

GOVERNMENT RELATIONS, ETHICS, AND TRANSPARENCY COMMITTEE

Council of the County of Maui

M I N U T E S

November 19, 2024

Online Only via Teams

CONVENE: 1:34 p.m.

PRESENT: Councilmember Nohelani U‘u-Hodgins, Chair
Councilmember Tamara Paltin, Vice-Chair
Councilmember Tom Cook, Member
Councilmember Gabe Johnson, Member
Councilmember Alice L. Lee, Member
Councilmember Keani N.W. Rawlins-Fernandez, Member
Councilmember Shane M. Sinenci, Member (Out 2:00 p.m.)
Councilmember Yuki Lei K. Sugimura, Member

EXCUSED: Councilmember Tasha Kama, Member

STAFF: Kasie Apo Takayama, Senior Legislative Analyst
Clarissa MacDonald, Legislative Analyst
Maria Leon, Committee Secretary
Richelle Kawasaki, Deputy Director, Council Services
Megan Moniz, Legislative Attorney
Jean Pokipala, Council Services Assistant Clerk
Ryan Martins, Council Ambassador

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

ADMIN.: Mimi DesJardins, First Deputy Corporation Counsel, Department of the Corporation Counsel (All)
Cody Minatodani, Deputy Corporation Counsel, Department of the Corporation Counsel (All)
Cory Lynn Vicens, Boards and Commissions Liaison, Office of the Mayor (GREAT-5(7))

OTHERS: Jasee Law (GREAT-5(7))
Dick Mayer (GREAT-5(7))
Chris Salem (All)

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(10+) additional attendees

PRESS: *Akakū: Maui Community Television, Inc.*

CHAIR U‘U-HODGINS: . . .*(gavel)*. . . Good afternoon, everyone. Will the Government Relations, Ethics, and Transparency Committee meeting of November 19th, 2024, please come to order. It is 1:34 p.m. I’m your Chair, Nohelani U‘u-Hodgins. Members, in accordance with the Sunshine Law, please identify 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 afternoon and aloha. Oh, shucks, we cannot hear you really. We can see you moving, but...oh.

COUNCILMEMBER COOK: She can’t hear us.

CHAIR U‘U-HODGINS: She cannot...can you...can...Member Sinenci, can you hear us? Oh, you know what? Shall we take five? Take two?

VICE-CHAIR PALTIN: Oh, can you hear me now?

UNIDENTIFIED SPEAKER: Yes.

CHAIR U‘U-HODGINS: We can hear you now.

VICE-CHAIR PALTIN: Oh, okay. Someone just unmuted my mic. I was pressing the button, that’s why. Aloha ‘auinalā and good afternoon kākou. Streaming live and direct from my kitchen table in Nāpili. I have with me one adult male, George Vierra, pau hana, and two canines, one minor, one adult old man, and his name is Kingy Poo Paltin-Vierra. Thank you.

CHAIR U‘U-HODGINS: Thank you. We also have Councilmember Tom Cook with us in the Planning Room. Aloha, Tom Cook.

COUNCILMEMBER COOK: Good afternoon, all. And there’s nobody in the Kīhei Office to give testimony, and I’m happy to be here.

CHAIR U‘U-HODGINS: Thank you. We’re happy to have you here. Aloha, Councilmember Johnson. Good afternoon.

COUNCILMEMBER JOHNSON: Good afternoon, Chair, Councilmembers, community members. There’s no testifiers at the Lāna‘i District Office, and I’m here and ready to work. Mahalo.

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CHAIR U‘U-HODGINS: Thank you. One second as I rejoin this call. It kicked me off. Okay. Okay. Let’s continue with Council Chair Alice Lee. Aloha and good afternoon.

COUNCILMEMBER LEE: Madam Chair, aloha ‘auinalā. Glad to be with all of you, and trying the Momona pastries.

CHAIR U‘U-HODGINS: Yay. Aloha and good afternoon to Councilmember Keani Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Aloha ‘auinalā kākou. I want Momona pastries. . . .*(laughing)*. . . I am at my private residence, home alone, and there are currently no testifiers at the Molokai District Office. Mahalo, Chair.

CHAIR U‘U-HODGINS: Thank you. And aloha and good afternoon to Member Sinenci.

COUNCILMEMBER SINENCI: Aloha ‘auinalā, Chair, and kia ora. I’m here at my home office, here by myself and two sleeping canines, and there are no testifiers at the Hāna District Office.

CHAIR U‘U-HODGINS: Thank you. And Councilmember Sugimura, aloha and good afternoon.

COUNCILMEMBER SUGIMURA: Aloha and nice to be with all of you in the Planning Commission Meeting Room, and we’re getting crowded in here. Yeah.

CHAIR U‘U-HODGINS: I know. We have a full house on that side.

COUNCILMEMBER SUGIMURA: Yeah, full house. I’m looking forward to a productive meeting.

CHAIR U‘U-HODGINS: Me too. Thank you. We have with us from Corporation Counsel, First Deputy Corporation Counsel Mimi DesJardins. We also have Cody Minatodani, Deputy Corporation Counsel. We also have with us Cory Vicens from Boards and Commissions Liaison. Do we have Jason Stone as well? Is he online?

MS. APO TAKAYAMA: Not yet.

CHAIR U‘U-HODGINS: Okay. Jason Stone hopefully will join us later. He’s the Chair of the Independent Nomination Board. Our Committee Staff include Kasie Apo Takayama, Senior Legislative Analyst; Clarissa MacDonald, Legislative Analyst; Megan Moniz, Legislative Attorney; Richelle Kawasaki, Deputy Director of Council Services; Jean Pokipala, Council Services Assistant Clerk; and Maria Leon,

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Committee Secretary. Please see the last page of the agenda for information on meeting connectivity. I'm assuming we have at least one testifier today, so I'll read this. Testifiers wanting to provide testimony should sign up in the lobby, join on the online meeting link via Teams link, or call in 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, we 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 order of the testifiers signing up or raising 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 time to testify. At that time, Staff will also enable your microphone and video. If you do not wish to testify...or if you wish to testify anonymously, sorry, 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're 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 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, and we will now call on testifiers wishing to testify at the beginning of the meeting. Staff, if you could please call our first testifier.

MS. MACDONALD: Yes, Chair. There is currently no one who has signed up to testify. I do see an individual approaching the podium.

. . . BEGIN PUBLIC TESTIMONY . . .

MR. LAW: Aloha. I'll try this without looking. Luna Ho'omalū. I've been real busy this week, so I only got to the first item on the agenda, Independent Nomination Board. I didn't read the packet material, but it comes to me from Luna Ho'oma-e hō mai ka 'ike mai luna mai ē. Da kine...I know you Councilmembers swear in to the United States of America an oath of...oath . . .*(inaudible)*. . . I recommend any new people helping the County swear an oath to the Kingdom of Hawai'i. Thank you for your time.

CHAIR U'U-HODGINS: Okay. Staff, do we have any other testifiers wishing to testify?

MS. MACDONALD: Yes, Chair. The next individual signed up to testify is Dick Mayer.

CHAIR U'U-HODGINS: Sounds good. *(pause)* Mr. Mayer?

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MS. MACDONALD: Mr. Mayer, your camera and microphone have been enabled. You'll have to unmute on your end. So, if...if they have a line across your camera and microphone on your top right-hand corner, you'll have to click that to unmute yourself.

MR. MAYER: Okay. Can you hear me now?

CHAIR U'U-HODGINS: We can hear you. Thank you.

MR. MAYER: Thank you. I...I was the person who, about 15 years ago under Alan Arakawa, was chair of the...what was then called the Blue Ribbon Committee, selecting people for boards and commissions. It was advisory to the Mayor, and it had a number of leading citizens in the group, and we made recommendations. It was that model that was recommended by me to the Charter Commission to put on your...put on the ballot. You folks went ahead, put it on the ballot. The citizens of Maui voted to establish the INB. I know that there are now concerns regarding how it's operating, particularly with regard to privacy and...and just the transmitting of materials. Two things I would like to state. One, I noticed that your...of your packet of information for this meeting, lots of discussion about boards and commission appointees, but no mention of the four officers--administrative officers of the County--who are also reviewed by the INB, and need to be sent directly to the Council. I want to make sure that in any of your discussions today, you don't forget that you have a...that the INB has a special role to appoint. And one of the people, for example, is the County Clerk. And I understand that some motion was made recently regarding the INB, regarding the County Clerk position, and I urge you to make sure that the INB recommended people to you in the proper manner. The second item is that when I mentioned it to the Charter Review Commission, I mentioned that model that you and we all should be following may be that of the County...of the...excuse me, the State's Judicial Review Commission. There's a special body established in Hawai'i that reviews candidates to be judges, and that body can meet, they have confidentiality, they can meet privately. It's authorized...the privacy part of it is authorized by the State Constitution, not by ordinance. And so, what you may want to do is look at that as a model. And in the future--it's not going to be done immediately--see whether you can get the Office of Information Practices to give the INB the provisions that the Judicial Review Commission has to also work in privacy and confidentiality to conduct some of their personnel decisions. That's particularly true of the administrative officers, but also for all the members of the boards and commissions. That would be a mechanism that you could utilize as a model, and you may want to contact them, how they operate, how that board...the State Board of Judicial Review conducts its meetings. That would be a model for the INB to also operate and send their nominations forth. I

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will be glad to serve as a resource person if you so desire, but I will have to get off at 3:00 for other meetings. Thank you very much.

CHAIR U‘U-HODGINS: Thank you, Mr. Mayer. Members, any clarifying questions? Chair Lee.

COUNCILMEMBER LEE: Mr. Mayer, so, where did you get the information that the INB would need to recommend or select the Clerk and Deputy Clerk?

MR. MAYER: In the County Charter. The County Charter, when it describes the INB’s role, it is select...to make nominations for four positions for the...for administrative positions for the County, one of which is the County Clerk. There are other...other three, you can get those. And then secondly, you can...you’ll see that in the Charter.

COUNCILMEMBER LEE: Okay. We don’t have that information. In fact...

CHAIR U‘U-HODGINS: In our case, the INB missed their deadline for the clerks.

COUNCILMEMBER LEE: I see.

CHAIR U‘U-HODGINS: Yeah.

COUNCILMEMBER LEE: Okay. Thank you.

CHAIR U‘U-HODGINS: Thank you. Member Paltin?

VICE-CHAIR PALTIN: Can you hear me?

UNIDENTIFIED SPEAKER: Yes.

CHAIR U‘U-HODGINS: We can.

VICE-CHAIR PALTIN: Oh, okay, good. My...my clarifying question, when you said that this was a suggestion that you had put forward based on Arakawa’s committee, I just was...my clarifying question is, is it working how you had intended for it to work for INB?

MR. MAYER: I have not sat in on any of the INB meetings, so I can’t give any personal knowledge of how they’re operating and what they’re doing. The structure, I think, is...is...was set up properly. You folks vetted the people to be on the INB, and they then began . . .*(inaudible)*. . . But they needed to set up their rules and regulations as to when they can go into private sessions. All of that should have been done, but I have no knowledge whether they have actually been operating it

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that way. And I don't know what kind of schedule they're operating, how often they meet. But I...let me help you a little bit here. There are two types of nomination sections. One is the mass nominations that take place February...January and February each year for all the boards where people's terms have run out. And the second one is when vacancies occur. And that is periodic, and sometimes there are no vacancies, and sometimes there are a bunch of them. And the Nomination Board has to meet a schedule, very intense schedule, usually during January. But they will meet very often, multiple times even in a week, and for long meetings, to go through all the people for the mass nominations. For the vacancies, it's usually one, two, three people at a time, perhaps. Much less intense, and they will meet on that schedule. But I don't...I do not know exactly how they're operating and what...what rules they're following because I've not kept track of that.

VICE-CHAIR PALTIN: So, you don't know that, if it's operating in the way that you had intended?

MR. MAYER: That's correct.

VICE-CHAIR PALTIN: Yeah. Because we didn't have the Cultural Resources Commission meet for like ten months, and our whole historic district burnt down. So, it's...it's become kind of a problem, that I would even entertain repealing it because we can't have people, you know, waiting around for ten months.

MR. MAYER: Right.

VICE-CHAIR PALTIN: Thank you.

MR. MAYER: In fact, not...not only are there delays in having them operate, there was even a delay in getting them started. The...they should have started around January 1st of 2023, after the...it was a moved to the Charter, but I don't think the names were actually put forth almost for 10, 11 months, and finally the board got started. So, it got a very slow start. I would hope by now they would have rectified any delays and...and begun operating smoothly, but I don't know. I made offers to the Administration early on to help get the thing started. Because I watched the procedures that we had, and was...no one ever asked me to come back to them, either to the Administration or to the INB, to give a presentation to them. I could have probably saved them many months of work in terms of laying out how we went ahead and did everything.

CHAIR U'U-HODGINS: Member Paltin, do you have any other questions?

VICE-CHAIR PALTIN: Thank you. No other question.

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CHAIR U'U-HODGINS: Okay. Members, no other clarifying question? Seeing none. Staff, do we have any other testifiers?

MS. MACDONALD: Chair, there's currently no one else to sign up to testify, but a phone number did just join recently. If they would like to testify, it would be star-five to raise your hand for us to know. Do see they raised their hand, so...

CHAIR U'U-HODGINS: I did see they raised their hand.

MS. MACDONALD: Their microphone has been enabled.

CHAIR U'U-HODGINS: Okay.

MS. MACDONALD: That's the phone number ending in 6050.

MR. SALEM: Good afternoon, Councilmembers. Am I on board, per se?

CHAIR U'U-HODGINS: Yes, we can hear you. You're welcome to begin your testimony.

MR. SALEM: Okay. Thank you very much, Chair. Thank you, Councilmembers, for all your service to our community. I had not planned to testify today, but I do want to thank Mr. Mayer for his very eloquent as well as on-point comments that he just made regarding the process that he was speaking to. Obviously, that applies to some of the items on the agenda today. The first item that I'd like to speak to would be...let me go to the Committee items here. I'd like to speak to the financial disclosures, that is item number --

CHAIR U'U-HODGINS: Would you please identify...

MR. SALEM: -- bill number 3...oh, I'm sorry.

CHAIR U'U-HODGINS: Unless you want to remain anonymous.

MR. SALEM: I'm sorry. Very good. Sorry about that. This is Christopher Salem.

CHAIR U'U-HODGINS: No worries. Okay. Thank you.

MR. SALEM: So, I...thank you so much. I apologize for that. Like I said, I was not prepared to...to testify today, but I feel like it's necessary to bring a few of these matters to the table. So, in regards to the financial disclosure item, I'm a little confused with what's being proposed there, specifically what's being eliminated as it relates to public availability to all the financial information. I'd like to speak to history on this item, and that being what we all experienced in dealing with Palama Drive. As we all know, our former Corporation Counsel, Pat Wong, put

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his financial disclosures in front of the Council, and there was question raised as to the income, supposedly, from gambling. When he was up for reappointment, he was questioned about whether he could support that information on his financial disclosures. Those are very important documents for us, the citizens, to see where potentially there's conflicts of interest or alliances. Mr. Wong stated that he couldn't find his tax returns to support that, and no one questioned it when any one of us can get ahold of our tax returns from our accountants and/or through the IRS. So, inasmuch as Mr. Wong stated the dog ate his homework, the issue comes down to our rights as citizens to be able to ask questions and receive information through this Council process, where at the time, you had those same rights that are going to the next item, which that is to investigate any and everything that goes on within the Administration. So, again, I would hope that, Chair Lee, you could explain the changes that are being proposed and why. But as far as we're concerned, and all of you spoke to this during your *Civil Beat* interviews, we demand further transparency and honesty in this entire government that we're dealing with. So, moving on to the next item, that being the one regarding--I believe it's still in play--and that's where the voice starts to break.

CHAIR U'U-HODGINS: Sorry, Mr. Salem, one second. One second. . . .(timer sounds). . . This is item number two on the agenda, and these are...all of these resos are under one item. So, you have three minutes to testify to the one item under the agenda. All of these things are going to be moved over to next year's Committee. So, you did use your three minutes. You can have about 30 seconds to say whatever you might want to say on the other item, and then we're going to have to move on.

MR. SALEM: So, all of these resolutions today, one would have to speak to them in a three-minute period?

CHAIR U'U-HODGINS: Yes. Because we're not taking action on them today. They're going to be set to next term...sent to next term. And at that time, you can --

MR. SALEM: Okay.

CHAIR U'U-HODGINS: -- use your minutes. Yeah. But you can have another 30 seconds.

MR. SALEM: Where does it say that? Where does...okay. That doesn't make any sense, and that...therein lies the whole...the frustration with this.

CHAIR U'U-HODGINS: It's under one item.

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MR. SALEM: So, I'll just get to the point. Thank you. I absolutely feel the same thing is true for what Mr. Mayer spoke of in regards to the proposal on the County Auditor. The County Auditor is currently in the Board of Ethics. We are heading into executive session for hearings relating to his conduct, and he's also a party to...will be brought to testimony in a jury trial, which is forthcoming, where all of these items that have been...the Council's been noticed about will be addressed. Last item being in regards to investigating the fires, I would ask you to shelf that item. We don't need to look back any longer. Councilmember Paltin, you need to drive up Hui Road F and Nāpilihau, and you will see an absolute duplication of Lahaina that could happen at any time if all of that...that what's in the canyons adjacent to it started fire. . . .*(timer sounds)*. . . Let's move forward with solutions. So, I'm sorry I didn't think we were going to be limited to three minutes.

CHAIR U'U-HODGINS: Okay.

MR. SALEM: Let's focus on solutions, people, just like we did at the Aquatic Center, where we brought in solutions.

CHAIR U'U-HODGINS: Thank you.

MR. SALEM: Thank you, Councilmembers.

CHAIR U'U-HODGINS: Thank you very much. Members, any clarifying questions for Mr. Salem? Making sure I don't miss anybody online. Seeing none. Thank you very much. Staff, next testifier, please?

MS. MACDONALD: Yes, Chair. That is currently everybody who has signed up to testify. Would you like me to do a last call?

CHAIR U'U-HODGINS: Please.

MR. SALEM: If somebody would like to testify in the conference room, please let Staff know, or on Microsoft Teams, please raise your hand. This is final call...three, two, one. Chair, it appears that nobody wishes to testify.

CHAIR U'U-HODGINS: Thank you.

. . . END OF PUBLIC TESTIMONY AT BEGINNING OF MEETING . . .

CHAIR U'U-HODGINS: Moving on. Real quick before I start, is Jason Stone on? I can't see. If he's not, that's fine. We'll just move on. Sounds good. Okay.

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ITEM 5(7): INDEPENDENT NOMINATION BOARD (Rule 7(B))

CHAIR U‘U-HODGINS: I’ve scheduled a follow-up discussion relating to the Independent Nomination Board, including the board’s procedures, duties, and responsibilities, and the process for filling vacancies under Rule 7(B) of the Rules of the Council. Members, I hope you had an opportunity to review Granicus item number 9, which is a letter dated November 18th, 2024. Oh, thank you, Maria. At this time, maybe I’ll ask Ms. DesJardins to give us an overview, followed by Megan. If you would please let us know, I guess, briefly, what this is about, and then I’ll move on to discussion for this...I’m sorry, testimony for this item. Corporation Counsel DesJardins, thank you.

MS. DESJARDINS: Thank you, Chair. That’s loud.

CHAIR U‘U-HODGINS: It is loud.

MS. DESJARDINS: It sounds so loud. Okay. Thank you. And I appreciate the opportunity to be present and just sort of help brainstorm ways that we can move through this process. I did have a discussion with Mr. Raatz after he drafted his memo yesterday and then had that posted. And in that memo, he sort of defines the...the...the most serious problem that we have right now in looking at this Charter is that under paragraph 13-2.19 --

MS. MONIZ: 19.

MS. DESJARDINS: -- I know, I almost have it memorized. Well, I do have it memorized.

UNIDENTIFIED SPEAKERS: . . .*(laughing)*. . .

MS. DESJARDINS: 13-2.19 sort of lays out the procedure for when the INB fails to meet its deadlines. The problem is, nowhere in the newly-found section of Boards and Commissions does it lay out what happens if the INB, the Mayor, and Council don’t hit their deadlines. When you look at the language of Section 13-2 prior to that, it’s pretty clear, the lobbying back and forth. Like in the old days, the Mayor had ten days. If he didn’t make that, then Council had ten days, and it would go back and forth. And when we had a seat that wasn’t filled, we could go back and sort of count whose ballpark was...was the ball in, whose park. Can’t do that now because of the way that that paragraph 19 is written. So, Mr. Raatz has laid out what I think is a good way to try to move forward. So, rather than...where we are right now is, do we just allow all of those seats that have not been filled, do we just wait for them to expire? And Ms. Vicens can give you more information, but she’s presented to me that there is...some of those aren’t going to expire for many years. So, we’re going to be stuck with bare quorum, or no quorum, or just...you know, just hopping along. And that can’t be the absurd

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result of just simply not having that language in there. So, there are a couple things in the Charter that lead us to believe that it might be a good idea to try to draft some sort of ordinance to fill that puka so that we can move forward rather than just sit and wait. One of those that Mr. Raatz points out from an old Corp. Counsel opinion, a section of the Charter, which is still in existence, is Section 2-2, Exercise of Powers, and it says, "All powers of the County shall be carried into execution as provided by this Charter, or if the Charter makes no provisions, as provided by ordinance or a resolution of the County Council." So, we're looking at that second part of that sentence. Oh, I'm sorry. I'm on Section 2-2 --

CHAIR U'U-HODGINS: Of the Charter.

MS. DESJARDINS: -- of the Charter, which is on page 2, right above Article 3, County Council. So, we're looking at that section where there is a gap. Are we allowed then to enact an ordinance to fill that? And the answer to that is, we believe that that is possible. I...we will work with OCS to hopefully come up with something that we can then present to Council, and hopefully the Administration will also support, to make sure that we don't overreach. Because we cannot overreach with the Charter because the Charter lays out lots of powers that, you know, have to remain within the Charter. But if we can accomplish that quickly, then I think that we can start moving towards filling those positions, rather than waiting. Some folks say, well, this is just a problem that's occurred because of the initiation and the growing pains of the INB. That's not necessarily true, though. Because as we've seen, there are many times when deadlines get inadvertently passed. And we just, you know, because this...this is a very complicated moving process with all these boards and commissions. So, for example, the clerk's position, which my understanding is, is that that deadline passed for the INB to make that selection. So, we need a fix that we can turn to over and over again as we move forward. So, I do support what Mr. Raatz is saying in his memo, and I think we can work together to come up with a solution. Thank you.

CHAIR U'U-HODGINS: Thank you. Megan, did you want to add anything? And then if not, I'm going to call...or afterwards, rather, I'll call on Cory, Ms. Vicens. But, Megan?

MS. MONIZ: Thank you, Chair. I think Mimi eloquently explained the memo that David drafted, and...and the problem that we are in agreement with that, yeah, the Charter has this puka when...when we miss our deadline. So, under this new version of the Section 13-2 of the Charter doesn't provide that mechanism for us to fill seats when we miss our deadline. So, as a result, there are several current seats set to remain unfilled until their terms expire. And for some of those seats, those terms expire on March 31st, 2025, and then can be filled through next year's mass nominations process. But there's other seats that are set to remain vacant through March 31st, 2026, March '27, and March '28 and '29. So, we

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want to...you know, we wanted to find that solution. So, we're glad that...like Mimi has said, we're pleased to work to draft some sort of ordinance under the direction and in consultation with the Department of Corporation Counsel to create a mechanism to fill those board and commission seats that would otherwise remain vacant. So...yeah.

CHAIR U'U-HODGINS: Thank you.

MS. MONIZ: Thank you.

CHAIR U'U-HODGINS: Thank you, Ms. Moniz. Before we move on, if Ms. Vicens is...Ms. Vicens is also on the line, if she would like to give us an update on either this or the INB. *(pause)* Is she on? Oh, hello.

MS. VICENS: Aloha. How are you? Thank you, Members. And I'm sorry I'm not better prepared. We weren't...we weren't requested, and didn't receive a notification, other than a request for personnel. I have reviewed the materials and met with Deputy Corporation Counsel on the vacancies. I can say that the Independent Nomination Board, when we relayed the scenario that we were facing, that the 30 applicants that...or the 30 that they had selected and recommended for vacancies would sit vacant until some...even...for two seats up until 2029. They were...you know, they were disappointed by the work that they had done and that it now would not be completed. Without avail, we do acknowledge that those individuals that have been vetted, those 30, can be reassigned to the mass nominations for 2025. And there are 27 boards, 57 seats to be filled, of which these 30 can be applied to, along with other recruitment efforts. I'm not exactly sure what else you would like me to speak to. They are moving forward with mass nominations. They have a process determined and in place for the review and selection, the recruitment. I can acknowledge that we are seeing a definite low submission rate. We requested another push by the communications team, an outward push to...for more applications. But, yeah, we have a low submission rate this year thus far, compared to what we've seen in the past, historically. I can tell you that number is only 24 applicants have been received since November...or October 31st to the boards and commissions for our mass nominations. So, the levers that are being used are the 30 that weren't current...they were interviewed already, apply them to the...there are 9 that can be reappointed, an email to them, and then they have...we have another 13 or...or so more that are interested in being assigned...submitting applications who are terming out from various boards and commissions, along with the press release and media. And the members themselves *[sic]* have been reminded of their duties to solicit within their own residency areas, and to see if there are anybody within their communities that are interested in applying for boards and commissions. So, they have that. They have identified...each member was assigned, through their own choices, 3 boards, which they determined for those 3 boards each out of the 27, so 9 times

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3, they each got 3, what was required. Kind of equate it to your NFL draft, what the board was, what they needed...what they needed, male, female, special designee. Did they meet the ordinances and qualifications? So, that first step has already occurred. They are now in the process of reviewing what...the applicants that we have, and who meets those qualifications for those three boards. They will present that on the 27th, each one for their three to the other members, and make recommendations for further interviewing on that. So, we're dividing and conquering to be more efficient in the mass nominations board review. Do you have any other questions? I'm happy to answer those for you.

CHAIR U'U-HODGINS: Thank you, Ms. Vicens. Before we get into discussion, though, if you could please see if we have anybody wishing to testify on this item.

MS. MACDONALD: Chair, there is currently no one who signed up to testify. Would you like me to do a last call?

CHAIR U'U-HODGINS: Please.

MS. MACDONALD: If somebody would like to testify in the Conference Room, please let staff know, or on Microsoft Teams, please raise your hand. This is final call...three, two, one. Chair, it appears that nobody wishes to testify.

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

COUNCILMEMBERS: No objections.

. . . END OF PUBLIC TESTIMONY FOR ITEM GREAT-5(7) . . .

CHAIR U'U-HODGINS: Thank you. As a reminder, written testimony will continue to be accepted. So, Members, we're going to have a three-minute discussion period. I wanted to bring this attention to you folks so we can figure out how to work together on this. I'm happy to coordinate with Corp. Counsel and OCS and do an ordinance so we can fix these pukas. But I wanted to just bring this to our attention since boards and commissions and the lack of their meeting has been getting so much attention. There are certain reasons why there are some vacancies, and this is one of them. So, I wanted to let you folks know. I want to say that there's like 44 vacancies because of this...yeah, with a few alternates. Because I'm like moving homes, I forgot my paper. But I'm pretty sure it's like 44, if not about 37 voting members, and it's kind of a big gap. As you'll see by my second item, we're moving things over to the next term. So, I wanted to provide us the opportunity to discuss this, and also let you guys know that this is happening. And this has been discussed with Corporation Counsel and OCS,

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even myself and Chair, all of us in a room. But it's been going back and forth. So, I wanted to let you guys know that this is what's up. So, if you have any questions, please raise your hand. So, let's talk about it. And I will call you if you have any questions. Members, any questions? Chair Lee?

COUNCILMEMBER LEE: For Corporation Counsel?

CHAIR U'U-HODGINS: Sure.

COUNCILMEMBER LEE: Mimi, so you...I think you talked about coming up with a draft, an ordinance, to resolve this...these problems for once and for all. So, in the meantime, is the plan for you to come up with a draft?

MS. DESJARDINS: Chair?

CHAIR U'U-HODGINS: Yeah.

MS. DESJARDINS: Thank you. So, I...I believe Chair is going to be working with OCS to come up with a draft. And we are going to assist, and then obviously, make sure that it's all copacetic with our Department so that by the time we present it in public, it's not something that we disagree with. So, yeah, we're going to be working together to do that.

COUNCILMEMBER LEE: And so, as far as you know, the INB is now on track in terms of what they know, they understand their role and...and the process?

MS. DESJARDINS: Well, you know, I don't attend those meetings. Deputy Murakami is assigned to the INB.

COUNCILMEMBER LEE: The one...the one that just left?

MS. DESJARDINS: No, that's Cody.

COUNCILMEMBER LEE: Oh.

MS. DESJARDINS: Yukari is the normal INB attorney, but she's on vacation. That's why I'm here. So...but my understanding, because I've been reaching out...or talking to her quite a bit and Cory, there has been...I will not lie, there's been a lot of growing pains with this board. It's been a difficult process. And, you know, there's a...like I said, there's a lot of moving parts. We are...Ms. Vicens is on her own. She's...she's all she's got. We have, you know, Yukari working on it. So, I think they're doing the best that they can. And I think they've made a lot of progress, is my understanding. But yeah, I don't have any other...I don't attend the meeting, so I can't tell you what's going on in those.

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COUNCILMEMBER LEE: I thought we approved a few positions for her.

CHAIR U‘U-HODGINS: Maybe. Whether or not they’ve been hired, I couldn’t tell you.

MS. DESJARDINS: Yeah, I don’t know. You have to ask her.

CHAIR U‘U-HODGINS: But did you want to ask Ms. Vicens on this meeting as well...I’m sorry. I can also make it very clear that this was my main topic, but please ask any questions related to INB that you would like an update on. Ms. Vicens, if you could maybe answer Chair Lee’s question on any updates and progress made with the INB?

MS. VICENS: Aloha. Thank you, Chair Lee, for your question. To echo our First Deputy, it has been growing pains. We’ve asked nine members of our community, two of which have only have sat on a board or commission, to number one, understand how a meeting works; number two, to review for 43 boards. When we...they started in March, there were 57 vacancies that they needed to tackle. And they started with what was the...those that had greatest need and importance. . . .*(timer sounds)*. . . So, that was where they began. But learning it, you know, identifying it. It’s...it’s...there are nuances to this. Interviewing. They have the...they’re independent, and they have their own mindset. And so, what you and I may say, hey, they’re good, put them forward. This board says, no, we don’t think so. And that’s where we stand. And we...we have no...we can’t do anything. The Deputy or I cannot do anything, and we just have to respect their votes.

COUNCILMEMBER LEE: Are you still handling this by yourself?

MS. VICENS: Yes, ma’am.

COUNCILMEMBER LEE: Are you only...

MS. VICENS: Yes, ma’am. So, prior...

COUNCILMEMBER LEE: Don’t you need...don’t you need...

MS. VICENS: I do need help, Chair. So, thank you. But prior to this, in 2023, I outlined with and reviewed with Corporation Counsel, and it was advised at that time what we thought the staffing for this INB was. And it was communicated, the flow chart of how the information would work. I’ve utilized Google Drive for ease of communications. We have...and so getting there for this. We have a member that, you know, has difficulty working through some of the technology that we’re using. You know, getting on a meeting. So, those are just some of the outside challenges. And then just learning, you know, an ordinance, the legislation, what

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is required for each of these. They meet...I think there's only been a few months. They've only met once, but they meet twice a month. That's the same schedule they adopted for 2025. Whether they have a vacancy or anything, it is on the calendar, no matter what, that they will meet for 2025. And yes, I do...the heavy lifting does go on the shoulders of any board or commission to the staffer. But this does need...I...I do recommend that this particular board requires not only the administrator, but support staff to keep things flowing. In the event, you know, somebody...one of us may go down, somebody may be sick. And if that happens, we have a...not a good case here.

COUNCILMEMBER LEE: Okay.

MS. VICENS: So, there we go.

COUNCILMEMBER LEE: All right. Thank you, Cory.

MS. VICENS: Thank you.

COUNCILMEMBER LEE: And you're not allowed to get sick. Thank you.

UNIDENTIFIED SPEAKERS: . . . *(laughing)* . . .

MS. VICENS: Thank you.

CHAIR U'U-HODGINS: Thank you. Members, anybody else have any questions?
Member Johnson.

COUNCILMEMBER JOHNSON: Thank you, Chair. So, we'll start with Ms. Vicens, basically. But if...if Corporation Counsel would like to jump in, Mimi, please feel free. Did you just say, Ms. Vicens, that the Independent Nomination Board only met once since March; is that correct?

MS. VICENS: Oh...oh, no. Thank you for the question, Councilmember Johnson. No. Since March, there's only been two months where they met only once. Everything else, they meet twice a month. Yeah.

COUNCILMEMBER JOHNSON: Thank you for that clarification. So, one of the things I'm concerned about is quorum, these boards and commissions making quorum. Can you...do you have a list of specific commissions that are presently under quorum, that can't make quorum? There's some that are right at quorum, I get that, but the ones that simply can't meet is the ones I'm kind of concerned with.

MS. VICENS: That is a great question. I went into the data, designed a document that demonstrates where we are for each of our boards. As of April 1st of 2024,

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whether they have...number one is, how many members do they have; number two, what is it that they...how many members they need to be present for quorum; and who is the approving authority? I can tell you that on this list right now, the Commission on Healing Solutions for Homelessness, their quorum is six, and that's all they have right now. So, they're at bare quorum. Another board that is of concern is the Civil Service. They have a five-member board, they're...they are at three. And if we continue without an ordinance --

COUNCILMEMBER JOHNSON: Okay.

MS. VICENS: -- we have boards that will be empty for a while.

COUNCILMEMBER JOHNSON: Let me just real quick. So, none presently are under quorum, just two or three are at bare minimum is what I'm hearing.

COUNCILMEMBER LEE: Except Civil Service.

COUNCILMEMBER JOHNSON: Oh...

MS. VICENS: You have...so, let me just quickly tell you who's at quorum out of the 43. One...two...three...we have about 8 that are at...well, we have 3 that are at bare quorum out of the 43.

COUNCILMEMBER JOHNSON: Okay. So, is...are you...are we able to see that document that you have? Is that...

MS. VICENS: I have no problem...I have no problem sharing that.

COUNCILMEMBER JOHNSON: Maybe if you could send it to our Committee, that would be great.

MS. VICENS: Yeah.

COUNCILMEMBER JOHNSON: So, I guess my next question is about the legislation we're going to write. And that might be Miss...with Ms. Desjardins, I'm not sure. But what's the timeline on this being written, and submitted, and us being...having it here in Committee? Is it...it's a bill, I assume not a resolution, right? So, can you give us a timeline on that?

MS. DESJARDINS: Sure, Chair. So, we have been meeting with OCS to come up with solutions. So, we are...this is a great...and this is Mr. Raatz has really, you know, put out a great idea here. So, this is all starting. . . .*(timer sounds)*. . . We'll be working on this this week. So, my anticipation is...because this affects all of us. We are the chief legal advisors for every board and commission. So, you can

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imagine, out of our attorneys, we have nine attorneys in the C&D section, we cover 43 boards. So, I'm telling you, this is...this like occupies a lot of our time. So, we're all vested in the idea of getting beyond bare quorum because, you know, you get into these meetings, and with bare quorum, if one person has --

COUNCILMEMBER JOHNSON: Right.

MS. DESJARDINS: -- difficulty, then now we're down to just taking presentations and no deliberation. So, it's...it's on everybody's mind. So, if we can accelerate it, we're going to do that. And I don't think it's going to be a very difficult, complicated fix. I just think we need to coordinate and get moving on it, and we intend to do that.

COUNCILMEMBER JOHNSON: All right. And it'll go before the GREAT Committee, I assume?

MS. DESJARDINS: Chair?

CHAIR U'U-HODGINS: Yeah.

MS. DESJARDINS: Yeah, I...I'm sure it would be in front of the Committee. Yeah.

COUNCILMEMBER JOHNSON: Okay. And we're...you're good on that calendar, to have it heard sooner rather than later, I assume?

CHAIR U'U-HODGINS: Yep. This has been a back-and-forth issue for a while now. I think it was difficult, if I might say, to reach consensus on how do we move forward because the Charter isn't clear.

COUNCILMEMBER JOHNSON: Right.

CHAIR U'U-HODGINS: So, it took a little while to even figure out that this is what we're going to do.

COUNCILMEMBER JOHNSON: Okay.

CHAIR U'U-HODGINS: And at the time we posted it, we weren't even sure what we were going to do, which is why this was open for discussion. Because there was even some discussion of maybe we have to have a special election so we can clean up the Charter language. There's all kinds of ideas on how we were going to fix this --

COUNCILMEMBER JOHNSON: Okay.

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CHAIR U'U-HODGINS: -- seriously.

COUNCILMEMBER JOHNSON: Yeah.

CHAIR U'U-HODGINS: And this is probably the most reasonable thing we can do that we can do quickly.

COUNCILMEMBER JOHNSON: Okay.

CHAIR U'U-HODGINS: So, yeah, we're going to make it make the most sense sooner than later, for sure.

COUNCILMEMBER JOHNSON: Thank you, Chair.

CHAIR U'U-HODGINS: Yeah. Did you want to add anything?

MS. DESJARDINS: No, I just wanted to echo that we have been working on this for over a year. I mean, we really have been talking back and forth and not...not being able to come to a collective decision about the best way to move forward. So, I'm glad we have --

CHAIR U'U-HODGINS: Yeah.

MS. DESJARDINS: -- finally got there.

CHAIR U'U-HODGINS: Yeah. It's been a long time coming. I see someone's hand up, but I don't know who the...oh, Cory.

COUNCILMEMBER JOHNSON: Ms. Vicens.

CHAIR U'U-HODGINS: Hi, Ms. Vicens. Go ahead, followed by Member Paltin. If you would like to add anything, Ms. Vicens.

MS. VICENS: Yeah, I just want to let you know, that document...that was sent to the GREAT Committee, as well as to Legislative Analyst Apo, that...Councilmember Johnson, that I was referring to. So --

CHAIR U'U-HODGINS: Awesome.

COUNCILMEMBER JOHNSON: Mahalo.

MS. VICENS: -- take a look at it. I'll just have one caveat in there. The core...the member status is based on effective April 1st, and that would be after a mass nomination fulfillment. Okay. That's what I got.

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CHAIR U'U-HODGINS: Thank you. I'm going to call on Member Paltin, then I'll call on you, Member Sugimura. So, Member Paltin?

VICE-CHAIR PALTIN: Thank you, Chair. Thank you, Ms. Vicens. I was wondering if the issue about...how...how the issue about voting in executive session played out.

CHAIR U'U-HODGINS: Would you like Corp. Counsel to answer that, or Ms. Vicens?

VICE-CHAIR PALTIN: Oh, whomever feels like they want to with accurate information.

MS. DESJARDINS: Chair, I'll take a stab at that. And just let me ask a clarifying question. Are you referring to the issue that we raised to the OIP and sent the formal request for an opinion?

VICE-CHAIR PALTIN: Oh, I...I wasn't aware that that occurred. But I guess, you know, just that we're not allowed to vote in executive session, and what...what the parameters are for voting in executive session, and like that.

MS. DESJARDINS: Okay. Thank you. So, if you look at Granicus, you'll see posted, I believe, the letter that I drafted with Yukari that we sent to the OIP requesting some clarification on some matters that are raised in a number of OIP decisions that led to the conclusion that not allowing applicants for boards and commissions to be interviewed in executive session came to what we consider to be an absurd result. And...and it's laid out in the letter. We did receive correspondence back from OIP. They're saying that it's going to take some time for them to be able to respond to us in a formal opinion. But I think a formal opinion is necessary here because there is a lot of OIP decisions. There are many OIP decisions that touch on this. But this is the first time that I have seen, in Hawai'i, where the boards and commission selection is done under a Sunshine Law board scheme as opposed to it being the Mayor, or say, the Council. The Council, of course, is a Sunshine scheme. But when the Mayor normally picked them, they were given to him, and then he picked them without there being a Sunshine Law issue. So, I think there are issues in there that need to be addressed. In the meantime, we're confident that the advice that we've given to the INB up to this point, we've asked them to continue to do it the way that they've been doing it, and feel confident on that. And I read many, many of these opinions. And they range from what Mr. Mayer talked about, which was the Judicial Selection Commission interviews of potential judges, and why...you know, it's all about the privacy interests of the parties versus the public's right to know. And as we know, when you are just an applicant and not somebody who may actually be a nominee, your privacy interests are much greater than somebody who suddenly becomes a nominee, and then you folks want to know,

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who are you, because you are about to possibly be voted on to a boards or commission. And so, your...the public's right to know starts to get higher. And that's the way that . . . *(timer sounds)*. . . normally these things play out. And let's not forget that the Hawai'i constitution gives us a right to privacy, absent compelling government reasons to avoid that. And that is our own unique Hawai'i State Constitution. So, it's not just about OIP. It's not just about the HRS. It's about the Constitution. So, I can go on for a long time. I'm fascinated by this subject. I think we're doing the right thing. I hope you have confidence in that. May not agree with it, but I've put a lot of time into it. And I think the OIP, hopefully, will be able to clarify for us some of those places that people are concerned about.

VICE-CHAIR PALTIN: Would the OIP be the final answer? Like what if they have a different answer? Then does it go to like the Supreme Court or something?

MS. DESJARDINS: Chair? So, the OIP will come out with an opinion. And of course, if it's something that we disagree with, we have a choice. We can either abide by it, which is mostly what we do, even though we don't agree with everything the OIP says. We honor their position as a State agency that's been entrusted in...in handling, you know, Sunshine Law questions. However, we do also have the right to...to go for a declaratory ruling or to appeal that opinion. But I don't want to get ahead of us. I'd like to just see how the OIP handles it. I think what we're requesting makes a lot of sense. I have trust in them that they will look at it reasonably, and come back with something that we can all live with. And if they say they don't like the way we're doing it, then we probably won't do it that way. But I'd like to wait and see what they say.

VICE-CHAIR PALTIN: Okay. And do you...do you think we would hear back from them by 2025, January, or no?

MS. DESJARDINS: Chair?

CHAIR U'U-HODGINS: Please.

MS. DESJARDINS: Thank you. Probably not by January. But...and although they say a year, my experience with the OIP is they're diligent. They know that this is an important subject, they'll get to it as soon as they can. But like all of us, they are understaffed and working as hard as they can to get these decisions out.

VICE-CHAIR PALTIN: Okay. Got it. Thank you. Thank you, Chair.

CHAIR U'U-HODGINS: Thank you. Member Sugimura?

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COUNCILMEMBER SUGIMURA: Yeah, thank you. Great discussion. And I wonder if I could ask Mimi from Corp. Counsel. So, therefore, the proposed code that we're going to do, right, to fix this puka, how does that inter...interact with what you just said? Does one have to be done before the other becomes effective?

MS. DESJARDINS: Chair?

CHAIR U'U-HODGINS: Yes.

MS. DESJARDINS: Thank you. They're two separate subjects. So, how the interviewing process for applicants occurs is an entirely different set of things going on. What we're talking about in terms of filling the gap as to what happens when folks miss deadlines is...is entirely different. So, we'll be able to proceed once we fix that with an ordinance. We'll be able to proceed with filling those vacancies, which is our primary, most important thing we do at this point.

COUNCILMEMBER SUGIMURA: Okay. And so, going back to my question, one of the reasons that I remember the INB was created was for transparency. And so, names would come to us and we would say, well, who else applied, right? And they couldn't say. So, what happened with that whole discussion as it relates to the INB?

MS. DESJARDINS: Chair? Thank you. So, that is at the heart of the question that we're asking the OIP is, whether or not you can interview people who are mere applicants. And that's...they're not nominees. So, when they come to you, they're nominees. And the transparency at that point is, that those folks are actually being considered to be seated. But when you're an applicant, anybody off the street, the concern is, is that that person may or may not be chosen. So, the question is, do you want...will people be chilled from applying if they know that they got rejected? Some people don't like rejection. Some of us are used to it, right? But some people won't even apply. And so, that's part of the concern. The other concern, of course, and this came up with the Judicial Selection Commission, is outside influence. So, at what point do you disclose the names of those people that are being considered, and then the outside influence of people calling, lobbying? And that offends some people as well. And they don't want to be part of a political process, they just want to serve on a board or commission. So, lots of things to think about. But that's not the ordinance that we're talking about.

COUNCILMEMBER SUGIMURA: Okay. Very good.

CHAIR U'U-HODGINS: Yeah. Okay. Chair Lee?

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COUNCILMEMBER LEE: Yes, thank you. So, the ordinance will solve some of the problems in the short-term. Because I think the long-term requires a Charter Amendment, one, and not for process; and two...and two, I think we have to have fewer boards and commissions.

CHAIR U‘U-HODGINS: We’re working on that, remember?

COUNCILMEMBER LEE: Okay.

CHAIR U‘U-HODGINS: Cost of Government is doing that for us.

COUNCILMEMBER LEE: Okay. Because that’s very, very important. Because we could have...you know, I know a lot of people want more public participation and...and civic engagement, but we just don’t have the resources. We don’t have the employees to handle that. So, we have to look at capacity, you know, in a realistic way. Any comments, Mimi?

MS. DESJARDINS: Thank you. No, so this is a big challenge for us. Because as chief legal advisor for all these boards and commissions, let me just give you an example of what happens. A lot of these meetings occur at night. So, we’re paying our folks comp time to show up. So, that affects our budget because we have to have an attorney present. Then we thought about, well, let’s have an attorney present only at boards and commissions where they are not advisory, for example. But we all know from these meetings that where the problems occur is during the meeting. When the attorney is able to say, excuse me--especially with boards and commissions, not so much with you folks, but to give them the guidance--I’m sorry, you can’t talk about that, you know, that’s outside the agenda. And if we’re not present, we can’t effectively give them that counsel. We thought about attorney on-call, but it doesn’t work that way because you notice these things. They really need a lot of help, and they appreciate it. But can you imagine, nine attorneys and 43 boards and commissions? It’s too much. And honestly, a lot of them end up not meeting, where they could be consolidated into an advisory board and...and do some great work for those that I think you folks intended when you enacted a lot of these. So, I’m not dissing the idea of them, it’s just practically.

COUNCILMEMBER LEE: Thank you.

CHAIR U‘U-HODGINS: Yeah. Could you please answer her first question? Does the ordinance only serve as a short-term solution, and do we need a Charter Amendment for a long-term solution, related to these vacancies on if we all meet...miss a deadline, rather?

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MS. DESJARDINS: Thank you, Chair. No, I don't think we need a Charter Amendment for that because what we're saying is, is that the Charter allows us to create this ordinance because it's silent on that subject. So, enacting an ordinance is a long-term fix. And in fact, we may find other pukas. And if under 2-2, we feel that the Charter is silent on it, it means that we're not usurping the Charter's powers by filling that hole with an ordinance. And it gives us the power to do that.

COUNCILMEMBER LEE: The Charter amendment that I was referring to would have justified the ordinance, yeah, and provided authority for the ordinance, and shrunk the number of boards and commissions. That's...that's what the purpose of it would be.

MS. DESJARDINS: Can I comment real briefly?

CHAIR U'U-HODGINS: Please.

MS. DESJARDINS: So, remember there are some ordinances...some boards and commissions that are Charter-based, and most of those are not advisory-only in nature. They're like the Maui Planning Commission. You know, they're...they're beefy boards. The ones that are less beefy are the ones that are enacted by ordinance. So, you folks have the power over those ordinances without a Charter Amendment because you created them by ordinance. Commission on Homelessness. Cultural Resource Commission. All of those that are not in the Charter.

COUNCILMEMBER LEE: How many are in the Charter, do you know?

MS. DESJARDINS: I don't know.

CHAIR U'U-HODGINS: I will say that the Cost of Government Commission had their meeting--I want to say last week, Thursday--and they started this discussion on our behalf since we sent them the resolution to take a look at all of these boards and commissions and its committees, and figure out how it's best for all of us to consolidate. So, hopefully we should hear from them soon. Does anybody else have any questions? Otherwise, I do have a quick question. So, for the INB and their...their voting in executive session and the applicants be nominees--which I find extremely interesting, by the way. Say they made...in the application itself, they said this will be public. And they...the applicants agreed for their information to be public. Is that something that can be done? Is that...if...in case OIP says no, like what...what's the recourse, if OIP says that's not correct? I mean, I kind of hope they do say that because then we've got some cleaning up to do. But if in case, what's the recourse for us?

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MS. DESJARDINS: Thank you, Chair. So, if there was a line in the application that said, for example, be advised that when you apply for this position, this application and everything in it and your interview shall take place in a public arena, you know, otherwise, don't apply if that's not okay with you, then that would be fine.

CHAIR U'U-HODGINS: Okay.

MS. DESJARDINS: Because the...the privacy interest belongs to the individual. So, if the individual is willing to waive--and I'll give you an example. Sometimes we get a request for all of the applicants. And normally because they have...they're just applicants and they didn't get to any higher level, one way to disclose that information is to call them and say, do you mind? Someone's asking to see your application. And if they say, oh, absolutely not, then...then we don't have a privacy problem. It's when they say no. Then --

CHAIR U'U-HODGINS: Okay.

MS. DESJARDINS: -- you know, we have to wait...we have to do that balancing.

CHAIR U'U-HODGINS: Okay.

MS. DESJARDINS: Yeah. But...but putting that information on, another question is going to be, is that going to chill people from wanting to apply? Because maybe some folks will be like, nah, I'm not so sure about that.

CHAIR U'U-HODGINS: For sure. And we need everybody to apply. I know that we're probably not trying to think negatively, but hypothetically, if OIP says no, that's not the way we're going to do that--I know Member Paltin was kind of asking how far can we go with this argument--but if in case they do say no, how do we...how do we fix all of the...let's say if we put them on a board and commission already, if they sent nominees to us or...yeah, nominees at that point?

MS. DESJARDINS: Thank you. So, that's always a risk. You know, when you make a decision, a legal decision about how to proceed --

CHAIR U'U-HODGINS: Yeah.

MS. DESJARDINS: -- it's a calculated risk. How do we...and I think it would...it'd really depend on what the OIP's decision looks like. So, I hate to hypothesize too much.

CHAIR U'U-HODGINS: Okay.

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MS. DESJARDINS: But yeah. So, every time we make a decision, we try to think about what would be the worst-case scenario. And we can't be frozen from decision-making just simply by being worried. Because we hear this a lot, we're going to get sued. We're like, we know that.

CHAIR U'U-HODGINS: Yeah.

MS. DESJARDINS: But how do we make sure it looks, you know, the most favorable for us that we can possibly --

CHAIR U'U-HODGINS: Okay.

MS. DESJARDINS: -- possibly do. So...

CHAIR U'U-HODGINS: Thank you.

MS. DESJARDINS: But good question.

CHAIR U'U-HODGINS: Okay. Thank you. Members, any other questions before we move on? Seeing none. Okay. Thank you very much.

MS. DESJARDINS: Thank you very much.

CHAIR U'U-HODGINS: Oh, sorry. Member Paltin, I see you.

VICE-CHAIR PALTIN: Sorry. I was wondering...so, we're looking to solve the gap issue in the next term because they're going to...I...I wasn't super clear on the plan. It's going to get drafted, but we're in late November already, and then there's December and January. So, we might be taking up legislation in late January, maybe?

CHAIR U'U-HODGINS: I think we're going to try to work on it ASAP, for sure, so we can clean up these holes. But up until...if we don't do it sooner than later, our only recourse is to...is to wait until those seats pass their expiration date. And they basically restart. And some of them are like...I'm looking at Commission on Children and Youth, and there's two of them that are missing. One expires next year, March, and one is 2028.

VICE-CHAIR PALTIN: And the --

CHAIR U'U-HODGINS: So, like...

VICE-CHAIR PALTIN: -- 2028 one would not qualify for a mass nomination because it's not considered a vacancy? Or it's...

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CHAIR U‘U-HODGINS: It’s a vacancy, but there’s no...there’s no...nobody has the authority to put anybody in that vacancy. So, this ordinance would help us navigate who has authority to put somebody in that vacancy. Hypothetically, again, going back to this Commission on Children and Youth, one of them expires in 2025. So, that vacancy, come March, we can go through the INB, then the Mayor, and then us. Because it’s...it’s available for a seat selection. Whereas the other one, not until 2028.

VICE-CHAIR PALTIN: Could I ask a hypothetical question?

CHAIR U‘U-HODGINS: All day. What’s up?

VICE-CHAIR PALTIN: Okay. So, suppose because the...the Charter Amendment is not clear, we went back to the old method. And I know we kind of did that once, but we got sued only one time, and it didn’t say we were right or wrong. So, what if we did that again and see if we get sued again?

UNIDENTIFIED SPEAKERS: . . .*(inaudible)*. . . .*(laughing)*. . .

CHAIR U‘U-HODGINS: Well, this is not...this is not a me question. This is a Corp. Counsel question. . . .*(laughing)*. . .

VICE-CHAIR PALTIN: Oh, yeah. Whoever wants to answer.

MS. DESJARDINS: I thought we were going to keep this positive. . . .*(laughing)*. . .

UNIDENTIFIED SPEAKERS: . . .*(laughing)*. . .

MS. DESJARDINS: Let’s not go there. We’re not going there. . . .*(inaudible)*. . .

VICE-CHAIR PALTIN: Because you could get sued at any time for any reason. And I mean, I’d rather try to fill the board than not fill the board. Like we’re...we’re just...the...the lawsuit didn’t determine that we were wrong because we settled, right? And I thought the point of settling was to determine our path forward, which obviously, it didn’t do. So, we weren’t wrong, we just settled. And these positions need to be...get filled, and we don’t have a path forward at this time. So, I don’t see what’s the harm. I mean, if...if somebody tries to sue us again, then we’ll be like, just kidding, or something...no?

CHAIR U‘U-HODGINS: You’re welcome to answer, but I think it might be a different bunch of nominations.

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MS. DESJARDINS: Yeah, thank you. So, the mass nominations are going to clear up a number of these seats already by just virtue of the fact that they expire in 2025. So, you're going to get a bunch of new members then. I suspect that this ordinance will be coming forthwith. . . .*(timer sounds)*. . . It is a priority of everybody. So, I would say that the best path and...well, the only path is to not go back and to do something that we don't believe is legal, when we can go forward and do something that is completely legal, and will...will cure the problem for us. So, that's what we'd like to do.

CHAIR U'U-HODGINS: I think too, if in case we are ever in this situation again, and all three agencies miss their deadline, then a future Commission or Administration or Council has a path forward because we've cleaned it up for them too. So, this will not only allow us to figure out how to navigate forward, but it will allow any other future body of our Council, or our Administration, or our INB on how we can navigate forward. I think it was just a missing spot in the Charter language.

VICE-CHAIR PALTIN: Basically, we got to wait until March to fill any seat on the boards and commissions is...is the answer?

CHAIR U'U-HODGINS: Not...not necessarily. So, the ones that expire in 2025, sure, we might...they might just be a couple months and we would be able to fill them, but I'm hoping we can get to it before then.

VICE-CHAIR PALTIN: Oh, with the new...new language...new Code.

CHAIR U'U-HODGINS: With...with this ordinance, yeah.

VICE-CHAIR PALTIN: Oh, okay. All right. Got it.

CHAIR U'U-HODGINS: Yeah. Hopefully we get the language soon. Like I said, I just...I wanted to let you guys know the conversations that's been happening for like a year now. And so, when this ordinance does come, you guys aren't going to be like, what? What is this? You know we can have all this conversation and be like okay, here's...here's the deal, you know. Because it's...it's been a lot, the...the new process and the new change for INB. And clearly, not only has INB been going through its growing pains, but so has...so have we all. And it's very public-facing, so I wanted to let everybody know what's happening.

VICE-CHAIR PALTIN: But just to clarify, if we didn't lose the lawsuit and we settled, we admit nothing we did wrong. Is that how that works?

UNIDENTIFIED SPEAKERS: . . .*(inaudible)*. . .

COUNCILMEMBER LEE: You won't let that go now, yeah?

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CHAIR U‘U-HODGINS: We didn’t do anything wrong. But I believe that’s a different set of nominations.

VICE-CHAIR PALTIN: Oh, okay.

CHAIR U‘U-HODGINS: So, we didn’t have the INB for quite a while. So, this is probably the nominations that we should have had in like 2023. And the ones we settled were for 2024.

VICE-CHAIR PALTIN: Oh. Oh, I see. I see. And then now we’re going into 2025.

CHAIR U‘U-HODGINS: Yes.

VICE-CHAIR PALTIN: Okay. Thank you for clarifying.

CHAIR U‘U-HODGINS: No worries. It’s...it’s confusing. Members, does anybody have any questions? Okay. Great. Do we need a recess, or can we move on to the next item?

COUNCILMEMBER LEE: Let’s go home.

UNIDENTIFIED SPEAKERS: . . .*(laughing)*. . .

CHAIR U‘U-HODGINS: Let’s. I got to go home, cook dinner.

COUNCILMEMBER LEE: I know.

CHAIR U‘U-HODGINS: I miss my family. Okay. Thank you so much.

MS. APO TAKAYAMA: Chair, just for the record, this was posted for no legislative action, so --

CHAIR U‘U-HODGINS: Yes.

MS. APO TAKAYAMA: -- deferral.

CHAIR U‘U-HODGINS: Yes, thank you. Wait, let me go find my notes. Yeah, so --

UNIDENTIFIED SPEAKER: Thank you.

CHAIR U‘U-HODGINS: -- GREAT-5(7)--thanks, Mimi--was posted for no legislative action. So, at this time, I now defer this item.

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COUNCILMEMBERS VOICED NO OBJECTIONS (excused: TK and SS).

ACTION: DEFER pending further discussion.

CHAIR U‘U-HODGINS: Thank you. Moving on.

**BILLS AND RESOLUTIONS FOR REFERRAL TO THE COUNCIL CHAIR FOR THE
2025 – 2027 COUNCIL TERM**

CHAIR U‘U-HODGINS: Bills and Resolutions for Referral to the Council Chair for the 2025-2027 Council Term. Members, posted are a number of bills and resolutions pending before the Committee for your consideration to refer to the Council Chair for the term beginning January 2nd, 2025. In accordance with Rule 23...22, sorry, of Rules of the Council, these items are currently listed on the Committee’s master agenda which, if not referred, will be deemed filed at the end of this term. As a reminder, requests can be made to remove items from the discretionary referral list, but at this point, no items can be added. Please also keep in mind that any filed item can be reintroduced in the next Council term. But before we get into discussion, if we could please call on any testifiers wishing to testify on this item.

MS. MACDONALD: Yes, Chair. There’s currently no one who has signed up to testify. Would you like me to do a last call?

CHAIR U‘U-HODGINS: Please.

MS. MACDONALD: If somebody would like to testify in the Conference Room, please let Staff know, or on Microsoft Teams, please raise your hand. This is final call...three, two, one. Chair, it appears that nobody wishes to testify.

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

COUNCILMEMBERS: No objections.

. . . CLOSE PUBLIC TESTIMONY FOR ITEM GREAT-5(7) . . .

CHAIR U‘U-HODGINS: Thank you. As a reminder, written testimony will continue to be accepted. Members, we will now be going into a three-minute questioning period if you have any questions. I would like to first begin by saying thank you to everyone. This Committee had a huge stack of items on its master agenda, and I really appreciate everyone’s hard work and dedication to this Committee.

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And now we are ready to refer. So, thank you. I appreciate everyone's hard work. Any questions?

COUNCILMEMBER SUGIMURA: No questions.

CHAIR U'U-HODGINS: Member Paltin?

VICE-CHAIR PALTIN: Thank you. I just was wondering about the regular stuff in the Committee, like approving directors and taking up those things. Is that the ones that you said can automatically be generated in the new term because that is under the subject of this Committee, or we're going to make new committees and then see where those items go? I think there was like approving appointment of directors and things like that, that used to be in the thing...sorry, not...in the master agenda. But...and those are like standard, like direct referral...court cases and things like that. They're just going to be automatically generated, so we don't want to have the whole history that was attached to previous because we're starting fresh, or because like the previous board-appointed Directors had specific names or something attached to it. Just was wondering about those ones.

CHAIR U'U-HODGINS: That's a great question. I'll have Kasie answer that for you.

MS. APO TAKAYAMA: Yeah. So, those are--thank you, Chair--those are umbrella items. So, what happens is, when we get a referral to Committee--for example, appointing so-and-so as the Director of Finance--that opens up the umbrella item. And so, we just create that header when we get the legislation referred. But especially now that we have all the bills being numbered before it gets to Committee, we...the only file that's attached to that bill is whatever comes under that specific bill. So, for example, we wouldn't be referring County Communications anymore because the history of that County Communication no longer is attached to any kind of legislation. And so, yes, to answer your question, those umbrella items will be reopened in whichever Committee those items get direct-referred to next, or referred to by Council next term.

VICE-CHAIR PALTIN: And by reopened, meaning like auto...automatically generated by you folks, and we don't do anything, and they just magically appear?

MS. APO TAKAYAMA: Yes. And so, for example, it's just mainly a way for us to organize those items. So, GREAT-1(5), you know, would be, in this term, director appointments because we could put all those directors under that one item. So, it's easy for the public to see, okay, this is a director appointment. GREAT-2 is Boards and Commissions-related. You know, so, we can keep putting them under those filed items, but they don't need to exist that way, it's just an organizational method.

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VICE-CHAIR PALTIN: Got it. If I may disclose that an unnamed minor returned from school.

CHAIR U‘U-HODGINS: Sounds good. Thank you. Member Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I also have an unnamed minor that returned from school, and another minor will be coming home soon too.

CHAIR U‘U-HODGINS: It is after-school time. I had my unnamed minor text me while we were in this meeting, so got it. It’s all of us. Does anybody else have any questions? Okay. At this time, then, I would like to entertain a motion to recommend the bills and resolutions noted under this item be referred to the Council Chair for the term beginning January 2nd, 2025, in accordance with Rule 22 of Rules of the Council.

COUNCILMEMBER SUGIMURA: So moved.

COUNCILMEMBER COOK: Second.

CHAIR U‘U-HODGINS: Thank you. I have a motion made by Member Yuki Lei Sugimura, and second by Member Cook. Any further discussion?

COUNCILMEMBER SUGIMURA: Good job.

CHAIR U‘U-HODGINS: No? Thank you. All those in favor, please raise your hand and say “aye.”

COUNCILMEMBERS: Aye.

MS. APO TAKAYAMA: Chair, that’s seven “ayes,” zero “noes,” two excused, Members Kama and Sinenci. Motion carries.

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EXC.: Councilmembers Kama and Sinenci.

MOTION CARRIED.

ACTION: Recommending REFERRAL of bills and resolutions to the Council Chair for the term beginning January 2, 2025.

CHAIR U'U-HODGINS: Thank you very much. This concludes the Government Relations, Ethics, and Transparency Committee meeting. Thank you again, Members. The time is now 2:49, and this meeting is adjourned. . . .(gavel). . .

ADJOURN: 2:49 p.m.

APPROVED BY:

nohelani lin-hodgins

NOHELANI U'U-HODGINS, Chair
Government Relations, Ethics, and
Transparency Committee

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Transcribed by: Daniel Schoenbeck

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CERTIFICATION

I, Daniel Schoenbeck, hereby certify that pages 1 through 34 of 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 11th day of December 2024, in Wailuku, Hawai'i

A handwritten signature in black ink, reading "Daniel Schoenbeck", is positioned above a horizontal line.

Daniel Schoenbeck