

GOVERNANCE, ETHICS, AND TRANSPARENCY COMMITTEE

Council of the County of Maui

MINUTES

Council Chamber

May 14, 2019

CONVENE: 9:01 a.m.

PRESENT: Councilmember Michael J. Molina, Chair
Councilmember Keani N.W. Rawlins-Fernandez, Vice-Chair (arrived
at 10:33 a.m.)
Councilmember Tasha Kama
Councilmember Kelly T. King
Councilmember Alice L. Lee
Councilmember Tamara Paltin
Councilmember Shane M. Sinenci
Councilmember Yuki Lei K. Sugimura

EXCUSED: Councilmember Riki Hokama

STAFF: Shelly Espeleta, Legislative Analyst
Carla Nakata, Legislative Attorney
Pauline Martins, Committee Secretary

David Raatz, Supervising Legislative Attorney
Wesley Crile, Legislative Analyst
Julie Reed, Legislative Analyst

Don Atay, Executive Assistant to Councilmember Sinenci
Gina Flammer, Executive Assistant to Councilmember Sinenci
Deanna Thyssen, Executive Assistant to Councilmember Kama
Kauanoë Batangan, Executive Assistant to Councilmember
Sugimura

Zhantell Lindo, Council Aide, Molokai Council Office (via telephone
conference bridge)

Denise Fernandez, Council Aide, Lanai Council Office (via telephone
conference bridge)

Mavis Oliveira-Medeiros, Council Aide, Hana Council Office (via
telephone conference bridge)

ADMIN.: Edward S. Kushi, Jr., First Deputy Corporation Counsel, Department
of the Corporation Counsel
Deidre Tegarden, Chief of Staff, Office of the Mayor

**GOVERNANCE, ETHICS, AND TRANSPARENCY
COMMITTEE**

Council of the County of Maui

May 14, 2019

Caleb P. Rowe, Deputy Corporation Counsel, Department of the
Corporation Counsel
Jeffrey Pearson, Director, Department of Water Supply

OTHERS: Antonette "Toni" Eaton
Mary Wagner
Alexandria Domingo
William Cambra
Plus (2) other people

PRESS: *None.*

Due to technical difficulties, a few minutes at the start of the meeting was not recorded. The following is a brief summary of the Chair's proceedings during that period.

###

Chair Molina gavel in at 9:01 a.m. and calls the Governance, Ethics, and Transparency Committee meeting to order.

Chair Molina calls for attendance and notes that in addition to himself, Councilmembers Sinenci, King, Lee, Paltin, Sugimura, and Kama are present. Chair Molina notes the excusal of Councilmember Hokama, and further notes Vice-Chair Rawlins-Fernandez is anticipated to attend the meeting later that morning.

Chair Molina recognizes the attendance of Committee staff, Legislative Analyst Shelly Espeleta and Committee Secretary Pauline Martins; First Deputy Corporation Counsel Ed Kushi, Jr.; and Office of the Mayor Chief of Staff Deidre Tegarden.

Chair Molina opens public testimony and reviews general rules related to public testimony.

Chair Molina notes there are no testifiers in the Chamber and no testifiers from the district offices in Hana, Lanai, or Molokai.

Chair Molina closes public testimony with no objections from members.

**GET-2(1) NOMINATIONS TO BOARDS, COMMITTEES, AND COMMISSIONS
(VARIOUS) (CC 19-24)**

Chair Molina calls the first item listed under GET-2(1), relating to the appointment of Antonette Eaton to the Board of Water Supply.

**GOVERNANCE, ETHICS, AND TRANSPARENCY
COMMITTEE**

Council of the County of Maui

May 14, 2019

Chair Molina recognizes Ms. Tegarden to provide a brief overview of the Mayor's nomination of Ms. Eaton.

Ms. Tegarden briefly summarizes Ms. Eaton's qualifications as noted on her board application.

Chair Molina calls Ms. Eaton to the podium to provide a brief opening statement.

Ms. Eaton notes her current work as a District Supervisor with the State Department of Hawaiian Home Lands. She believes community service and promoting the betterment of Maui Nui while protecting its limited resources are important.

Members take turns posing questions to Ms. Eaton as it relates to her nomination.

Chair Molina states his intention to defer the matter. The matter has been posted on the May 17 Council meeting agenda in order to meet the Council's 60-day deadline of May 19, 2019, to approve or disapprove the nomination.

COUNCILMEMBERS VOICED NO OBJECTIONS. (Excused RH)

ACTION: DEFER.

Chair Molina calls the second item listed under GET-2(1), relating to the appointment of Mary Wagner to the Maui County Cultural Resources Commission.

Chair Molina recognizes Ms. Tegarden to provide a brief overview of the Mayor's nomination of Ms. Wagner.

Ms. Tegarden briefly summarizes Ms. Wagner's qualifications as noted on her board application.

Chair Molina calls Ms. Wagner to the podium to provide a brief opening statement.

Ms. Wagner notes her 24 years of experience in planning and architecture. She is respectful of physical environments and cultural diversity.

###

CHAIR MOLINA: Okay. Thank you very much, Ms. Wagner. Members, any questions for Ms. Wagner? Ms. Paltin.

COUNCILMEMBER PALTIN: Aloha, Ms. Wagner. Thank you for being here, and thank you for volunteering your service. I'm wondering how knowledgeable you are about the different types of historic districts, and the implications that come along with it. Like historic district at the County level, State and Federal level, and things of that nature.

**GOVERNANCE, ETHICS, AND TRANSPARENCY
COMMITTEE**

Council of the County of Maui

May 14, 2019

MS. WAGNER: Well, when I've had projects that were involving historic buildings, I've been involved with the State on that level. And when in Kihei and KCA, when projects come to us, we have a member of our board, Daniel, who is a Hawaiian person, who informs us as much as he knows; and I'm just always open. I would say I am not that knowledgeable, but I am very open to understanding and learning and respectful.

COUNCILMEMBER PALTIN: And you mentioned that, you know, if you aren't knowledgeable, you would seek maybe Mr. Kanaha's advice. Do you have other sources to pull from, say if it's different areas throughout the County?

MS. WAGNER: Can you give an example of what you mean?

COUNCILMEMBER PALTIN: Do you reach out to other people besides Daniel Kanaha?

MS. WAGNER: Yeah. My husband was part of the canoe group that went and paddled throughout the northwest Hawaiian islands, so there are many people involved in that project that went on for about ten years, that I could reach out to. But no, I don't have any specific people that I have in mind.

COUNCILMEMBER PALTIN: Thank you. I appreciate your respect for culture. It's just that, you know, there's no place else in Hawaii that has Hawaii culture as its foundation, so just being cognizant of that. Thank you.

MS. WAGNER: Yes.

CHAIR MOLINA: Thank you, Member Paltin. Members? Chairman King?

COUNCILMEMBER KING: Thank you, Chair. Thank you for being here, Randy.

MS. WAGNER: Thank you.

COUNCILMEMBER KING: And thank you for being willing to step up. You're filling the architecture seat on this Commission, which is in of it, Gladys reached out to you because she—actually first reached out to me, but it was in the middle of Budget session, so we weren't focused on too much else. But my biggest question is will you still have time to do the Cultural Resources Commission and the KCA Board? It's kind of a selfish question--

MS. WAGNER: Well my understanding--

COUNCILMEMBER KING: --because I don't want to lose you from the board of the Kihei Community Association.

MS. WAGNER: I'm pretty dedicated to Kihei, so I don't do it across the board at Kihei. I just do the projects that I feel are really critical. I spoke to Frank, who was the architectural

**GOVERNANCE, ETHICS, AND TRANSPARENCY
COMMITTEE**

Council of the County of Maui

May 14, 2019

member previously, to find out what it was going to be like. And he seemed to imply that the meetings for one thing were fascinating, and that they were generally once a month, and I don't think I would be capable being put on extra committees and having to do extra outside work. However, I would have time to come to the monthly meetings and be focused and present at those times.

COUNCILMEMBER KING: Okay, thank you.

CHAIR MOLINA: Thank you, Chairman King. Members, any other questions? Councilmember Kama.

COUNCILMEMBER KAMA: Thank you, Chair. What is your role as a Commissioner?

MS. WAGNER: Well from what I understand, when a project—and Daniel has been to a couple of the meetings. I spoke to him recently. He said there was a lot of projects that had architectural implications and would have impacts on the environment that I would be weighing in on as to what that impact would be, whether it be positive, negative, enhance our community or be a detriment. So just from my own experience as a Planner and as an Architect, I would just offer my opinion.

COUNCILMEMBER KAMA: Just one more, Chair.

CHAIR MOLINA: Proceed.

COUNCILMEMBER KAMA: So as an Architect, you would offer your opinion.

MS. WAGNER: Yes.

COUNCILMEMBER KAMA: What about as a cultural resource person? Could you offer that?

MS. WAGNER: Well I think that the culture is often formed by you know—historically, I might not be the right person. But I definitely am the right person to answer how a certain development will affect a community, in terms of: is it gonna cause people to be kept away from areas that have been previously accessible? Is it going to be a blight of traffic being imposed upon, you know, a pedestrian area? Is it going to create an imbalance from an energy point of view? Lots of practical aspects are what I would be responsive to. I definitely would not be the cultural expert on whether the building is, or whether the project, you know...how it's going to be for the Native Hawaiians or for the other cultures here, you know, just what exactly the cultural impact would be. My expertise is in the area of how buildings and developments affect the built environment.

COUNCILMEMBER KAMA: Thank you. Thank you, Chair.

CHAIR MOLINA: Okay. Thank you, Member Kama. Members, any other questions? Mr. Sinenci?

**GOVERNANCE, ETHICS, AND TRANSPARENCY
COMMITTEE**

Council of the County of Maui

May 14, 2019

COUNCILMEMBER SINENCI: Thank you, Chair. Thank you, Ms. Wagner, for being here. First question I have is, you know, we're wanting to create more affordable housing for Maui County. What is your feeling about housing projects that affect suburban sprawl, that spread out into open areas?

CHAIR MOLINA: Sorry, Mr. Sinenci? Because it's a Cultural Resources Commission nomination as it relates to housing, if you can just tie it in... 'cause it's generally not a matter that the Cultural Resources Commission would deal with, in terms of housing and sprawl. Could I redirect you to ask a question that has more relevancy to cultural issues, if possible, Mr. Sinenci?

COUNCILMEMBER SINENCI: Okay. So, yeah. I'll rephrase that question. So, when doing affordable housing, we've looked into, just, kind of disturbance of ancient sites, specifically burials, and we want to support a County Archaeologist in areas like sand dune areas. And so what is your feelings about, you know, having a County Archaeologist and that whole process be part of any development near the shorelines, specifically in Kihei as well, where we're seeing a lot of hotels come up along the shorelines?

MS. WAGNER: I absolutely support the archaeology aspect of any development site, and I am completely against mindless expansion that hasn't been thoughtfully conceived and made as low-impact as possible.

COUNCILMEMBER SINENCI: Thank you. I think from what... hearing from the other Members about the cultural resource aspect of the position, I mean, and listening to Member Paltin, if you're not so inclined about the cultural aspects are, and just thinking of including those cultural practitioners of each area. You mentioned about the impacts of certain areas, so maybe connecting with the Aha Moku of each of the areas and finding out... I believe they all stepped up for the mega mall.

MS. WAGNER: Yeah, they did. I think it was because of that, the grouping together and working together, is why the mega mall is, at this point, still stalled.

COUNCILMEMBER SINENCI: Thank you. Just want to make that point. Thank you, Chair.

CHAIR MOLINA: Okay. Thank you very much, Mr. Sinenci, and Chair appreciates you redirecting your question. I tell you, you know, you're no more a freshman. You're gonna be an old pro already at this. Members, any other questions before I excuse Ms. Wagner? Seeing none, thank you very much for your thoughts, Ms. Wagner.

MS. WAGNER: Thank you.

CHAIR MOLINA: Members, Chair's going to make, actually because of the time deadline, we have until May 19th, which is right around the corner. As a matter of fact, for all of our

**GOVERNANCE, ETHICS, AND TRANSPARENCY
COMMITTEE**

Council of the County of Maui

May 14, 2019

nominees today. So, basically, our purpose in Committee here today is more fact finding with the nominees. So the recommendation for Ms. Eaton and Ms. Wagner is basically a deferral, and their matters will be addressed at this Friday's meeting for final decision-making. Any objections?

COUNCILMEMBERS VOICED NO OBJECTIONS. (Excused RH)

ACTION: DEFER.

CHAIR MOLINA: Okay. So noted.

**GET-2(6) NOMINATIONS TO BOARDS, COMMITTEES, AND COMMISSIONS
(COMMISSION ON CHILDREN AND YOUTH) (CC 19-24)**

CHAIR MOLINA: Members, we'll move on to the next nominee, which is GET Item 2(6), and this is...relates to the appointment of Alexandria Domingo to the Commission on Children and Youth, and I'd like to recognize Ms. Tegarden to give us a brief overview.

MS. TEGARDEN: Thank you, Chair and Councilmembers. Alexandria Domingo is, as Chair, you said, up for the Commission on Children and Youth. Alexandria is the Assistant Director currently with the Head Start program. She is familiar with the needs and issues of children and youth, and the services available. She has the support of her supervisor to attend these meetings and, as the other members, she has agreed to be committed to attending all meetings. Thank you.

CHAIR MOLINA: Thank you, Ms. Tegarden, and Ms. Domingo is also here in the gallery. Ms. Domingo, we'd like to ask you to come up and say a few words, if you don't mind. And thank you for being here. All of the nominees have come in voluntarily to share their mana'o with us. Chair very much appreciates you taking the time to be here.

MS. DOMINGO: Good morning.

CHAIR MOLINA: Good morning, and if you wouldn't mind, just let the Committee know why you want to serve on this Committee, and a little bit about yourself as well.

MS. DOMINGO: Okay. I received a call asking if I would be willing to help, you know, the County with a position that was open, and, you know, I'm from MEO Head Start, so once you hear the word, help, it's like, oh, helping people, changing lives, I'm there. And then you ask questions later. But I had heard about the position, and being that I work with children closely, I thought it would be a good fit. I'm the Assistant Director for Head Start. I was also a teacher prior to becoming the Assistant Director, but I also serve on the board for HAEYC, which is the Hawaii Association for Education of Young Children. So I do take it very seriously, the work that we do with children, because, as

GOVERNANCE, ETHICS, AND TRANSPARENCY COMMITTEE

Council of the County of Maui

May 14, 2019

you know, we're shaping and molding our future, and our program is really big on kindergarten readiness, but also not just that. It's like getting them ready for life in general, and we run a comprehensive program that works with the families, because we all know that in order for a child to be successful, you know, the family has to be working with them and feel successful as well, so that is the goal of MEO Head Start and also HAEYC. So they kind of mesh together, and I just thought I would be able to learn and grow in this position, and also offer what knowledge I have, and if there's something I don't know, I'll go find the answer for you.

CHAIR MOLINA: Thank you very much for your comments and, Members, I can attest Ms. Domingo's a bundle of energy. I had the privilege of working with her when I was working for the former Administration, and she helped us out on a very important event that took place at the War Memorial Complex, and she is certainly a very hard working and dedicated individual. Members, any questions for Ms. Domingo? Councilmember Sugimura?

COUNCILMEMBER SUGIMURA: Yeah. Thank you. Nice to see you here, Alex.

MS. DOMINGO: Hi.

COUNCILMEMBER SUGIMURA: I worked with her with the Boy Scouts, so...you seem to live and breathe that kind of energy, but support for children and youth, and can you...want to make a statement how you tie this all together?

MS. DOMINGO: Well, you know, to be honest, you know, being a parent is really hard. You know, you kind of get a pamphlet when you have your baby, but, you know, life kind of gets thrown at you, so you really don't know. And in being a parent, I learned along the way. So I started attending all these things that is offered in the community, and I feel that that's what kind of drove me to want to be a better parent, but also a better person in general, and a community member. And I think...so in Boy Scouts, they instill that in children at a young age. And my boys, I have two Eagle Scouts, and that's how I know Yuki, and so that's a commitment as well. So with the things that are offered in the community, I think a lot of our families don't really know. Sometimes people will be like, well, how can they not know? It's everywhere. Part of the process, though, is to get that help is you don't always want to just go on your own, it can be very intimidating. And so what we find is, you cannot just tell them about it. You have to kind of live it and show them and be with them. And I think that's what we do really well at MEO Head Start, and pretty much in all the organizations I'm in. It's that we kind of live and breathe it, as Yuki said. So when you're working with the families, they're a little bit more willing to come when you come with them, instead of handing them a packet. We're more model the behavior, show them the way, I'll come with you, kind of thing. And if I can't make it, I'll send a friend. So I think that really helps our families in the community, to feel that sense of security, to have somebody who's really looking out for their best interests and not just throwing paperwork at them, but really helping them to get what they need.

**GOVERNANCE, ETHICS, AND TRANSPARENCY
COMMITTEE**

Council of the County of Maui

May 14, 2019

COUNCILMEMBER SUGIMURA: Thank you. You'll be a great contribution to this Commission. Thank you.

CHAIR MOLINA: Thank you. Members, any other questions for Ms. Domingo? Member Lee.

COUNCILMEMBER LEE: Hi.

MS. DOMINGO: Hi.

COUNCILMEMBER LEE: Thank you for being here and for being willing to serve the community. You know, one of the reasons why we created this Commission is to get input from the members relative to budget, to the budget process.

MS. DOMINGO: Okay.

COUNCILMEMBER LEE: 'Cause often times, your membership will be closer to being involved with children's activities and programs, and you may see which programs are very successful and may need more support. You may see programs who are not working...which are not working, and we would need to know that too. So these are...this is just one area I'm talking about, that I look for the expertise from the commissioners when it comes to budget, and how we can support the programs and our youth and be creative going forward. So I'm hoping that that's what you'll be looking at as well, and that you will let us know what you find as you go and become a Member and participant of the Commission. So, thank you for your volunteerism.

MS. DOMINGO: Thank you.

CHAIR MOLINA: Okay. Thank you, Member Lee. Any other questions for Ms. Domingo? Seeing none, thank you very much, and appreciate your sharing your thoughts with us.

MS. DOMINGO: Thank you.

CHAIR MOLINA: Thank you. Okay, Members. Again, like the previous nominees, we will defer final decision-making for Ms. Domingo for this Friday's Council meeting. Any objections to deferral?

COUNCILMEMBERS VOICED NO OBJECTIONS. (Excused RH)

ACTION: DEFER.

CHAIR MOLINA: Okay, thank you. So noted.

**GOVERNANCE, ETHICS, AND TRANSPARENCY
COMMITTEE**

Council of the County of Maui

May 14, 2019

**GET-2(7) NOMINATIONS TO BOARDS, COMMITTEES, AND COMMISSIONS (REAL
PROPERTY TAX REVIEW BOARD) (CC 19-24)**

CHAIR MOLINA: Moving onto our next agenda item, GET-2(7). This relates to the appointment of William Cambra to the Real Property Tax Review Board, and again, Chair would like to recognize Chief of Staff, Ms. Tegarden, for an overview.

MS. TEGARDEN: Thank you, Chair and Councilmembers. Yes, Mr. William Cambra is locally born and raised. He owns a home here, as well as a very well-known beauty salon in Pukalani. He is very knowledgeable of current civic issues, and will contribute a very broad perspective of the general public, as well as having first-hand knowledge on how real property tax operates and how he can make impartial decisions based on his experience. He is also an advocate for many community service organizations. We thank him for his service, and he has agreed to rearrange his salon hours so that he is able to attend meetings. He feels that this, like the other member, nominees as well, these meetings are very important to our community. Thank you.

CHAIR MOLINA: Thank you, Ms. Tegarden. Mr. Cambra, would you care to join us and share your thoughts with us?

MR. CAMBRA: Good morning, Chair and Councilmembers. As she said, that we do have a hair salon Upcountry, and we're supported by the community. And it's been a way for me to give back after all of the support that the community has given us. That I figured by serving on the Real Property Tax Review Board, I can give back to the community in that way. And I've been through the process of doing some change of zoning, doing...our business is located...it's a home-based business, so we did special-use, conditional use process. So I have some experience with the zoning and with the processes of government. So, yeah. With your support, I'd be happy to serve on that Board.

CHAIR MOLINA: Thank you very much, Mr. Cambra. And you know, your nomination today is quite timely. Just last week, we adjusted the real property tax rates. Members, any questions for Mr. Cambra? Councilmember Sugimura.

COUNCILMEMBER SUGIMURA: Thank you, Chair. So, welcome. Good to see you here. I'm really pleased to see that you'll be giving up your time to serve on this Commission. I value your business sense, and I wonder if you have any opinions that you might want to share regarding real property tax and its importance for the community.

MR. CAMBRA: Yeah. Well, as you said, it's really timely, because there was a change in rates for our visitors, mostly, it'll be impacted. And I think it's hard to get a balance, you know. We want people coming, we like them to be able to afford Hawaii. It is kind of expensive, you know, but money needs to be made for government. I do pay different rates of taxes. I have a residence here. We have a long-term rental business here, some investment property, and then I pay commercial rates for the hair salon that is on my

**GOVERNANCE, ETHICS, AND TRANSPARENCY
COMMITTEE**

Council of the County of Maui

May 14, 2019

property. So, yeah, I think it's important to contribute to the government as a whole in that. And I'm in support of the decisions made by this body.

COUNCILMEMBER SUGIMURA: Thank you. I value your opinion, so thank you very much for coming forward to be on this Commission. Thank you.

MR. CAMBRA: Yeah. You're welcome.

CHAIR MOLINA: Okay. Thank you, Councilmember Sugimura. Chairman King?

COUNCILMEMBER KING: Thank you, Chair. Thanks for being here, Mr. Cambra. So, I just wanted to get, in your words, what is your understanding of what this Real Property Tax Review Board does.

MR. CAMBRA: Yeah. So, I believe that if your valuation of your property raises to a certain percentage, then you can appeal the valuation, and then you'd come in front of the Board, there's five of us, and I believe it'll be a lot of policy-based decisions that's made. It...I don't think it's really objective, you know. I think we'll be governed by policies, and working with the appraisers, the County appraisers, I think will be most of the work involved in that.

COUNCILMEMBER KING: Okay. Thank you. Appreciate it.

CHAIR MOLINA: Thank you, Chairman King. Councilmember Paltin?

COUNCILMEMBER PALTIN: Thank you, Chair. Thank you, Mr. Cambra, for being here, and thank you for your willingness to serve. I was wondering, how often...it says on here that your district is Pukalani, and I was wondering how often do you travel to West Maui or, you know, Wailea-Makena area, during peak times of tourists, or pau hana traffic times?

MR. CAMBRA: Yeah. You know, I'm born and raised here. I'm very aware of all of the communities in Maui. I drove tours for many years, so geographically, I have a visual of this whole island. You talk about a town, I can see it. I don't travel for work to West Maui or to South Maui. But I do visit the area. My clientele in the salon is just a wealth of information, and I get so much feedback from people, and I can really tell the pulse of this community through my clients. And, so no need *The Maui News*, you know? And so I understand the traffic problems. Way back when I was doing tours, when I first started doing here in the '80s, it was somewhat of a problem getting to West Maui. It's only gotten more populated, more tourists are coming, which is a good thing. You know, I look back, and I say, wow, the roads that we have on Maui from the '30s haven't really changed. We still have one road one going there, we have two roads now to South Maui. Pretty much Pulehu and Omaopio Road, and the main road going Upcountry. So our infrastructure hasn't changed very much to, I think, you know, absorb all of the

**GOVERNANCE, ETHICS, AND TRANSPARENCY
COMMITTEE**

Council of the County of Maui

May 14, 2019

traffic. I hope that we will do more to get better traffic flow and improve the roads here. So, I think there's a lot of work that needs to be done for that.

COUNCILMEMBER PALTIN: Thank you. I didn't mean to offend you. I just noticed that, you know, there's two from Wailuku, one from Kahului, and just wanted to make sure that you had knowledge of the situation, since we don't have anyone from West Maui representing on the Board.

MR. CAMBRA: Yes.

CHAIR MOLINA: Okay. Thank you very much, Member Paltin, and it's, I guess, maybe there's a tie-in with Mr. Cambra's earlier comments about property tax rates for the, I guess, the visitor industry, or any impacts that are made on our infrastructure. So, okay. And thank you. Mr. Sinenci, you have the floor.

COUNCILMEMBER SINENCI: Thank you, Chair. I just had one question. What does a livestock judging coach do?

MR. CAMBRA: I'm involved in livestock. I'm from Upcountry. So as a coach, we train the youth to judge livestock, and so you usually have a class of four animals, and you gonna place them from best to last. And then you're going to go in front of a judge, and you're going to give them your reasons why you placed the class the way you did, so.

COUNCILMEMBER SINENCI: And this is part of the 4H Association?

MR. CAMBRA: This is part of them, yeah. 4h Livestock Association.

COUNCILMEMBER SINENCI: Thank you.

CHAIR MOLINA: Thank you, Mr. Sinenci. And you know, it's ironic. I believe at yesterday's meeting, we had a Mr. Harry Cambra, is he a relative of yours?

MR. CAMBRA: That's my brother.

CHAIR MOLINA: Your brother? Okay. Well, great. We definitely appreciate you participating. Members, any other questions? Councilmember Kama?

COUNCILMEMBER KAMA: Thank you, Chair. Thank you so much for being here. I admire you, because I think you are right. You do have your pulse on the heart of this community. You know, they say people tell their hairdressers everything. So I want to thank you for coming here, and just for taking out of the...being on the Real Property Tax Review Board. I mean, from hairdresser to tax reviewer. Hey, thank you very much. Thank you, Chair.

MR. CAMBRA: Yeah. Thank you.

**GOVERNANCE, ETHICS, AND TRANSPARENCY
COMMITTEE**

Council of the County of Maui

May 14, 2019

CHAIR MOLINA: Thank you very much, Member Kama. And speaking of which, Mr. Cambra being on this Board, it can get quite busy at certain times of the year, depending on the number of appeals property owners may make. They may be in disagreement with the County's assessment, valuation of their properties are. So, just be prepared. You may have some two to three hour meetings, and hopefully not longer than that, but, just as an FYI. But thank you for your willingness to volunteer your time, and I think you bring that small business perspective to this particular commission, which I think will be very important. Members, any other questions for Mr. Cambra? Seeing none, thank you very much for sharing, Mr. Cambra.

MR. CAMBRA: Thank you.

CHAIR MOLINA: Thank you. And Members, as with the other nominees, Chair will recommend deferral of this nomination for final vote at the Council meeting this Friday. Any objections?

COUNCILMEMBERS VOICED NO OBJECTIONS. (Excused RH)

ACTION: DEFER.

CHAIR MOLINA: Okay. So ordered.

GET-2(8) NOMINATIONS TO BOARDS, COMMITTEES, AND COMMISSIONS (PUBLIC WORKS COMMISSION) (CC 19-24)

CHAIR MOLINA: All right. Moving on to our last set of nominees, the next item is GET Item 2(8), relating to the Public Works Commission, and we have two nominees, Stacy Otomo and John Blanchard. I'd like to recognize Ms. Tegarden for the overview. Proceed.

MS. TEGARDEN: Thank you. Beginning with Mr. Stacy Otomo, he is a well-known, licensed, civil, local engineer. He does many Maui County projects, so he is familiar with Public Works, and the issues that will come up. It's actually very hard to find engineers, so, to volunteer for this Commission, so we're so thankful that we have two today. Mr. Otomo said he is able to attend the meetings, and he is being recruited as an alternate. Thank you.

CHAIR MOLINA: Thank you very much.

MS. TEGARDEN: And I forgot...

CHAIR MOLINA: Go ahead. And Mr. Blanchard.

**GOVERNANCE, ETHICS, AND TRANSPARENCY
COMMITTEE**

Council of the County of Maui

May 14, 2019

MS. TEGARDEN: I'm sorry, Chair, I forgot John.

CHAIR MOLINA: Yeah. Go ahead, Ms. Tegarden.

MS. TEGARDEN: Yes. John Blanchard is a licensed engineer and is being recruited also as an alternate. He brings a stellar resume in engineering and again, he will attend the meetings. He lives in Lahaina and wants to contribute with his broad base of experience. We are delighted to have both of them volunteer to serve.

CHAIR MOLINA: Thank you, Ms. Tegarden. And, Members, both of these individuals, I don't see them in the gallery, and I believe were not able to attend. So, I believe their application should be on your Granicus if you want some background. And of course, if you do want them to appear at the Council meeting tomorrow, you have that privilege to contact them. I'm sorry, not tomorrow, Friday, I should say, if you do want to hear from them at the Council meeting, so that I will leave up to you as Members of this body. If there are no further comments...Mr. Sinenci?

COUNCILMEMBER SINENCI: Yes. I just wanted to ask about being an alternate. Does that mean that if somebody can't show up at the meetings, they'll take their places?

CHAIR MOLINA: Ms. Tegarden? Or, I can answer that for you, having worked with the previous Administration in this capacity. Yes. Basically, the alternate will only come in if a regular member is not available to attend, and then they will be accorded the voting privileges on the Commission for that day.

COUNCILMEMBER SINENCI: Thank you.

CHAIR MOLINA: Thank you. Members, any other comments before the Chair makes a recommendation?

COUNCILMEMBER KING: I just have a follow-up question.

CHAIR MOLINA: Chairman King? For Administration?

COUNCILMEMBER KING: For yourself, actually, you have the expertise. But, so the...I just wanted to clarify that the alternate person doesn't...if another seat becomes available, they don't automatically matriculate into that seat, but do they...is that a normal thing for them to take a permanent seat if somebody resigns?

CHAIR MOLINA: From my recollection, I don't know if Mr. Kushi would like to chime in, basically, they have a term to fill out as an alternate. So they're in that capacity until their term expires. Now, if the Administration wants that option of having them step down as an alternate, then fill in a vacancy, should a vacancy for a regular seat be available, I believe they can. That's allowable.

**GOVERNANCE, ETHICS, AND TRANSPARENCY
COMMITTEE**

Council of the County of Maui

May 14, 2019

COUNCILMEMBER KING: Okay. And that person then needs to be available for all meetings, just in case they are required? Are they only required for quorum, or are they required if one of the engineers is not there?

CHAIR MOLINA: Ms. Tegarden?

MS. TEGARDEN: I can get you the specifics on that. As we have explained it in the past, it's good for them to be there so that they are up to speed on the issues, because it would be difficult for them just to come in if someone, you know, if someone else doesn't show up, without having all the knowledge. So, we share with them that they should be there for all the meetings.

COUNCILMEMBER KING: Okay. Great. All right. Thank you.

CHAIR MOLINA: Okay. Thank you, Chairman King. Members, any other questions before the Chair makes a recommendation? Okay, seeing none, again, Chair will defer these two nominees for final action at this Friday's Council meeting. Any objections?

COUNCILMEMBERS VOICED NO OBJECTIONS. (Excused RH)

ACTION: DEFER.

CHAIR MOLINA: Okay. So noted. Thank you very much, Ms. Tegarden. We appreciate your presence here today with regards to our nominees. And I want to thank all of the nominees who took the time out to be here as well. Members, we'll go on to our last, final item for today, which is a litigation matter, County of Maui versus Kualapu`u Ranch, and we have from the Corporation Counsel's office, Mr. Caleb Rowe, who will give us a brief overview in opening session, and then we will consider executive session as a possibility. Members, Chair needs to call a brief recess, a recess subject to the call of the Chair. . . . *(gavel)* . . .

RECESS: 9:43 a.m.

RECONVENE: 9:46 a.m.

CHAIR MOLINA: . . . *(gavel)* . . . The GET meeting for Tuesday, May 14th, 2019, is now back in session. It's 9:46 a.m.

**GOVERNANCE, ETHICS, AND TRANSPARENCY
COMMITTEE**

Council of the County of Maui

May 14, 2019

GET-11(47) LITIGATION MATTERS (SETTLEMENT AUTHORIZATION: COUNTY OF MAUI V. KUALAPU`U RANCH 4, LLC, ET AL.; CIVIL 18-1-0321(3)) (CC 17-6)

CHAIR MOLINA: Members, we are on our last agenda item for today, which is the Settlement Authorization in County of Maui v. Kualapu`u Ranch. We have from the Corporation Counsel's office, to give us an overview on this matter, Mr. Caleb Rowe. Mr. Rowe, you have the floor.

MR. ROWE: Thank you, Chair. I'm going to try and give you as much information as I can in open session, and we might not need to go into executive, depending on what the Members' questions are. Just as a brief background, the Department of Water Supply owns and operates a well, the Kualapu`u mauka well. It's...the well is located, along with transmission lines and other infrastructure, on property that's owned by Molokai Properties, Limited. When the well was first constructed in 1989, the County had a right-of-entry to build a well on the property, and potentially subsequently purchase the property. However, that right-of-entry expired in 1989, and the option to purchase was never exercised. However, since 1989, the County has continued to use the well on the property to service people of Molokai. In October of 2019 [sic], Molokai Properties entered into a 99-year lease of the property with an entity called Kualapu`u Ranch 4, LLC. Since about 2015, Kualapu`u Ranch 4 has tried to come to some sort of agreement regarding the County's continued use of the well on their property. One specific arrangement involved the Department of Water Supply purchasing all the power that was needed to operate the well from solar panels that Kualapu`u Ranch was planning to build on the property. We ultimately didn't go forward with that, because we didn't have enough information, and the Department didn't think that there was really, kind of the internal expertise to move forward with that sort of venture. Because no agreement was ever reached, the Department of Water Supply got a letter from Kualapu`u Ranch's attorney on July 19, demanding that we cease operation of the well and vacate Kualapu`u Ranch 4's property no later than August 10, 2018. Because the people of Molokai were dependent on this water from this well, we filed a lawsuit against Kualapu`u Ranch 4 and Molokai Properties, seeking declaratory relief, as well as injunctive relief, to continue operating the well. So after that was filed, Kualapu`u Ranch, filed a counterclaim against the County. These counts included quiet title ejection, trespass, inverse condemnation, equal protection violations, and due process violations. This matter has been fairly significantly briefed. We filed a motion to dismiss their counterclaim, they filed a motion for summary judgment. The court did agree to dismiss KR4's quiet title and equal protection claims, but all the rest of the claims are still active for both of the parties. The County did agree to enter into mediation to try and avoid some of the continuing uncertainty and costs, with respect to litigation. That occurred on February 14th of this year, and at mediation, the parties were able to agree on some proposed terms for the settlement. Essentially, the agreement that was reached was that all lawsuits would be withdrawn, and KR4 would sell a one-acre parcel that the current well is on, as well as an additional one-acre parcel, to be located elsewhere on their property to build a backup well. The Department of Water Supply has actually

GOVERNANCE, ETHICS, AND TRANSPARENCY COMMITTEE

Council of the County of Maui

May 14, 2019

been seeking a backup water source to service Molokai for quite a while, and it's been in the Department's capital improvement budgets in the past. Currently, the Department does not really have a backup source that can be utilized long-term to serve the people of Molokai. What happens when there are repairs that are necessary, or for other reasons, when the well is down, we basically borrow water from a well that's used by the Department of Hawaiian Homelands. However, they don't have the capacity to kind of long-term provide us with that water in case there's ever any sort of long-term maintenance that's required. So, the County's basically getting the well that it's already using, and as an addition, the back up well source that they've been actively seeking, and in exchange for that, the amount that we would be paying to KR4 would be \$450,000. There are a couple of additional moving parts that I can get into a little bit more, if you went to an executive session, but there are some legal risks that the County is under, particularly with respect to the inverse condemnation claim, since we have been on the property since 1989 under expired right-of-entry. So there's potential that there is going to be some liability for us there. Also, because it would be a constitutional claim, as an inverse condemnation claim would be, there's potentially going to be liability for us to pay their attorney's fees if this moves forward in litigation. In the alternative, if this gets somehow changed to a condemnation action, where we're just buying the property outright from them in a lawsuit, again, we would be responsible for their attorney's fees. So, there is some danger moving forward with this lawsuit, which is part of the reason that the Department and myself agreed to these terms.

CHAIR MOLINA: Okay. Thank you very much, Mr. Rowe. Mr. Rowe, based on your comments with the risk factor, if you will. Well, I'll ask Members, do you have any questions in open session? Because the Chair's going to recommend to you going into executive session to give you the opportunity to ask more detailed questions, as it relates to the concerns from Mr. Rowe. But first, questions in open session first? Member Paltin, and then Chairman King?

COUNCILMEMBER PALTIN: I just had a couple questions. Thank you. Can you explain the difference between inverse condemnation and regular condemnation?

MR. ROWE: Yes. So, condemnation is a legal proceeding that is started by the government to try and get ownership of property that's owned by a private individual. What the government does, is they get a valuation of the value of the property, and they have to put that down with the court as a bond, and then they bring the lawsuit. The lawsuit then, basically, turns into experts talking to one another before the court, and the court determining what the value of the property is. The inverse condemnation is kind of an opposite situation where a private landowner is claiming that the government took their property without paying them any money.

COUNCILMEMBER PALTIN: And then my second question, I thought you mentioned the date October 2019, that they were entering into an agreement. Was that correct?

MR. ROWE: I'm sorry. I meant '18, 2018.

**GOVERNANCE, ETHICS, AND TRANSPARENCY
COMMITTEE**

Council of the County of Maui

May 14, 2019

COUNCILMEMBER PALTIN: Okay.

MR. ROWE: Yeah. So, it was August 10, 2018, KR4 had issued a letter telling us to cease and desist our operations of the well.

COUNCILMEMBER PALTIN: And did you know why, in 1989, the County didn't exercise their right to purchase?

MR. ROWE: I am unaware of that. We do have a representative from the Department, though I'm not sure if he would know either. I do know that there was an attempt to extend the terms of the right-of-entry agreement, but that was ultimately never finalized.

COUNCILMEMBER PALTIN: Thank you.

CHAIR MOLINA: Thank you, Member Paltin. Chairman King?

COUNCILMEMBER KING: Thank you, Chair. Let me know if I get into any executive session issues. But I, so I just wanted to clarify the understanding that the proposal is for \$450,000 to settle this. That eliminates all our future risk as County?

MR. ROWE: With regards to the continued use of this particular well, yes, we would then be the owners of the well site on the property that it was on. And in addition, it would give us access to land where we could build an alternative well site.

COUNCILMEMBER KING: Okay. Yeah. No, I understand that. But, so, we have no...because you talked about expired right-of-entry, but that goes away if we do--

MR. ROWE: Correct.

COUNCILMEMBER KING: --a settlement? Okay.

MR. ROWE: Correct.

COUNCILMEMBER KING: So the risk you were talking about were if we didn't settle?

MR. ROWE: Correct.

COUNCILMEMBER KING: And then, so the settlement, does that include more than the value of the two-acre parcels with the one with the well, one with the potential well? Does that include any legal fees? Because that works out to, you know, \$225,000 an acre, which is high for ag land. But I'm not sure how it compares with, you know, a site that actually has a working well on it.

**GOVERNANCE, ETHICS, AND TRANSPARENCY
COMMITTEE**

Council of the County of Maui

May 14, 2019

MR. ROWE: We have not...we did get an evaluation of just the well site itself. The well site, I believe, is about three-quarters of an acre. So we did get an evaluation of just that. We haven't really narrowed down the terms of where the second well site is going to be, so we haven't really been able to do an evaluation of that. When we did consider the value of the settlement, however, we also considered other potential risks that were being avoided.

COUNCILMEMBER KING: Okay. And then...oh, okay. I understand that. Can you share what the value of the site that has the working well on it in open session?

MR. ROWE: There...so we had an evaluation that was done at \$69,000. They also offered, when we went to mediation, they also offered a counter-valuation also done by an expert that was closer to \$2 million.

COUNCILMEMBER KING: Two million?

MR. ROWE: Yes.

COUNCILMEMBER KING: For the one, for three-quarters of an acre?

MR. ROWE: Yes.

COUNCILMEMBER KING: Oh. That's interesting. Okay. Was that a local company that...

MR. ROWE: Yes it was.

COUNCILMEMBER KING: Oh, it was? Okay. So we have somewhere between 69,000 and \$2 million.

MR. ROWE: Correct.

COUNCILMEMBER KING: Okay. All right. Thank you, Chair.

CHAIR MOLINA: Okay. Thank you, Chairman King. Members, any other questions in open session for Mr. Rowe? Councilmember Paltin, and I see subject Committee Chair Lee, if you have any questions in open session, please feel free. Member Paltin?

COUNCILMEMBER PALTIN: Thanks. Sorry, I just had an additional question. So, the one acre, the two one-acre parcels, they are accessible from public lands, or is there an easement through KR4 lands to get to those two one-acre parcels?

MR. ROWE: I believe that the one that our well is currently located on is right on a roadway.

COUNCILMEMBER PALTIN: County roadway?

**GOVERNANCE, ETHICS, AND TRANSPARENCY
COMMITTEE**

Council of the County of Maui

May 14, 2019

MR. ROWE: Yes. So the portion of the property that we would get would be directly abutting the roadway. As far as the second one, we haven't determined where that site is going to be at. We kind of need to do some exploration of where a good well site would be. However, any sort of agreement would require some sort of access easement that we would demand as part of the ultimate settlement.

COUNCILMEMBER PALTIN: And does the KR4 folks get water as well from the County from these wells?

MR. ROWE: I am not currently aware of what KR4 is doing with their property. I don't believe that they are a customer. The Director is here. He might be able to answer that, but I don't believe that they are actually purchasing water from us.

COUNCILMEMBER PALTIN: And do you know what their . . . is it all just fallow land, or are they in operating ag?

MR. ROWE: I believe that...I don't know what their plans are, but I don't believe that they're currently using it for anything beyond, just, kind of an investment property, I guess.

COUNCILMEMBER PALTIN: Thank you.

CHAIR MOLINA: Thank you, Member Paltin. Mr. Sinenci?

COUNCILMEMBER SINENCI: Sorry. Just a clarification question, Mr. Rowe. So you're saying the well is not used for residential use?

MR. ROWE: It is used for residential use. It's our primary source for Molokai.

COUNCILMEMBER SINENCI: Oh. Okay. About how many residents does it serve?

MR. ROWE: The Director might have that information. I...there was a time when I did know the answer to that question, but it's been a long while since I looked at that briefing, so I apologize.

COUNCILMEMBER SINENCI: Okay. I'll check with Mr. Pearson. Thank you.

CHAIR MOLINA: Mr. Sinenci, would you like the Water Director...Mr. Pearson, I see you in the gallery, are you able to answer that question from Councilmember Sinenci? Okay. Question was the amount of residents the, the well on Molokai serves, if you have that number?

MR. PEARSON: I do.

CHAIR MOLINA: Oh, if you could please come down here, yeah. Please join us. Either one. Okay. Mr. Sinenci, could you restate your question to Mr. Pearson?

GOVERNANCE, ETHICS, AND TRANSPARENCY COMMITTEE

Council of the County of Maui

May 14, 2019

COUNCILMEMBER SINENCI: Yes. How many residents of Molokai does the Kualapu`u well serves?

MR. PEARSON: Thank you, Member Sinenci. I don't know the exact, specific number, but it's the majority of Molokai central area, Kaunakakai area, and the Kualapu`u area too.

COUNCILMEMBER SINENCI: Okay. Thank you.

CHAIR MOLINA: Thank you very much, Mr. Sinenci. Members, seeing no other questions at this point in open session, Chair is going to recommend going into executive session, based on the, I guess, the risk factors that Mr. Rowe had shared with us earlier. So with that said, Chair will entertain a motion to convene an executive meeting, pursuant to Section 92-5(a)(4), of Hawaii Revised Statutes, to consult with legal counsel on questions and issues pertaining to the powers, duties, privileges, immunities, and liabilities of the County, the Council, and the Committee.

COUNCILMEMBER KING: So moved.

COUNCILMEMBER KAMA: Second.

CHAIR MOLINA: Okay. Moved by Chairman King, seconded by Member Kama. Members, any discussion? And by the way, we do need six votes to go into executive session. Seeing none, Chair will call for the vote. All those in favor, signify by saying "aye."

COUNCILMEMBERS VOICED AYE.

CHAIR MOLINA: Okay. Any "noes?"

VOTE: AYES: Chair Molina, Councilmembers Kama, King, Lee, Paltin, Sinenci, and Sugimura.

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Vice-Chair Rawlins-Fernandez and Councilmember Hokama.

MOTION CARRIED.

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

**GOVERNANCE, ETHICS, AND TRANSPARENCY
COMMITTEE**

Council of the County of Maui

May 14, 2019

CHAIR MOLINA: Okay, great. Chair. Chair will mark it seven "ayes," two excusals, Members Rawlins-Fernandez and Hokama, to go into executive session. So, Members, we will take a brief recess to seal the Chambers for executive session. So when we reconvene, we will be in executive session, and we will include the Water Director, Mr. Pearson, in our proceedings in executive session, okay? So GET meeting in recess. . . . *(gavel)* . . .

RECESS: 10:02 a.m.

RECONVENE: 10:45 a.m.

CHAIR MOLINA: . . . *(gavel)* . . . The GET meeting of March 14, 2019 is now back in session. It is 10:45. Members, we have addressed item number GET 11(47), which relates to the County of Maui v. Kualapu`u Ranch. The Chair is going to now make a recommendation. Chair will entertain a motion to recommend adoption of the revised proposed resolution incorporating any nonsubstantive revisions that may be needed, and as it relates to this particular matter, and on comments made in executive session from Corporation Counsel. Prior to the vote, Chair would like to, again, Member Sinenci had a question in, back in open session, regarding the amount of water users for Molokai. Mr. Rowe, if you could again state that information for us in open session?

MR. ROWE: Yes. Thank you, Chair. So we have figures for the number of service connections. Service connections don't necessarily reflect the number of individual users, because the service connection goes to a house or a business, so there are usually multiple users. But we do have numbers for the services, which is 1,167 service connections.

CHAIR MOLINA: All right. Thank you. Okay, Members, Chair again asks for a motion to adopt the--

COUNCILMEMBER KING: So moved.

CHAIR MOLINA: --resolution.

COUNCILMEMBER KAMA: Second.

CHAIR MOLINA: Moved by Member King, seconded by Member Kama. Members, any discussion? Seeing none, all those in favor, signify by saying "aye."

COUNCILMEMBERS VOICED AYE.

CHAIR MOLINA: All those opposed?

**GOVERNANCE, ETHICS, AND TRANSPARENCY
COMMITTEE**

Council of the County of Maui

May 14, 2019

**VOTE: AYES: Chair Molina, Vice-Chair Rawlins-Fernandez,
Councilmembers Kama, King, Lee, Paltin,
Sinenci, and Sugimura.**

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmember Hokama.

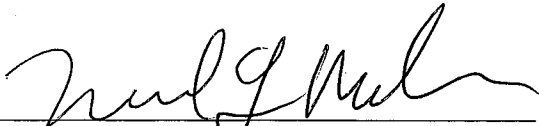
MOTION CARRIED.

ACTION: ADOPTION OF REVISED RESOLUTION.

CHAIR MOLINA: Thank you. Chair will mark it eight "ayes" with one excusal, Member Hokama. Thank you very much, Members. All righty, it is 10:47. I believe that completes our agenda for today. Staff is...Chair needs to be made aware of anything before we close? If not, thank you again, Members, for your hard work, and to the Administration. This meeting for...GET meeting for May 14, 2019, is now adjourned. ... (gavel) ...

ADJOURN: 10:48 a.m.

APPROVED BY:



MICHAEL J. MOLINA, Chair
Governance, Ethics, and Transparency
Committee

get:min:190514

Transcribed by: Nicole Siegel and Pauline Martins