, Members, if we could go into a three-minute questioning period, and Corporation Counsel can answer whatever they would like to answer. So, I know we had a lot of questions the other day. If anybody has any questions now, this is our time to ask.

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MR. MITCHELL: Excuse me, Chair.

CHAIR U‘U-HODGINS: Yes.

MR. MITCHELL: Would you like to ask the Members to write their questions down so that if it’s more appropriate for executive session --

CHAIR U‘U-HODGINS: Yes.

MR. MITCHELL: -- they can then recall the question they asked.

CHAIR U‘U-HODGINS: Exactly. Thank you, Remi. So, if you do have a question that will need to be asked in executive session, if you could please just write that down so we can remember it. While when we go into executive session, no more notetaking will be had, so write your questions down now if you...if they can’t answer it in open session, and then you’ll have your notes ready to go in executive session. So, Members--thank you, Remi--Members, any questions? Member Paltin, you have questions?

VICE-CHAIR PALTIN: Thank you, Chair. Thank you, Corp. Counsel. I guess my main question is, like we took a number of days to get these folks, and then decide on them, and meet them, and the application process. Was it before or after that we decided we couldn’t do that? Before all those days of frivolous work or unneeded work? That’s my main question. Like if we knew that we were going to change our minds before we had like five days of Committee, I feel bad for all the people that went through the effort of reapplying, and then sitting in the audience for--some people sat in the audience for like two or three days--and personally, I have a lot going on in my district, and I didn’t need to sit here for five, six days wasting time. So, I just wanted to know, if we knew before we went through all that process that we were going to change our minds, that we weren’t doing that or that we were going to get sued or what...because I...people were asking me to ask Corp. Counsel about like legalities, and I thought I did that, and yet still, we wasted like five, six days. And I mean there’s choke other things that needed to be done in my district rather than...like I don’t know next time I’m going to come in here and do that, you know, is what I’m saying. Like I’m worn out from all the things over the last nine months, and I hate to waste everybody’s time, money, and resources for like over a week of needless meetings, and then we do those things, and then we get sued, and it’s just really...it’s getting to be a bit much, you know. Like, who didn’t advise the Administration that the Charter meant do the INB on July 1st? I mean, there were all sorts of other nominations for other boards coming down, but like priorities, you know. You have a deadline July 1st, it was super insulting to hear the fire being blamed as a reason the INB didn’t get formed when July 1st

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was the deadline, and August 8th was the fire. Super insulting to my entire community. So, that's my question, and I'm kind of...like I'm kind of at the end of my rope with this Administration already, you know, all the things...all of the things.

MS. DESJARDINS: So, the question started out as something that I think that I can address, but it sort of ended up with a dumping, and it's...I'm not the person to dump on. I'll make that real clear. I didn't cause anything that you're talking about. The fire, the Administration...so don't dump on me, please. In the beginning, you asked whether or not Corporation Counsel should have done something more timely, et cetera. You've hired an attorney, and that attorney is going to represent your position in court. Okay.

VICE-CHAIR PALTIN: Okay, the question I'd like to know is --

MS. DESJARDINS: And so, that's the answer to that question . . . *(timer sounds)* . . . is that you have an attorney, and that attorney --

VICE-CHAIR PALTIN: -- at what point did you know that we were going to change it.

MS. DESJARDINS: -- well, that is going to be the subject of litigation, I suppose. Thank you.

VICE-CHAIR PALTIN: So, no answer basically then.

CHAIR U'U-HODGINS: Member...Member Cook.

COUNCILMEMBER COOK: Thank you. My questions...Chair, my question for Corp. Counsel. When we had this previous discussion and attempted to ask questions, and were told preferably not here, preferably not now, in hindsight, you know, recommending a 7(B), recommending something else might have been okay. My recollection was somewhat of a push back as far as like...and this was after when we were notified that this was the case, and we were given the option to hire special counsel. Hire a special counsel wasn't something that I wanted...that I don't think anybody wanted. I thought that was what we were sort of guided to because my understanding was that Corporation Counsel couldn't represent the Council regarding this litigation, and that was before we actually got Corp. Counsel. I'm just reflecting and asking you for clarity, and I'm not dumping on you.

MS. DESJARDINS: Thank you, Chair. I can't answer that. You're talking about a conversation I was not part of, so I wouldn't be the person to pose that to. Yeah, I'm sorry, I can't answer that question.

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COUNCILMEMBER COOK: Chair? For better or for worse, when I speak with...when I'm speaking to Corp. Counsel, whether the entities that were here that day or not that we had the hearing, I don't have any other recourse as a Councilmember to ask my question regarding what your comment was that it would have been better. No, what I heard is you are not in a position now to be able to respond because we have counsel. If before we hired counsel there would be an opportunity for Corp. Counsel to be able to represent us is in contrast to what I heard, what I believe I was told. I never heard that Corp. Counsel could serve both roles. So, that's my question.

MS. DESJARDINS: Chair. Thank you for the clarity and the question. I think that that would be a subject more for executive session, and I could probably give you a little bit more of a, from a legal perspective, candid response to that question. And I just want to...I have searched back in time, I don't recall this ever happening again. Perhaps Member Lee, Chair Lee knows, she's been here longer than anybody, but I don't really recall this. So, it's been a challenge obviously for our office, and also, just the awkward nature of our relationship with you folks because we do consider you our clients. So, I'm really not trying to be evasive, but I'm happy to try to explain that comment, but I would prefer to do it in executive session . . . *(timer sounds)*. . . if that's okay. Thank you.

COUNCILMEMBER COOK: I accept that answer. Thank you.

CHAIR U'U-HODGINS: Thank you, Member Cook. I will say, I just wrote that question down and then you...you asked it. So. I have that question written down, so you don't have to write it down when we go into executive session. Members, do we have any other...oh, Member Johnson, go ahead.

COUNCILMEMBER JOHNSON: Thank you, Chair. Ms. DesJardins, you could...I'm going to preface this if you want this in executive session, but here's my question. What's happening to the time-sensitive issues that our boards and commissions are facing? Are we...by us not moving forward with boards and commissions decision-making, would that set us up for, you know, more liability?

MR. MITCHELL: Chair, if I could interject here. The topic of this agenda item is the 2024 nominations process --

CHAIR U'U-HODGINS: Um-hum.

MR. MITCHELL: -- and not prospectively what happens if we are unable to move forward with the nominations or the appointments made by the Council. Thank you.

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CHAIR U'U-HODGINS: You're welcome.

COUNCILMEMBER JOHNSON: Okay. I'll hold that. I have no further questions, Chair.

CHAIR U'U-HODGINS: Okay. Members, does anybody else have any questions? Chair Lee.

COUNCILMEMBER LEE: Oh, but Remi, isn't that...Member Johnson's question related...related to the subject matter on the agenda?

CHAIR U'U-HODGINS: I believe that's going forward, and we're trying to understand what happened going backward, but Remi can maybe provide some clarity.

MR. MITCHELL: Thank you, Chair. That was the distinction I was making, that before the Council took final action on its appointments, that body of information is the subject of this particular agenda item. It appeared to me that Member Johnson's question was what happens prospectively in the future if we're unable to proceed with the appointees.

COUNCILMEMBER LEE: Oh, okay. The reason why I asked about that is because it's important for us to know the impacts of our decision, even backwards. So, whatever was decided then, and going forward with the special counsel will have certain effects in the future, so...you know, and might...might determine how we decide on things.

CHAIR U'U-HODGINS: Yeah, I think that's probably more relevant to our next item coming up.

COUNCILMEMBER LEE: Okay.

MS. DESJARDINS: Chair?

CHAIR U'U-HODGINS: Yeah. Go ahead.

MS. DESJARDINS: If I could say something to that. I do think it's relevant with respect to what's happening right now --

CHAIR U'U-HODGINS: Um-hum.

MS. DESJARDINS: -- in terms of what's going on with other boards and commissions. But again, I could answer that in executive session.

CHAIR U'U-HODGINS: Okay.

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MS. DESJARDINS: That...particularly to how it relates to what's happening right now.

CHAIR U'U-HODGINS: Okay. Do you want to write that down, Chair Lee, and then we can ask that in executive session? Thank you. Members, do we have any other questions before we go into executive session? I don't see...it might just be me, but I don't see...okay, there's Member Rawlins-Fernandez. I just want to make sure that I see who we see before we go into executive session, but Member Rawlins-Fernandez, if you have a question for open session, please ask.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I'm actually on my way to the airport.

CHAIR U'U-HODGINS: Oh, okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: I'm running behind schedule. So, when we reconvene in executive session, I will be in my vehicle, alone, on my way to the airport. Mahalo, Chair.

CHAIR U'U-HODGINS: Okay. Thank you. I appreciate that. And then you'll be in-person after lunch when we have special counsel? Okay, great.

COUNCILMEMBER RAWLINS-FERNANDEZ: Yes. My flight is at 10:50.

CHAIR U'U-HODGINS: Okay, great. Thank you. Members, before we go into executive session though, I'm hoping we can take lunch at around 11:30, to come back at 1:00, and we need to end at 4:30 so I can pick up my son. Okay. So, just FYI. I'm putting it out there now, so we can plan our day.

MS. APO TAKAYAMA: Chair, if it's possible to...Chair?

CHAIR U'U-HODGINS: Yes.

MS. APO TAKAYAMA: I'm sorry, if it's possible to recess until 12:30 is when we have our special counsel available.

CHAIR U'U-HODGINS: Oh, 12:30? Okay. Okay. Maybe 12:45 so I can enjoy my lunch. Okay, we're going to take lunch at 11:30, we can come back with...after lunch with special counsel at 12:45, to end at 4:30 for the day. But for now, if we don't have any more questions for open session, I would like to go into executive session. Okay. Okay, we do have to take a vote, just give me a second. I would like to entertain a motion to convene an executive meeting in accordance with Section 92-5(a)(4), Hawai'i Revised Statutes, to consult with

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legal counsel on questions and issues pertaining to the powers, duties, privileges, immunities, and liabilities of the County, the Council, and the Committee; and Section 92-5(a)(8), Hawai'i Revised Statutes, to deliberate or make a decision upon a matter that requires the consideration of information that must be kept confidential pursuant to a State or Federal law, or a court order.

COUNCILMEMBER COOK: So moved.

COUNCILMEMBER SUGIMURA: Second.

CHAIR U'U-HODGINS: I have a motion made by Member Cook, seconded by Member Sugimura, to enter into executive session for Item GREAT-5(6). Do we have any discussion? Seeing none. All in favor, please raise your hand to move into executive session. Please say "aye."

COUNCILMEMBER RAWLINS-FERNANDEZ: Aye.

COUNCILMEMBER LEE: Okay.

COUNCILMEMBERS VOICED AYE.

MS. APO TAKAYAMA: Chair, I'm seeing eight "ayes," one excused, Member Paltin.

COUNCILMEMBER RAWLINS-FERNANDEZ: Aye.

CHAIR U'U-HODGINS: Oh, Member Rawlins-Fernandez --

COUNCILMEMBER RAWLINS-FERNANDEZ: Oh, okay.

CHAIR U'U-HODGINS: Saying "aye," but we cannot see your...we cannot see your video.

COUNCILMEMBER RAWLINS-FERNANDEZ: Here I am.

CHAIR U'U-HODGINS: Oh, Member Paltin is gone, I'm sorry. Okay, thank you.

COUNCILMEMBER LEE: Oh, there it is.

CHAIR U'U-HODGINS: Member Paltin is gone, so it's eight-zero. Thank you very much, Member Rawlins-Fernandez.

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**VOTE: AYES: Chair U‘u-Hodgins, Councilmembers Cook,
Johnson, Kama, Lee, Rawlins-Fernandez,
Sinenci, and Sugimura.**

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Vice-Chair Paltin.

MOTION CARRIED.

**ACTION: APPROVE; RECESS open meeting and
CONVENE executive meeting.**

CHAIR U‘U-HODGINS: Okay. For the record, the following personnel will be attending the executive session meeting. All Councilmembers including myself Committee Chair Nohe U‘u-Hodgins, Committee Vice-Chair Tamara Paltin, Councilmember Tom Cook, Councilmember Gabe Johnson, Councilmember Tasha Kama, Council Chair Alice Lee, Councilmember Keani Rawlins-Fernandez, Councilmember Shane Sinenci, Councilmember Yuki Lei Sugimura. Office of Council Services Staff include Remi...Richard E. Mitchell, Legislative Attorney; Pauline Martins, Senior Committee Secretary; and Cris--can you please say your name? I’m sorry.

MS. PARANADA: Paranada.

CHAIR U‘U-HODGINS: Paranada.

COUNCILMEMBER LEE: Not Paltin.

CHAIR U‘U-HODGINS: Member Paltin will not be joining us?

COUNCILMEMBER LEE: I don’t think so. She’s not here.

CHAIR U‘U-HODGINS: Okay. Scratch Member Paltin.

MR. MITCHELL: Chair, if we could leave Member Paltin as attending, and it will be okay for Member Paltin to join the executive session even if she’s not here.

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CHAIR U‘U-HODGINS: I hear her coming back. So, Committee Vice-Chair Member Paltin will be joining us. Cris Paranada, Committee Secretary, will also be joining us. And can I please ask Corporation Counsel to say who will be joining us in our executive session meeting as well. Thank you.

MS. DESJARDINS: Thank you. It would be myself and Kristin Tarnstrom.

CHAIR U‘U-HODGINS: Okay. Thank you very much. At this time, I would like to call --

COUNCILMEMBER SINENCI: Chair.

CHAIR U‘U-HODGINS: Yeah, Member Sinenci.

COUNCILMEMBER SINENCI: Just to let you know, I’m going to run home and take executive session at my home office, so if Staff can just move me when I re-enter the meeting.

CHAIR U‘U-HODGINS: Okay. We will move you. And then when we go into executive session, I will ask you to confirm that you are alone. So, we can do that then, and they can move you.

COUNCILMEMBER SINENCI: Okay.

CHAIR U‘U-HODGINS: Thank you, Member Sinenci.

MS. DESJARDINS: Chair?

CHAIR U‘U-HODGINS: Yes.

MS. DESJARDINS: I’m sorry. OCS Staff asked that I put my name on the record.

CHAIR U‘U-HODGINS: Okay.

MS. DESJARDINS: Mimi DesJardins, First Deputy Corporation Counsel.

CHAIR U‘U-HODGINS: Thank you. Okay. At this time, I would like to take a four-minute recess, to return at 10:20. This GREAT meeting is now in recess.
...*(gavel)*...

RECESS: 10:17 a.m.

RECONVENE: 11:11 a.m.

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CHAIR U'U-HODGINS: . . .*(gavel)*. . . Will the Government Relations, Ethics, and Transparency Committee please reconvene. It is 11:11 a.m. Members, we have just completed our executive meeting on Item GREAT-5(6), and if Remi could please provide us a summary in accordance with Act 19 (2023).

MR. MITCHELL: Thank you, Chair. In accordance with Act 19 (2023), the body discussed information relating to the 2023-2024 mass nominations process. The body also considered questions relating to prospectively what would happen as the litigation moved forward. We've held those questions in abeyance as more appropriate for questions and discussions for Item Number 3 on today's agenda, and so we can reserve those questions for later on today. Thank you, Chair.

CHAIR U'U-HODGINS: Thank you, Remi. So, Members, this item was posted as a 7(B) for no legislative action, and I will now defer this item after Member Paltin has asked her question.

VICE-CHAIR PALTIN: Oh, I just wanted to clarify and add on to Mr. Mitchell's summary, for anyone who is watching this meeting, that we were never told at what point Corp. Counsel changed their mind. So, if anyone was wondering if we got told that in executive session, we weren't ever told.

CHAIR U'U-HODGINS: Thank you, Member Paltin. Members, I will now, without objections, defer this item.

COUNCILMEMBERS VOICED NO OBJECTIONS.

ACTION: DEFER.

CHAIR U'U-HODGINS: Okay. Thank you. And Members, we are now going to take our lunch recess, to reconvene at 12:45. Does that sound good for everybody? Okay. 12:45, same place, same link, see you then. This meeting is now in recess. . . .*(gavel)*. . .

RECESS: 11:13 a.m.

RECONVENE: 12:59 p.m.

CHAIR U'U-HODGINS: . . .*(gavel)* . . . Good afternoon. Will the GREAT Committee please reconvene. It is 12:59 p.m. Welcome back from lunch, Members. Member Rawlins-Fernandez, nice to see you in the Chambers. Is Member Sinenci with us? Not yet? Okay. . . .*(echoing in background)*. . .

UNIDENTIFIED SPEAKER: Uh-oh.

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CHAIR U‘U-HODGINS: Fixed? Okay. Fixed.

**GREAT-11(42) LITIGATION MATTERS (RESOLUTION 24-88, RELATING TO
SETTLEMENT AUTHORIZATION: RICHARD D. MAYER V. DANNY
RAY BLACKBURN, ET AL., SP 2CSP-24-0000020)**

CHAIR U‘U-HODGINS: Okay. We have before us Resolution 24-88, entitled “AUTHORIZING THE SETTLEMENT OF RICHARD D. MAYER V. DANNY RAY BLACKBURN, ET AL., SP NO. 2CSP-24-0000020,” which would authorize the settlement of this case under the terms discussed in executive meeting before this Committee. Members, this resolution is before us for discussion and consideration today. However, I would like us to discuss our options with special counsel before moving forward with any proposed action. At this time, I’m going to ask special counsel to please introduce himself and provide any opening comments he would like to share. Aloha.

MR. SMITH: Good afternoon, Members. My name is Lex Smith. I am a lawyer from O‘ahu. I’ve never had the pleasure of representing this board before. I have represented the City and County of Honolulu many times. If I...if I say City Council, please kick me, it’s out of habit for talking about Honolulu. I’m doing my best to remember. You...you have this case, and I know you’re all familiar with it already, so my preliminary comments will be minimal. This involves the process for filling the vacancies. I think there are some problems that were created by the fact that the Independent Nomination Board was not timely created. There are...and you’ve got a lawsuit that...and I think pretty much everything flows from that. We’re...I personally am hopeful that we can find a way to settle this case because I don’t think it’s in your interest or the County’s interest to make World War III out of this thing. And I look forward to discussing my thoughts with you on that in executive session today.

CHAIR U‘U-HODGINS: Thank you, Lex. Members, before we get into discussion, I would like to do a call for testimony. So, Staff do we have any testifiers waiting to testify on this item?

MS. APO TAKAYAMA: Chair, Johann Lall has signed up to testify on this item.

CHAIR U‘U-HODGINS: Okay. Aloha, Mr. Lall.

MR. LALL: Aloha. Johann Lall, testifying on my own behalf. And I’m kind of surprised I’m the only one on the list. So, I...I am not...as a member of the public, I’m not in favor of a settlement. I think it’s better for this to actually go to court and have a decision be rendered by a judge so that we can know, once

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and for all, whether what happened was legal and correct. But I might be missing something. I don't have any inside information about this case or anything like that. That's just my opinion as a person who has the same information as everyone else from the news articles. I do want to bring up conflicts of interest. According to material on the Board of Ethics website, conflict of interest means a real or seeming incapability between one's private interest and one's public or fiduciary duties. And this is in a County Code Section 10-4.1.c, and that says that no officer or employee of the County shall engage in any business or transaction or activity with a financial interest, direct or indirect, which is incompatible with the proper discharge of the officer's duties. And so, I think first of all, this individual who is appointed, or I guess nominated, would have a conflict of interest because he is the Maui Chief of a large California construction company called F&H Construction, and he would be in a position to regulate himself. So, I think that should be a consideration going forward with all of this. But also, Councilmember Tom Cook has a private consultancy where he gets paid \$8,000 a month to do consulting for construction companies. And we in the public have no idea who those construction companies are because the Board of Ethics did not require its disclosure, so we don't know if...if Danny Blackburn was nominated, or I guess put forward because of some relationship with Councilmember Cook and his...his outside job. So, I think if F&H is one of the companies that has a contract with Councilmember Cook, he should be recused from anything having to do with this, and I guess that would apply to any other Councilmembers. And that's my testimony. Mahalo.

CHAIR U'U-HODGINS: Thank you, Mr. Lall. Members, do we have any clarifying questions? Seeing none. Thank you very much. Staff, do we have any other testifiers signed up, besides the one approaching the podium?

MR. LAW: Thank you, Mr. Lall.

MS. APO TAKAYAMA: No, Chair.

CHAIR U'U-HODGINS: Okay, thank you.

MR. LAW: No relation to Jasee Law. If Mr. Cook was born when he says he was, then he's an honest man. Yeah. I trust him.

CHAIR U'U-HODGINS: Me, too. Thank you, Jasee. Staff, is that...do we have any other testifiers?

MS. APO TAKAYAMA: Chair, Staff has not received any further request for testimony at this time. If anyone would like to testify, please raise your hand by clicking

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on the “raise your hand” button, or following the prompts via phone. Last call for testimony...three, two, one. Chair, seeing no individuals wishing to testify.

CHAIR U‘U-HODGINS: Thank you. Members, seeing there are no individuals wishing to testify, without objection, I would now close oral testimony and written testimony will still be accepted.

COUNCILMEMBER SUGIMURA: No objections.

COUNCILMEMBERS VOICED NO OBJECTIONS.

ACTION: Close oral testimony for GREAT-11(42).

CHAIR U‘U-HODGINS: Thank you very much. Oh, Member Sugimura...you’re online. Can you turn on your camera? I think I heard her. Oh, I can see her. Oh, she’s not on my screen. Can you just confirm if anybody’s in the room with you, since this morning you were in Chambers?

COUNCILMEMBER SUGIMURA: Yeah. So, I came home to my home office, and nobody is in this room with me.

CHAIR U‘U-HODGINS: Okay. Thank you.

COUNCILMEMBER SUGIMURA: Thank you.

CHAIR U‘U-HODGINS: Thank you, Kasie. Okay. Members, we have an opportunity to ask special counsel the questions we would like to ask him in open session, and then we can move into executive session as well. So, I will be implementing a three-minute questioning period for anybody who has any questions during open session. So, if you do, please raise your hand and we can get those questions answered. Chair Lee.

COUNCILMEMBER LEE: Thank you, Chair. Question for special counsel. I...it was nice talking with you earlier today. I meant to ask you, what is, if anything, Corp. Counsel’s role with regard to our court case?

CHAIR U‘U-HODGINS: If you could turn on your mic, and then answer that. Thank you.

MR. SMITH: The Corporation Counsel has entered an appearance in the case and stated their position. Their appearance says that they are appearing on behalf of the County of Maui.

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COUNCILMEMBER LEE: Okay. So, this is a conflict because I don't think they support our point of view, and we...and you are representing us. They're not representing us, the County Council, which is being sued. So, who...so do you think they're there on behalf of the Mayor?

MR. SMITH: I have a resolution in my hands from the...from the County Council that appoints me to represent the County in this proceeding, and I intend to do that, and will do what's necessary in order to assure that the court understands that I'm the one with proper authority to represent the County.

COUNCILMEMBER LEE: Okay. So, we don't have to worry about when you meet...when you have your hearing that there aren't two parties trying to represent the County.

MR. SMITH: One never knows what the judge is going to do, but I will have the County Council resolution on the subject, and I would expect that the judge would honor that.

COUNCILMEMBER LEE: Do we have the authority to...to ask the Corporation Counsel to stand down on this court case?

MR. SMITH: I --

COUNCILMEMBER LEE: If you don't know, that's okay.

MR. SMITH: I'm going to...I would think that the answer is yes, but I don't know. And I guess I want to reserve judgment on that.

COUNCILMEMBER LEE: Okay. Chair, I think we need to get the answer to that question at some point. Thank you. Sometimes we are, sometimes we're not.

CHAIR U'U-HODGINS: We can...we can get that answer for you, Chair Lee. I didn't write that down, but I'm sure we can remember it. But thank you. Members, does anybody else have any questions for open session? Member Paltin, go ahead.

VICE-CHAIR PALTIN: Thank you, Chair. Thank you, Mr. Smith, for pinch-hitting for us. My question is, in your opening comments, you said like, you know, we should settle because it's not in anyone's interest to go to war and things like that. And so, my question is, say we settle with just this case, and somebody else that the Mayor nominated--like I don't want to say names because whatever--but they nominated one person, and for whatever reason another person was sit in that slot. And we settled with this individual, would we then have to go through this again if another person that the Mayor nominated says

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like oh, wow, look at what happened there. I want my day in court, or I want my settlement...or would the settlement be the precedence that's set for all the other cases?

MR. SMITH: My vision for a settlement is that it will resolve the issues for all. There...I believe there's ample justification under the second claim in the petition, which seeks a declaratory judgment, to address all of the...all of the...the appointees that the Council made.

VICE-CHAIR PALTIN: Oh, so we could settle and have it be a declaratory judgment? That means the judge is going to make a decision, or...

MR. SMITH: As I currently envision it--and I'm not saying everybody's agreed to this at this point--as I currently envision it, we would submit...there would be an agreed-upon judgment that would be signed by the judge.

VICE-CHAIR PALTIN: Oh, okay. I see. And then anything after this case, like if there's an agreed-upon judgment and it settles it for all the nominations and like that, now, from all that nominations getting resolved going forward, we would just follow the whole Independent Nomination Board's process, or would that also be part of the settlement that they tell us, going forward, how to do our jobs?

MR. SMITH: Again, my vision, which has not been agreed upon by everybody, would be that this judgment would not bind anybody for future nominations. You would follow the Charter for future nominations.

VICE-CHAIR PALTIN: Okay. Because we had gotten some advice from Corp. Counsel, at some point between January 2023 and today, they changed their mind. They wouldn't tell us when they changed their mind, and then they wouldn't represent the advice that we followed. So, when do you think they might have changed their mind?

MR. SMITH: I...I don't wish to express any opinion on that. I think...if the parties aren't able to settle, I think that will be an issue that will be presented to the court. But if we're able to resolve this, then that would all...that whole problem would all go away, and that would probably be good for all concerned.

VICE-CHAIR PALTIN: Yeah, that's the million-dollar question, huh? Because I mean, if you change your mind, why wouldn't you tell us that you changed your mind, and stop us from following your advice that you gave us, and then getting us sued, you know?

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MR. SMITH: Well, sometimes lawyers have good reasons for changing their minds. I'm not expressing any opinion on that.

VICE-CHAIR PALTIN: Yeah, I'm just saying if you're going to change your mind, let us know as soon as you change it.

MR. SMITH: I understand your point.

CHAIR U'U-HODGINS: Real quick, we are going to be advised that the things that we have previously discussed maybe in executive session, maybe not in executive session, that we should hold off on that just a little bit. Thank you. I turned away...mic away from myself. Members, do we have any other questions before we go into executive session? Member Sugimura.

COUNCILMEMBER SUGIMURA: I have a question.

CHAIR U'U-HODGINS: Okay.

COUNCILMEMBER SUGIMURA: Thank you. Thank you very much, special counsel. I just wanted to...when we were talking about this before lunch, Corp. Counsel wanted...I just--I'm sorry if you said it was okay and I just didn't log in in time--but special...Corp. Counsel was asking if it was okay for us to discuss this without you present, and I think Mr. Mitchell gave us...or said that you knew about this meeting...that meeting before lunch, and you were fine.

MR. SMITH: I am fine.

COUNCILMEMBER SUGIMURA: Okay. Ready for exec session. Thank you.

CHAIR U'U-HODGINS: Thank you, Member Sugimura. Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair, and mahalo, Member Sugimura, for getting that on the record. I think that's important to have that on the record since we didn't have it in writing earlier. And, you know, that's...it is what it is. I'm not blaming anyone. We're in unchartered waters here for all of us in many different ways. So, mahalo for joining us in this unchartered waters. I forgot your last name. Can you tell me again?

MR. SMITH: Smith.

COUNCILMEMBER RAWLINS-FERNANDEZ: Smith. Got it. Okay. Easy enough. Okay, so...let's see. My question is, would...would Corp. Counsel be considered an indispensable party to this case? And an indispensable party is a party whose presence and participation in court are required in order for a lawsuit to

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proceed, a necessary party, or a necessary party whose presence and participation in court is necessary for a lawsuit to proceed, but may be absent with a valid excuse. So, would they be either to this lawsuit?

MR. SMITH: I have not researched that question at this time. If...if we're able...if we're able to settle it, it won't matter.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. All right. I'll take that response. Okay. And so, in this lawsuit, we talked about this at the Council meeting when this resolution was on the agenda, and we were eager to get a lot of our questions answered. So, some of the issues that will need to be resolved in this lawsuit is not only for the one plaintiff that's named in this lawsuit, but for all the folks who were confirmed through Council's process. We'll need to resolve the issue of how to move forward from here, now that the Independent Nomination Board has been sat, whether the nominees would now need to go through the Independent Nomination Board and then to the Mayor, and then to us, and to follow with the process that's outlined in the Charter with the Independent Nomination Board. And also, one of the questions that we had asked at the Council meeting was the issue of whether the Mayor's nominees, or...that came to Council for confirmation, after July 1st, which is when the Independent Nomination Board was supposed to have been established and sat last year and wasn't. So, for all of those things, this lawsuit will need to, you know, be resolved. But I think...yeah, I mean I'm not educating you, I'm recalling a lot of the discussion that we had at Council to also bring into the fold the public that's watching, so that we are all on the same page with all the different discussions and issues that, you know, will have to be addressed. Okay, let's see. For...and I don't know, I don't think...since you're new to our County, I don't know if it would be someone else that would speak to this. Because since I've been on the Council, we've disagreed with Corp. Counsel multiple times. Two, in particular, was regarding the injection well lawsuit to the U.S. Supreme Court, and the other was when the Administration kept on a Director that was disapproved by Council. And in those situations, the special counsel had represented the County as a whole, including the Council, and was advised by Corporation Counsel. And so, for this, does...I mean, I guess Chair Lee asked the question and no one answered, and I was just trying to like talk it through. I'll talk it through more on my paper and...and see how...how I feel about this situation. But I don't know if like our Legislative Attorneys had any opinion on...on what that process would look like.

CHAIR U'U-HODGINS: On whether or not Corp. Counsel has the authority to represent us or be a party to this case, considering we hired special counsel. Yes?

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah, sure.

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MR. SMITH: As I mentioned to Councilmember Lee, I have the resolution appointing me, and I believe I am the County's attorney in this case, and I will be proceeding on that basis. But if I'm able to...if we are able, if the parties are able to find a way to settle, then the issue won't matter, and that might be better for all concerned.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Mr. Smith. The last thing I wanted to say, now that I'm here in the Chambers and not on the phone and in my car, in my house, and on the plane, is that...you know, I know this is going to be an unpopular opinion, but this is democracy, and I appreciate the community members who were displeased with the actions of the County, specifically the Council in this situation, holding us accountable in the correct forum in which, you know, we have Government. So, you know, I, you know, fully support democracy in action, and this is what democracy looks like sometimes. And I...and I also...I know earlier there...there was some somewhat heated exchange, but, I wanted to share in the decision that was made when we decided that the Mayor missed his deadline.

CHAIR U'U-HODGINS: Mm-hmm.

COUNCILMEMBER RAWLINS-FERNANDEZ: You know, there...there are times when I disagree with Corporation Counsel or any attorney, and I will fight to get my point made. And on that day, I did not. I was willing to go along with the advice and opinion of our attorneys. It's not, you know, the law, it's their opinion, and we're all humans. And we try to gather the best information that we have and analyze it, but ultimately, you know, together we made that decision, and so, together we're being held accountable. Mahalo, Chair.

CHAIR U'U-HODGINS: Thank you, Member Rawlins-Fernandez. Does anybody else have any other questions for special counsel before we go into execution session? Member Kama.

COUNCILMEMBER KAMA: Thank you. So, Mr. Smith, a couple of times you were asked who do you represent in the different formats, so...and each time you said the County. So, when we look at...at least for me, when I look at the County, we have the County Administration, and we have the County Council, and those are pretty separate to us. But, our community sees just one County, which is all of us. So, just so that in my head I can understand, who is your client?

MR. SMITH: I'm sorry, I can't find the resolution. But I believe I represent the County and the County Council, as well as Mr. Blackburn.

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COUNCILMEMBER KAMA: Okay. I just wanted to make sure in my head I got it right.

CHAIR U‘U-HODGINS: Go ahead, Member Paltin.

VICE-CHAIR PALTIN: Thank you, Chair. Thank you, Mr. Smith. So, I’m not...I’m not a lawyer, and I just wanted to ask like could any of the consequences of this lawsuit be that we got to go to jail, or pay money, or what would the consequences look like negatively...in our personal capacity, or public capacity? Like, would they lock us up, or take money, or how...how does that work?

MR. SMITH: Nobody is going to jail. There could be attorneys’ fees required to be paid, something like that.

VICE-CHAIR PALTIN: But not out of our own pockets.

MR. SMITH: I...I believe all the claims in this case are in your...in your representative capacity, so it would be a County obligation.

VICE-CHAIR PALTIN: Okay. So, no jail time, possible fees, and...and that’s the extent of it in the negative.

MR. SMITH: That...I haven’t researched that issue, but just from what I’ve reviewed, I believe that’s correct.

VICE-CHAIR PALTIN: Okay. That’s...that makes me feel better.

CHAIR U‘U-HODGINS: Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. And then perhaps, Mr. Smith, you can explain what the claims for relief are.

MR. SMITH: Gladly. Claims for relief are...there are two. One is to deny Danny Ray Blackburn his appointment, and two is for a declaratory judgment that the proper computation of time for the nomination and appointment process for offices of the board and commission members whose terms expire. In other words, to determine that the petitioner’s calculation of time is correct, and the calculation of time used by the County Clerk, and relied upon by you, is incorrect.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Mahalo, Mr. Smith.

CHAIR U‘U-HODGINS: No problem. Member Paltin.

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VICE-CHAIR PALTIN: Thank you. Couple follow-up questions on that answer. So, if the relief situation is that Mr. Blackburn has to be unseated, does that prevent him from putting in his application to the INB, and then selecting them, and then the Mayor forwarding that to us? Is that prevented then? Like is he blackballed from ever serving on any board or commission, or specifically the Planning Commission, or how would that work?

MR. SMITH: There is no blackballing sought in the lawsuit. And any further response to your question, I would prefer that we address in executive session.

VICE-CHAIR PALTIN: Okay. Shoot, I had one more question. I guess I should have wrote it down though. I'll yield to her and maybe I can think of it.

CHAIR U'U-HODGINS: Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair.

CHAIR U'U-HODGINS: And then we'll come back to you, Member Paltin, if you can remember.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Member Paltin. I just...I just wanted--quickly because, you know, most people aren't lawyers and aren't familiar with the legal processes--and I wanted to state for the record and for the public that Mr. Blackburn didn't do anything wrong. The question is about whether the process that was followed was correct under the Charter. So, there was no wrongdoing by Mr. Blackburn and, you know, if he wanted to, you know, apply to sit on a board or commission or this Maui Planning Commission again, through the process outlined in the Charter, he would be welcome to do so. Yeah, I just...so, I just, for the record, he didn't do anything wrong, the question is just about process. Mahalo, Chair.

CHAIR U'U-HODGINS: Yes, I appreciate that clarification. Thank you, Member Rawlins-Fernandez. Do you remember your question? Okay. Go ahead, Member Paltin.

VICE-CHAIR PALTIN: Thank you. It was about counting the time, about...I think maybe some of the issue was before 4:30, and after 4:30. So, they're going to teach us how to count days, and if it's considered like the day is up until 11:59 p.m., or 11:59 and 59 seconds p.m., would...would you clarify with the judge or the other party if that means that we then need to budget for overtime on any deadline days for the Staff to stay in the office until 11:59 and 59 seconds?

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MR. SMITH: That would be...and how exactly to address that under the current Charter provisions, I think, would require more analysis. I don't really have an answer for that today.

VICE-CHAIR PALTIN: Just saying. Because if that's going to be the new standard that the judge declares, we might want to put more money in the overtime category every time we have a deadline. Because then there's like the night shift differential, the meal allowance, and all the things that we're not budgeting for currently.

MR. SMITH: The points that you are bringing up are, in my mind, reasons that you might want to consider settling. Because if you settle, you...you control what you agree to that way, rather than having a court impose it on you.

VICE-CHAIR PALTIN: If the court imposes it on us though, then we're not wrong because we're just following their advice, right? I mean separate from following a lawyer's advice who's going to change their mind, unless a higher court changes the court's mind, right? Is that how it works? Until you get to the Supreme Court, and then they don't change their mind, or...just trying to understand all the law stuff.

MR. SMITH: Well, let's...let me just take your first point. Yes, if the...if the court imposes it upon you, you're stuck with it, unless it gets reversed on appeal. I think that was what you were asking. So...

VICE-CHAIR PALTIN: Oh, yeah, appeal, that's the word.

MR. SMITH: Although you probably...you could change the Charter. And, you know, I should say there's a process for changing the Charter.

VICE-CHAIR PALTIN: Lawyers, huh. Okay, and judges. Judges and lawyers. Laws. Got it. Thanks.

CHAIR U'U-HODGINS: Thank you. I'm going to go with Member Rawlins-Fernandez real quick, she had her hand up, and then we'll go to Chair Lee.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I...I have a little bit more of a response to Member Paltin, but I think I'm supposed to save that for executive session to be safe. But I will add to this discussion. Remember when we first got on, and the Planning Department had all these conditions, and we asked them to enforce on these conditions. And then they would say, but there's no time on it and therefore, as long as they're making good-faith effort, then they can't do anything more than take them at their word. And then we started adding times to it, dates, so that we could give the Planning Department

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more enforceable...more authority to enforce on the conditions that we put in place.

VICE-CHAIR PALTIN: . . .*(inaudible)*. . .

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah...to be clear in the Charter, otherwise it will be a little more open to interpretation, if we wanted to be as specific as that. And then the rest, I'll save for executive session. Mahalo, Chair.

CHAIR U'U-HODGINS: Okay. Thank you. Chair Lee.

COUNCILMEMBER LEE: Mr. Smith, so deadline...being late on a deadline is not the only area of contention. The fact that the submittal may have been incorrect is also an area of contention because the document that was emailed was not emailed to the County Council, it was emailed to another Deputy Corporation Counsel person. So, you know, there's more than one thing, you know, at issue here, and I think, you know, in...in our realm, you know, this is not a grocery store. This is where we have...where we pass laws, and deadlines, and rules and regulations are in place for a reason. So, you know, you can't be just sending an official document in somebody else's name to...and cc our office, you know. I don't know how anyone could claim that's an official submittal. Now, I'm sure you have...you have that in your arguments as well?

MR. SMITH: Yes, I certainly do.

COUNCILMEMBER LEE: Okay, great. Great. Thank you.

CHAIR U'U-HODGINS: Thank you, Chair Lee. Members, any other questions before we go into executive session? Member Paltin.

VICE-CHAIR PALTIN: Thank you, Chair. Thank you, Mr. Smith. Just double checking you're still with us, right? You're not leaving?

MR. SMITH: I'm yours. My...my flight back to O'ahu leaves at 6:30 this evening, so...

VICE-CHAIR PALTIN: Oh, I might see you at the airport. But, I just...we're nice people, I'm just saying...most of the time. I'm not trying to scare you away or anything.

CHAIR U'U-HODGINS: I think he can handle. Okay. Members, any other questions before we go into executive session? Okay. Seeing none. I would like to entertain a motion to convene an executive meeting in accordance with Section 92-5(a)(4), Hawai'i Revised Statutes, to consult with legal counsel on

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questions and issues pertaining to the powers, duties, privileges, immunities, and liabilities of the County, the Council, and the Committee; and Section 92-5(a)(8), Hawai'i Revised Statutes, to deliberate or make a decision upon a matter that requires the consideration of information that must be kept confidential pursuant to a State or Federal law, or a court order. Do I have a motion?

COUNCILMEMBER COOK: So moved.

CHAIR U'U-HODGINS: Thank you. I have a motion made by Member Cook. Do I have a second?

VICE-CHAIR PALTIN: Second.

CHAIR U'U-HODGINS: Seconded by Member Paltin, to enter into executive session for GREAT-11(42). Any further discussion? Seeing none. All those in favor, please say "aye."

COUNCILMEMBERS VOICED AYE.

MS. APO TAKAYAMA: Chair, that's nine "ayes," zero "noes." Motion carries.

VOTE: **AYES:** Chair U'u-Hodgins, Vice-Chair Paltin,
 Councilmembers Cook, Johnson, Kama, Lee,
 Rawlins-Fernandez, Sinenci, and Sugimura.

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: None.

MOTION CARRIED.

ACTION: APPROVE; RECESS open meeting and CONVENE executive meeting.

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CHAIR U‘U-HODGINS: Thank you. For the record, the following personnel will be in attending...attending the executive session meeting. All Councilmembers in attendance, including myself Committee Chair Nohelani U‘u-Hodgins, Committee Vice-Chair Tamara Paltin, Councilmember Tom Cook, Councilmember Gabe Johnson, Councilmember Tasha Kama, Council Chair Alice Lee, Councilmember Keani Rawlins-Fernandez, Councilmember Shane Sinenci, Councilmember Yuki Lei Sugimura. Office of Council Services Staff include Richard E. Mitchell, Legislative Attorney; Pauline Martins, Senior Committee Secretary; and Cris Paranada, Committee Secretary; and Lex Smith, our special counsel. At this time, I would like to call for a four-minute recess, to come back at 1:40 p.m. in executive session. This meeting is now in recess. . . .(gavel). . .

RECESS: 1:36 p.m.

RECONVENE: 3:21 p.m.

CHAIR U‘U-HODGINS: . . .(gavel). . . Will the Government Relations, Ethics, and Transparency Committee meeting please reconvene, it is 3:21 p.m. Members, we have just completed our executive meeting on Item GREAT-11(42). And Remi, right now if you could please provide us a summary, in accordance with Act 19 (2023).

MR. MITCHELL: Thank you, Chair. The body discussed Resolution 24-86, the resolution authorizing the employment of special counsel to represent...forgive me, I don’t have the right one in front of me...Resolution 24-88 relating to settlement authorization, Richard D. Mayer v. Danny Ray Blackburn, et al., special case number 2CSP-24...let’s see...0000020. No other matters were discussed. Thank you, Chair.

CHAIR U‘U-HODGINS: Thank you, Remi. Members, are there any...is there any further discussion before we move on to my recommendation? No? Okay. Seeing none. I would like to entertain a motion to recommend adoption of Resolution 24-88, including any nonsubstantive revisions.

COUNCILMEMBER COOK: So moved.

CHAIR U‘U-HODGINS: Thank you. I have a motion made by Member Cook. Do I have a second? Do we have a second?

VICE-CHAIR PALTIN: Second.

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CHAIR U'U-HODGINS: Thank you. Councilmember...seconded by Councilmember Paltin. Any further discussion? Nope. All those in favor, please raise your hand and say "aye."

COUNCILMEMBERS VOICED AYE.

MS. APO TAKAYAMA: Chair, I see five “ayes,” four excused, Members Rawlins-Fernandez, Kama, Sinenci, and Sugimura. Motion carries.

VOTE: **AYES:** Chair U'u-Hodgins, Vice-Chair Paltin,
 Councilmembers Cook, Johnson, Lee.

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmembers Kama, Rawlins-Fernandez, Sinenci and Sugimura.

MOTION CARRIED.

ACTION: ADOPTION OF RESOLUTION 24-88.

CHAIR U'U-HODGINS: Okay. Thank you, thank you. Thank you, Members. This item will move on to full Council for consideration. This concludes the Government Relations, Ethics, and Transparency Committee meeting. Thank you very much, Members. It is now 3:23, and this meeting is adjourned. . . .(gavel). . .

ADJOURN: 3:23 p.m.

APPROVED BY:

Noelani U'u-Hodgins
 NOELANI U'U-HODGINS, Chair
 Government Relations, Ethics, and
 Transparency Committee

great:min:240501:ta

Transcribed by: Terianne Arreola

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CERTIFICATION

I, Terianne Arreola, hereby certify that pages 1 through 45 the foregoing represents, to the best of my ability, a true and correct transcript of the proceedings. I further certify that I am not in any way concerned with the cause.

DATED the 12th day of July 2024, in Makawao, Hawai'i.



Terianne Arreola