

# **GOVERNANCE, ETHICS, AND TRANSPARENCY COMMITTEE**

**Council of the County of Maui**

## **M I N U T E S**

**Council Chamber**

**April 4, 2019**

**CONVENE: 9:01 a.m.**

**PRESENT:** Councilmember Michael J. Molina, Chair  
Councilmember Keani N.W. Rawlins-Fernandez, Vice-Chair  
Councilmember Riki Hokama  
Councilmember Tasha Kama  
Councilmember Kelly T. King  
Councilmember Alice L. Lee  
Councilmember Tamara Paltin  
Councilmember Shane M. Sinenci  
Councilmember Yuki Lei K. Sugimura

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

Don Atay, Executive Assistant to Councilmember Sinenci  
Sarah Pajimola, Executive Assistant to Councilmember  
Rawlins-Fernandez

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

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

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

**ADMIN.:** Jeffrey Ueoka, Deputy Corporation Counsel, Department of the  
Corporation Counsel  
Sananda Baz, Managing Director, Department of Management  
Lori Tsuhako, Acting Director, Department of Housing and Human  
Concerns

**OTHERS:** Scott Dixon  
Kevin Block  
Michele Navarro Ishiki  
Artemio Baxa  
Stan Franco  
Linda Munsell  
Patricia Hunt  
Thelma Akita-Kealoha

**GOVERNANCE, ETHICS, AND TRANSPARENCY  
COMMITTEE**

**Council of the County of Maui**

**April 4, 2019**

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Plus (4) other people

**PRESS:** *Akaku Maui Community Television, Inc.*  
*Melissa Tanji, The Maui News*

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CHAIR MOLINA: . . . (*gavel*) . . . The Governance, Ethics, and Transparency Committee meeting for Thursday, April 4, 2019 will now come to order. It is one minute after the hour of nine o'clock. Thank you very much, Members, the Chair would like to thank all of you for being here during the Budget Session phase of our Council term. And for the record all nine Members are here bright-eyed and bushy-tailed ready to take on business this morning. We do have a very, very busy day and evening today for you, Members, as you know, and members of the public. We have our meeting this morning and then at 1:30 this afternoon we'll have a follow-up to our budget meeting that was conducted yesterday. And then this evening we have the public hearing for our budget up in Councilmember Sugimura's district which is at the Pukalani Community Center. So, with that being said, Chair would like to recognize other folks who are here in attendance this morning. We have from the Mayor's Office the Managing Director, Mr. Sandy Baz. And we have from Corporation Counsel, Mr. Jeff Ueoka.

MR. UEOKA: Good morning, Chair.

CHAIR MOLINA: And we have our nominee for the Director of Housing and Human Concerns, Ms. Tshako in attendance as well. Good morning. And Staff we have Ms. Shelly Espeleta and Ms. Pauline Martins. Thank you so much, Staff. I know you guys all have been working very, very hard. Right now, we're going to do the testimonial phase of our meeting this morning. We do have six individuals that have signed up to testify here. Chair would like to go over the ground rules for public testimony. You'll have three minutes to testify and please state your name for the record prior to your testimony and if you are representing any organization or a lobbyist, please indicate that to us as well. And as you go up to the podium you will see a yellow light flash at the two-and-a-half-minute mark meaning that you will have 30 seconds to conclude your testimony. And once you see the red light, that means time is up for your testimony. Okay? With that being said, Members, any objections to going into the testimonial phase of our meeting this morning?

COUNCILMEMBERS: No objections.

**. . . BEGIN PUBLIC TESTIMONY . . .**

CHAIR MOLINA: Alright, so ordered. We shall proceed with public testimony. And, of course, we may have testimony that will come from the islands of Molokai, Lanai, and as well as Hana. Our first testifier signed up for this morning we have Scott Dixon and Mr. Dixon will be testifying on GET item 1(9).

**GOVERNANCE, ETHICS, AND TRANSPARENCY  
COMMITTEE**

**Council of the County of Maui**

**April 4, 2019**

---

MR. DIXON: Hi, I want to thank you all for giving me an opportunity to come and talk...usually my voice is loud enough, I don't have to worry about. I want to thank you all for giving me the opportunity to come and talk. I am Scott Dixon, I'm the Housing Director for the Maui Aids Foundation and I'm actually here to testify in support of the nomination of Lori Tshako to be the Housing and Human Concerns Director. This is probably the easiest endorsement I have ever done in my entire life. I've worked with Lori for ten years. Lori was originally my grantor when she was at the Homeless Programs Office with the State. She was always friendly and professional with me. She was always clear exactly what she needed from me and my grant. She was always ready to help me to succeed with my grant and she had incredible knowledge of not only this current situation in the State, the current situation Federally, but also what we should expect to see coming down the track. What things we were...should expect were happening in the future. After that I worked with her at the Maui Homeless Alliance. She was a member, is a member, of the Maui Homeless Alliance. And I don't know how many times Lori was called on to explain complicated issues for the rest of us that came up before that group. And also, again, to talk about the direction of where housing funding Federally and locally - where that was starting to change and what we should expect to see and what changes we should be thinking about making to our programs. She worked specifically with me on the membership committee of the Maui Homeless Alliance and she was always a joy and an incredible resource to me when she worked with me on that committee. And so, I would wholeheartedly suggest that you approve her nomination to be Director of the Housing and Human Concerns for the County of Maui. Thank you very much.

CHAIR MOLINA: Thank you very much, Mr. Dixon. Members, any need to clarify Mr. Dixon's testimony? Mr. Dixon, could you please come back to the podium? We have a question from one of the Members. Council Chair King?

COUNCILMEMBER KING: Thank you, thank you Chair. Thank you for being here, Mr. Dixon. I just was curious; you gave your title as housing director. What does the housing director for the Maui Aids Foundation do?

MR. DIXON: I'm sorry. Who is the Maui...?

COUNCILMEMBER KING: I thought you gave your title as housing director?

MR. DIXON: Of Maui Aids Foundation.

COUNCILMEMBER KING: Okay. So, I was just wondering what the housing director does. Your position.

MR. DIXON: So, I oversee two HOPWA housing programs.

COUNCILMEMBER KING: Okay.

MR. DIXON: One from HUD, directly from HUD. And one that is called a formula grant. So, HUD gives a certain amount of money to each one of the states based on some formula

**GOVERNANCE, ETHICS, AND TRANSPARENCY  
COMMITTEE**

**Council of the County of Maui**

**April 4, 2019**

---

that they have.

COUNCILMEMBER KING: Right.

MR. DIXON: And then the State is then responsible for figuring out how that goes to rural and urban areas and Maui Aids Foundation has been lucky enough to be the grantee to take care of the neighbor islands --

COUNCILMEMBER KING: Okay.

MR. DIXON: --for that HOPWA grant.

COUNCILMEMBER KING: Thank you. I appreciate that. Thanks.

CHAIR MOLINA: Members, any other need to clarify? Councilmember Sugimura?

COUNCILMEMBER SUGIMURA: Yeah. Thank you very much for being here. So, Maui Aids Foundation is in the Lokahi Pacific Building. So, is it connected to all the apartments that are surrounding, not surrounding, in the back? It's a separate program.

MR. DIXON: So, all of our HOPWA monies is either for tenant-based rental assistance.

CHAIR SUGIMURA: Oh, I see.

MR. DIXON: So, the client finds private housing and we assist with their rental amount. We also have short-term money available to us which allows us to do rent, utility, and mortgage assistance for families that have a member who has HIV. And, one of, again, dealing with Lori, one of the things I was able to do through the State was to actually be able to purchase bus passes as a supportive service for some of our clients and have that funded as a HOPWA eligible service. But we do not own any properties. We do not manage any properties. We are not a party to the lease. We are simply a funding subsidy source.

COUNCILMEMBER SUGIMURA: Thank you very much, Mr. Dixon.

CHAIR MOLINA: Thank you very much, Member Sugimura. Member Kama?

COUNCILMEMBER KAMA: Thank you, Chair. I, just for clarification, so, Mr. Dixon, you actually administer a HUD program for those with HIV?

MR. DIXON: Two.

COUNCILMEMBER KAMA: Two programs? Thank you.

CHAIR MOLINA: Okay. Thank you, Member Kama. Members, any other questions or clarification for Mr. Dixon? Seeing none, thank you very much, Mr. Dixon. Next to testify on item GET-1(9) we have Kevin Block. Members, the Chair will do one more

**GOVERNANCE, ETHICS, AND TRANSPARENCY  
COMMITTEE**

**Council of the County of Maui**

**April 4, 2019**

---

testifier from the Council Chambers after Mr. Block and then we'll go out to our sister islands for testimony.

MR. BLOCK: Good morning --

CHAIR MOLINA: Good morning.

MR. BLOCK: --Council Chair and Councilmembers. My name is Kevin Block. I'm an immigration attorney in private practice. I have a small law practice here on Maui and I also have an office on the Big Island and I practice entirely immigration law. I'm here to testify in support of my friend and colleague Lori Tsuhako. I'm the former division head of the Immigrant Services Division at the County of Maui Department of Housing and Human Concerns. Lori is the one that hired me into that position. So, she was my boss. I first met her prior to that in 2005 when I was on the Homeless Alliance Continuum of Care. I worked at Legal Aid at that time. And I noticed that she continued there year after year consistently and she was one of the sort of powerhouses that helped to address the complicated and controversial challenges of homelessness and she's always impressed me with her intellectual engagement, her courage, and her compassion. Later when she became my boss, I found her to be an incredible leader. She encouraged me to do outreach to communities that were underserved and to bring a new level of commitment and a wider range of services to our constituents. She made me promise to stay for three years and I stayed for five. I felt inspired by her leadership and her example and she always demonstrated and embodied the most noble principles of service to others and caring for our most vulnerable. The Director of the Department of Housing and Human Concerns needs to have vision and a broad and deep knowledge of the many different parts of the Department including the Office on Aging, Immigrant Services, you guys know what the divisions are. And Lori has always impressed me with her sort of broad and deep knowledge of all the different facets of the position. Lori has a proven track record. She is hands-on but she knows how to support her colleagues and bring out the best in them. She knows the material, as you'll find out in the budget hearings. She's tireless and courageous. She has integrity. I've never spoken here in support of anyone, but I was happy to give Lori my wholehearted endorsement. Thank you for the opportunity to speak.

CHAIR MOLINA: Okay, thank you very much, Mr. Block. Members, any need to clarify Mr. Block's testimony? Seeing none, thank you for your testimony, Mr. Block. Next to testify, we have Michele Navarro Ishiki and Ms. Navarro Ishiki will be testifying also on GET item 1(9).

MS. NAVARRO ISHIKI: Aloha and good morning, Councilmembers, Chair.

CHAIR MOLINA: Good morning.

MS. NAVARRO ISHIKI: My name is Michele Navarro Ishiki and I'm here because I support the appointment of Lori Tsuhako as the Director of Housing and Human Concerns. I have known Lori for some time now and she has helped guide me through various

**GOVERNANCE, ETHICS, AND TRANSPARENCY  
COMMITTEE**

**Council of the County of Maui**

**April 4, 2019**

---

situations personally and professionally. Lori is a kind and compassionate individual who understands the needs of our community not only for our island Maui, but our entire state. Sometime between 2013 and 2014, in her capacity as the Director of the State Homeless Programs Office on Oahu, our continuum of care would have lost hundreds of thousands of dollars if the Homeless Programs Office did not agree to be the Statewide HMIS lead and administrator. The long-time HMIS provider dropped out due to contract payment problems with the City, and if HPO did not agree to take responsibility, all the Federal funds would have been at risk. HPO got it done and the funding was preserved. On a personal level, as I struggled through some tough times professionally, Lori was instrumental in guiding me through making some tough decisions and helping me focus on the positive of the situation to help me be a better me in the work that I do. More recently I sat with Lori to discuss situations regarding homelessness on our islands, on our island. Lori genuinely cares about what people have to say. She listens and she responds in a way that makes you feel you are important in the process of finding solutions for our issues and that your input is valued. She is dedicated to individuals and she is dedicated to our community. I have witnessed it firsthand. Lori is someone who has an eye not only to see the gaps, she also has the ability and willingness to fill them too. She identifies a problem and finds solutions. That's the kind of leadership our island needs; someone who is able to see things from a macro-level and a micro-level who is solution oriented. Mahalo.

CHAIR MOLINA: Thank you very much for your testimony. Members, any need to clarify Ms. Navarro Ishiki's testimony? Councilmember Paltin?

COUNCILMEMBER PALTIN: Thank you, Chair. I just was wondering what is HPO stand for?

MS. NAVARRO ISHIKI: Homeless Programs Office.

COUNCILMEMBER PALTIN: Oh, thanks.

MS. NAVARRO ISHIKI: State.

CHAIR MOLINA: Okay. Members, any other need to clarify the testimony? Seeing none, thank you very much.

MS. NAVARRO ISHIKI: Thank you.

CHAIR MOLINA: Okay, let's go out to Molokai right now. Ms. Lindo, do we have anyone out in Molokai that would like to testify on any of our agenda items today?

MS. LINDO: Aloha and good morning, Chair. This is Zhan Lindo from the Molokai Office and there are no testifiers today.

CHAIR MOLINA: Okay, mahalo. Let's go out to Lanai, Denise, Ms. Denise Fernandez out in Lanai, do we have any testifiers for our agenda items today?

MS. FERNANDEZ: Good morning, Chair. This is Denise Fernandez at the Lanai Office and

**GOVERNANCE, ETHICS, AND TRANSPARENCY  
COMMITTEE**

**Council of the County of Maui**

**April 4, 2019**

---

there is no one waiting to testify.

CHAIR MOLINA: Okay, mahalo. Finally, let's go out to Hana, and, Ms. Mavis Medeiros, do we have any testifiers out in Hana today?

MS. MEDEIROS: Good morning, Chair. This is Mavis Medeiros from the Hana Office and there is no one here waiting to testify.

CHAIR MOLINA: Okay, mahalo. Alright, continuing with testimony here in the Chambers in Wailuku, next to testify on GET item 1(9), Mr. Artemio Baxa.

MR. BAXA: Mr. Chair, honorable Members, Officers of the Maui County Council, I have known Ms. Lori Tsuhako for some time. She is a refined and gentlewoman and I fully support her nomination by the Mayor as Director of the Department of Housing and Human Concerns. She is a woman of full integrity and good character. She has extensive knowledge both in the County government and in the State government about the kinds of work that she would be dealing with as Director of the Department of Housing and Human Concerns. I am pretty certain that if confirmed by the Council, she will continue to do the best of her ability in serving the people of Maui County and that she will treasure this opportunity for her continued service to the people of Maui County as the crowning jewel of her professional life. Thank you.

CHAIR MOLINA: Thank you very much, Judge Baxa, for your testimony. Members, any need to clarify Judge Baxa's testimony as it relates to GET item 1(9)? Seeing none, thank you for your testimony, sir.

MR. BAXA: Thank you.

CHAIR MOLINA: Next to testify on GET item 1(9), we have Mr. Stan Franco.

MR. FRANCO: Good morning, Chair --

CHAIR MOLINA: Good morning.

MR. FRANCO: --and Members of the GET. I'm Stan Franco. Sorry, the voice is going out. I speak in favor of Lori Tsuhako. Lori has been a friend for 30-plus years. We met together on a regular basis with others to talk about the concerns of the community and what we needed to do for social services on Maui. I know her well. I know her heart. I know that she loves the people of Maui and will serve all of us well. Here's a question that probably will come up. Does she have the experience in housing? And she'll admit to you that she doesn't. And I want to tell you that she has called me twice now since she got selected. She came to our last meeting of the housing committee for our organization and she was...we had a conversation with her. And in that conversation, she asked for our help to help her because she wants to learn more about housing. Now, you know that I've said this before, so I don't know if you want to hear it again, but I'll tell you. I have felt all along, if we are going to do something about affordable housing, first we need a housing plan - critical. We tried to get that -

**GOVERNANCE, ETHICS, AND TRANSPARENCY  
COMMITTEE**

**Council of the County of Maui**

**April 4, 2019**

---

we made a proposal in 2017. The Council didn't go along with us or the Council Chair. So, we got what we got. We got an update of the 2016 study by SMS. So, we need an affordable housing plan. Where we're going to go, how we're going to get the money, all of those things need to be answered. The second thing we need is somebody to operate that plan, or, and I'm thinking that, you know, we have a development project director position under Human Concerns and Housing. I'm thinking we cannot pay enough because we need somebody really, really good that really knows housing, have developed housing themselves, have found the funding to build the housing. And we're not going to get that, I think, by the civil service route. This is personal now. I think we have to go with an RFP to find somebody that's really, really good in that because we need...every one of us know that we need to develop whatever the figure is, 12,500 units or 14,000. We need a lot. And we're going to need to really get on board and do something about this. I don't think...I think Lori is a good manager, I know her personally, I think she'll do a good job, but she needs help. And that is going to have to come from the outside. And thank you for supporting her. She's a friend for a long time. I trust her.

CHAIR MOLINA: Okay. Thank you very much, Mr. Franco. Mr. Franco, we have a question from Council Chair King.

COUNCILMEMBER KING: Thank you for being her, Stan. I'll try not to tax your voice too much, but, you know, I'm glad you mentioned the plan, putting together a plan. And after reading the answers, you know, we sent out a questionnaire to Ms. Tsuhako and she...it's posted on Granicus for folks who don't know, it's a letter dated January 18<sup>th</sup> and she put her answers in there so I was going to ask her if she actually worked with you on these answers because a lot of them were the things you're talking about. But my question to you is because you were involved in that, trying to get that 250,000 into the budget we did that under Council last time. And that's the study that you talked about. But would you be in favor if you're working with Ms. Tsuhako and she becomes the Director, would you be in favor of putting that same money directly into the Housing Department and having them follow up on that RFP? Or you think it needs to be separate?

MR. FRANCO: I think if the Council says that, yeah, I think...I'm comfortable with Lori managing \$250,000.

COUNCILMEMBER KING: Okay, that's what I wanted to know. Okay.

MR. FRANCO: Yeah.

COUNCILMEMBER KING: Thank you.

CHAIR MOLINA: Thank you, Chair King. Member Kama?

COUNCILMEMBER KAMA: Good morning, Mr. Franco, and thank you for being here again. So, my question to you is in working with Lori and mentioning the proposal that was funded last year for...or two, SMS, there was also another proposal that was not

**GOVERNANCE, ETHICS, AND TRANSPARENCY  
COMMITTEE**

**Council of the County of Maui**

**April 4, 2019**

---

funded. Would you be in favor of looking again at that second proposal to see if that's something that could be done?

CHAIR MOLINA: Mr. Franco?

MR. FRANCO: So, the answer is yes, and I will go a little bit further. I've always taken the position, and my position with the first proposal, is that we go as far as we can to get the best proposal for the County of Maui. So, I'm hoping to going nationally if we have to, to get a national organization. I think the proposal that was sent in by Hawaii Community Assets was a good proposal and they could probably do the job, but I think we want to get the best for the County of Maui so we should not just look at HCA but all other entities that might be willing to make a proposal to us.

COUNCILMEMBER KAMA: Chair, follow up?

CHAIR MOLINA: Member Kama, continue.

COUNCILMEMBER KAMA: So, you mentioned earlier about a development project director that you would like to see from outside of probably the civil service realm. So, do you foresee that if we're going to go and cast the net out for maybe another proposal to develop a housing plan that it might cost more than what we had budgeted for last year?

MR. FRANCO: Are you talking...I'm not sure what you're asking, Tasha, but the monies that were allocated for the development project director and it's a civil service position. We have not been able to fill that up to now. I think was, money was given last fiscal year or maybe the current fiscal year. And so, I think we need to maybe defund that and maybe what I'm saying is I'm personally in favor of going outside and doing a RFP and using the money that maybe that's allocated for this position to include that for the 250,000. We do either or. You know, if we want to...if we get somebody that's...if we can find, and this is the thing that I'm not convinced about, if we can find somebody to take the civil service position that really can do the job as we feel needs to be done because we need to build housing now, not later. And we got to get somebody that's really good to help us do that.

CHAIR MOLINA: Mr. Franco, I think you've answered that question --

MR. FRANCO: Okay, thank you.

CHAIR MOLINA: --sufficiently.

MR. FRANCO: Sorry.

COUNCILMEMBER KAMA: Thank you.

CHAIR MOLINA: Thank you, Member Kama.

**GOVERNANCE, ETHICS, AND TRANSPARENCY  
COMMITTEE**

**Council of the County of Maui**

**April 4, 2019**

---

COUNCILMEMBER KAMA: Thank you.

CHAIR MOLINA: Okay, seeing no other need to clarify Mr. Franco's testimony, thank you. Thank you for your sharing, Mr. Franco. Next to testify on GET item 1(9) we have Linda Munsell, and Ms. Munsell will be followed by Ms. Patricia Hunt.

MS. MUNSELL: Good morning, Chair --

CHAIR MOLINA: Good morning.

MS. MUNSELL: --Committee Members. My name is Linda Munsell, I'm the former Assistant Housing Administrator for the County of Maui and I'm the current Deputy Director for the Department of Housing and Human Concerns. I choose to take some vacation time this morning to join you today because I think one of the decisions that you're going to make this morning is going to be one of the most important decisions that you can make for our Department in the next few years. I'm here in support of Lori Tsuhako as the Director of Housing and Human Concerns. You have heard, and I know that you'll hear more about her background so I'm going to let other people cover that ground for you. What I want to talk to you about and what I want to share with you is about our need for leadership. As you know, this Department is a very large one. We have divisions that range from housing to homelessness and all the social issues that go along with that, from the Office on Aging and how we keep our kupuna in their homes and healthy, to the early childhood where we're dealing with our very youngest of the, of our family members. We provide immigrant services and we do grants management, and that doesn't even touch all of the areas that we're involved in. The range of support and services that the Department provides to the County of Maui is amazing. And before I met Ms. Tsuhako, I did not think it was possible that any one person could have more than just a passing knowledge of all the areas that we encompass. Ms. Tsuhako is definitely the exception to that. Regardless of her knowledge, however, this is a very large ship to command. It won't matter how much knowledge you have or how many details you know if you are not able to lead. Our Director needs to have the ability to orchestrate an entire crew in order to keep that boat afloat and in good working order. In a situation like this it's really critical to have a director who has the skill to lead, set goals, and motivate staff. We all know that Ms. Tsuhako has a proven leadership both locally and at the State level, and in just the short time that I've been under her leadership, I've already learned that she has very high expectations and that she requires a very high level of performance from both herself and her staff. I believe that the leader that we need for the Department of Housing and Human Concerns is Ms. Tsuhako. I support her. I ask that you choose to support her as well. And in doing so, you will be giving us the gift of leadership that we need for the next few years. Thank you.

CHAIR MOLINA: Thank you very much, Ms. Munsell. Members, any need to clarify Ms. Munsell's testimony? Councilmember Sugimura?

COUNCILMEMBER SUGIMURA: If I could, Chair, and let me know if this is over and beyond what she testified, but bringing the previous testifier's comments about the SMS

**GOVERNANCE, ETHICS, AND TRANSPARENCY  
COMMITTEE**

**Council of the County of Maui**

**April 4, 2019**

---

report for the housing plan, and since you're the Assistant Housing...well, I don't know what your...

MS. MUNSELL: Deputy Director.

COUNCILMEMBER SUGIMURA: No, not your current title, your former title. I was just wondering if, as, in the Housing Department, were you able to use that SMS 2017 housing plan that was, that, you know, has been brought up today within the Department?

MS. MUNSELL: We took a look at the housing plan, I mean, this is part of the leadership issue that we're talking about. We looked at that study that was done last year and in that study, it actually outlines a plan for moving forward and trying to resolve this problem. So, using that information we actually did put together a framework and an outline which Ms. Tsuhako is going to talk about, I'm sure, a little bit later, and that we will be presenting to the Affordable Housing Committee at some point here shortly. But, yes, that document was very valuable to us as well as the TIG document. There's been a lot of information made available to our Department so that we can actually start addressing this problem.

COUNCILMEMBER SUGIMURA: So, do you think that we need to do another housing study?

VICE-CHAIR RAWLINS-FERNANDEZ: Chair?

CHAIR MOLINA: Yeah, hang on. Okay, sorry. Ms. Sugimura, I think we've --

COUNCILMEMBER SUGIMURA: We're not into...

CHAIR MOLINA: --gone on a limb, and I've been...

COUNCILMEMBER SUGIMURA: We'll ask Lori those questions.

CHAIR MOLINA: Yeah. But again, Members, I am going to allow a little leeway on this because as long as it ties into Ms. Tsuhako's ability so I will grant that from you. So, if you do have a question related to the housing plan or whatever, please be sure to tie it into Ms. Tsuhako's ability as it relates to testimony from the public, okay? So, I'm going to...I will grant that a little bit, okay? So, trying to walk that fine line, alright?

COUNCILMEMBER SUGIMURA: Thank you.

COUNCILMEMBER KING: Chair? Just a quick --

CHAIR MOLINA: Ms. King?

COUNCILMEMBER KING: --I just wanted to get, ask if I could get a written copy of your testimony?

**GOVERNANCE, ETHICS, AND TRANSPARENCY  
COMMITTEE**

**Council of the County of Maui**

**April 4, 2019**

---

MS. MUNSELL: Sure.

COUNCILMEMBER KING: Thank you.

MS. MUNSELL: I'll make that available.

CHAIR MOLINA: Ms. Munsell, thank you for making that point that Ms. Tshako will also share her thoughts on the housing plan. So, there is a little tie-in. At least that's the Chair's opinion. So, alright. Members, any other need to clarify testimony? Councilmember Paltin?

COUNCILMEMBER PALTIN: Thank you, Chair. Thank you for being here. I just was wondering in your role as the Deputy Director, a previous testifier had stated that Director Tshako might not have the housing background and I was wondering in your position do you feel that with your previous position and your background that you guys can supplement each other in that way?

CHAIR MOLINA: Ms. Munsell?

MS. MUNSELL: Yeah, I think we make a very strong team. Again, what Lori really brings to this table is the ability to take the knowledge from all our departments and actually move it forward into a positive thing for this County. And I think that that's the critical element that we need to have right now.

COUNCILMEMBER PALTIN: Thank you.

CHAIR MOLINA: Okay. Thank you, Member Paltin. Members, any other need to clarify Ms. Munsell's testimony? Seeing none, thank you very much for your thoughts, Ms. Munsell.

MS. MUNSELL: Thank you.

CHAIR MOLINA: Next to testify on GET item, well this be GET item 2(4), will be Patricia Hunt. Twenty-four, I should say. And following Ms. Hunt, the last person to have signed up for testimony will be Thelma Akita-Kealoha.

MS. HUNT: Thank you.

CHAIR MOLINA: Good morning, Ms. Hunt.

MS. HUNT: Good morning and thank you very much, Vice-Chair. Sorry, I'm still dealing with a voice issue and thank you each and every one of the Councilmembers for hearing me today. I am going to speak, and I know it's a tough decision. I don't believe any of you guys have an attorney background so I know there's been a disapproval for the Mayor's Office, but I do, would like to ask, and I think it's important you guys are taking your time to decide on County Council attorney for the Mayor's Office. But, and I don't know if you can answer this or not, but I'm trying to

**GOVERNANCE, ETHICS, AND TRANSPARENCY  
COMMITTEE**

**Council of the County of Maui**

**April 4, 2019**

---

find out who is in charge over the internal affairs, the Chief of Police, and the reports that get turned in to the State Legislature division as far as when somebody has a complaint regarding an issue with the Police Department here and I'm not sure if any of you can answer that right now or County Counsel, who's temporary standing in, can answer that or if they can respond in writing to me. I've addressed it...I've sent a letter to the Mayor recently and I think the new Mayor is awesome and he's going to do a lot for the community and I just would like some answers because this has now cost me two more jobs here on island because of a woman who's going on trial today. So, I've had to actually worry about my safety now and having six of my tires slashed. So, this is not...and I can't file a TRO because of my background.

CHAIR MOLINA: Sorry, Ms. Hunt, sorry, could you keep your testimony confined to the agenda item? Yeah.

MS. HUNT: Yes, so --

CHAIR MOLINA: And, by the way, we'd be happy --

MS. HUNT: --if anybody can --

CHAIR MOLINA: --well, my office would be able to assist you.

MS. HUNT: --answer those questions if they don't have the answers right now, I understand. But if they could put it in writing to me within a reasonable amount of time, I'd greatly appreciate it. So, the police reports that get turned in to the State, that's my first question, which State legislator that is. And then, who would be the person who's over internal affairs in dealing...

CHAIR MOLINA: Ms. Hunt, sorry to interrupt, but, again --

MS. HUNT: Thank you.

CHAIR MOLINA: --so, we don't get into trouble --

MS. HUNT: I understand.

CHAIR MOLINA: --with the Sunshine Law police.

MS. HUNT: I understand. Thank you.

CHAIR MOLINA: Do you have any more to say on the proposal --

MS. HUNT: No, that's it.

CHAIR MOLINA: --which is for the interim?

MS. HUNT: Just make your choice very carefully. Thank you.

**GOVERNANCE, ETHICS, AND TRANSPARENCY  
COMMITTEE**

**Council of the County of Maui**

**April 4, 2019**

---

CHAIR MOLINA: Okay. Thank you very much. Appreciate your patience and tolerance on that. Members, any other need to clarify testimony from Ms. Hunt? Seeing none, thank you very much. Calling now, Thelma Akita-Kealoha who will be testifying on GET item 1(9), and if there's anyone else in the gallery that would like to testify please sign up. Good morning, Ms. Akita-Kealoha.

MS. AKITA-KEALOHA: Aloha and good morning, Chair Molina and Councilmembers. Thank you for allowing me to come forward and testify on behalf of Ms. Lori Tsuhako as the Director of Housing and Human Concerns. My testimony also has many positive things about Lori, you know, all that you have heard before about how conscientious she is. She's very action-oriented, very intelligent, she has a good grasp of information. I have worked with her. I worked with Catholic Charities Hawaii for 12 years and I've worked with her previously as the Director of Housing and Human Concerns and even at that time she had a wonderful grasp of homelessness and of the trends in homelessness. And when she left the administration she was picked up by the State Homeless Programs Office as the director or administrator of that and for many years she worked with all of the islands including Maui and she always kept us up to date as far as the trends, what to expect as far as what was going to happen in our funding for homelessness and she continues today. And she always puts herself out there. I remember her telling us, "oh yeah, I was making lunch. I need all these plastic containers cause I making lunch for all these people," and she would make lunch for them. She would take them in her car and give them rides. I mean, she really has the heart for this. And as far as, you know, she's the first one to admit that her vast knowledge is mostly in the human services part. But I give her credit because already, as my friend Stan Franco had mentioned, she's been meeting with our social justice organization and we have a group of people who have a lot of ideas and want to move solutions forward. And I, you know, sat down next to Lori and I could already see the wheels in her mind turning as far as what she can do with that information and how she can move forward. And she's already formulating her own ideas as far as the solutions. I have total faith in Lori Tsuhako as the Director of Housing and Human Concerns. And I must say, I wrote a whole testimony out and I didn't even bother reading it because so many people are saying the same things, you know, that she should be confirmed as the Director of Housing and Human Concerns. So, I'm asking you to please vote her in and confirm her as the Director. Thank you.

CHAIR MOLINA: Thank you, Ms. Akita-Kealoha. Members, any need to clarify testimony? Seeing none, thank you for your thoughts. Staff, has there been any other signups for testimony for our agenda items this morning? None. I presume we have no testifiers as well for Molokai, Lanai, and Hana. That is confirmed. Okay, Members, if there are no objections, the Chair will close public testimony for our two agenda items.

COUNCILMEMBERS VOICED NO OBJECTIONS.

CHAIR MOLINA: Okay, so ordered.

**. . . END OF PUBLIC TESTIMONY . . .**

**GOVERNANCE, ETHICS, AND TRANSPARENCY  
COMMITTEE**

**Council of the County of Maui**

**April 4, 2019**

---

**GET-1(9) APPOINTMENT AND REMOVAL OF ADMINISTRATIVE HEADS OF  
DEPARTMENTS (DIRECTOR OF HOUSING AND HUMAN CONCERNS)  
(CC 19-1)**

CHAIR MOLINA: Alright, let's get down to business, Members, with our first item is the...with regards to the Appointment and Removal of Administrative Heads of Departments. This morning we are dealing with the nomination of the Director of Human and Concerns, GET item 1(9). And that, of course, being the Mayor's appointment of Lori Ann Tsuhako for Director of Housing and Human Concerns. And to give us a brief introduction, I'd like to ask, call on the Managing Director, Mr. Sandy Baz.

MR. BAZ: Aloha, Chair, Members, good morning. Yeah, you know, it's hard to follow the testimony that was presented by the people that came here to support Lori. Just know that she is definitely qualified for this position. We did provide to you a resume, qualifications, and additional qualifications required for this position, as well as the job description. Mayor Victorino and I are very confident that she has the skills, the abilities, the qualities to be an excellent Housing and Human Concerns Director. We feel that she has, you know, of course the experience of being the Director, of being the Deputy, of the work at the State and her work in the community itself as evident by the discussion here this morning from the community members that she, she's fair, she's confident in what she does, but very open to listening. I did interact with her in my previous experiences as the Director of MEO and, you know, we didn't always see eye-to-eye on certain things but we always worked together in partnership for the better of the community. And she...I was always open to working with her on those kind of things and I'm really confident that she's going to do a great job for us, for the community. Mayor's main concern, you know, as he went out on the campaign trail was affordable housing and homelessness, you know. Those are issues that are incredibly important to us. Issues that are longstanding. Things that we have a need to solve but it's going to be diligent work and I know Lori is up to the task. She works very hard at what she does. She's smart. She is a good leader in her Department. The staff are confident in her as well and we want to just make sure that, you know, we're here to support her in getting the job done for our community as well. So, Mayor and I are definitely here to back her up in everything she needs and we hope that you see that same opportunity and skills within her and confirm her in this position. So, Mr. Chair, that was my brief comments. Thank you.

CHAIR MOLINA: Very well done, Mr. Managing Director. Thank you so much. Alright, Ms. Tsuhako, you have the proverbial hot seat, so to speak. But just take a, we'd like to ask you to give a couple of minutes that you can share with us your intentions for being the Director of Housing and Human Concerns. Please proceed.

MS. TSUHAKO: Thank you very much. Good morning, Mr. Chair and Members. Thank you, Mr. Chair, for the expeditious scheduling of this confirmation hearing in the midst of your Council Budget deliberations. I very much appreciate the accommodations made

**GOVERNANCE, ETHICS, AND TRANSPARENCY  
COMMITTEE**

**Council of the County of Maui**

**April 4, 2019**

---

for me. I would not be here today before you without Mayor Victorino's vote of confidence and I'm glad to have Managing Director Baz here with me as well. I'm deeply grateful to have been nominated to serve as a Director of the Department of Housing and Human Concerns. I'm honored that Mayor Victorino has entrusted this Department to me and to Deputy Director Munsell. It is my intention to live up to the high expectations that the Mayor has set in asking us to care for young children, families, hardworking people who need affordable housing, our residents who are without homes, those wanting to volunteer in our community, and our treasured kupuna. As noted in my correspondence to your Committee dated March 28<sup>th</sup>, I previously served as Deputy and Director of DHHC in the administration of former Mayor Charmaine Tavares from 2007 until 2011. Much has changed in and about the Department during the eight years that I was absent, but I can assure you that DHHC remains an amazing organization that has attracted talented, hardworking, and deeply committed staff that provide a multitude of services to our community. I'm really privileged to be in their company and to work alongside them, others in Administration, you on the County Council, and the public for the overall benefit of our County. This is an honor that I do not take for granted. So, I'll do my best this morning to answer any questions you may have, and I hope that I can earn your trust and support for my nomination. I thank you very much.

CHAIR MOLINA: Thank you very much, Ms. Tsuhako. Members, Chair would like to share with you the parameters for questioning this morning. We're going to go one to maybe two rounds, again, with one question and a follow-up question per round. And I would ask that you please, as much as possible, refrain from asking any budget, current budget-related questions because I believe we've or should have been submitting questions to the Department. So, let's keep the budget stuff as much as possible out of the questioning and in your Granicus as well, you may have the hard copies of the March 28, 2019 letter. A very detailed response from Ms. Tsuhako with regards to questions from Council Chair King. So, if you want to work off of that to formulate some questions, that's fine as well. So, again, those are the parameters that the Chair would like you to adhere to if all possible. So, let's proceed with round one and we'll start with subject Committee Chair Councilmember Kama.

COUNCILMEMBER KAMA: Thank you, Chair. Good morning, Ms. Tsuhako.

MS. TSUHAKO: Good morning.

COUNCILMEMBER KAMA: So, my question to you is what is your vision to increase housing?

CHAIR MOLINA: Ms. Tsuhako?

MS. TSUHAKO: Thank you, Mr. Chair. Thank you for your question Councilmember. My vision is to be able to show people what the data says is our need. I think that's an important step. So, we take the data that's available to us from the studies that you cited earlier from information that we have in our own Department, and we compile that in a way that makes sense to people to show exactly what the end goal is. So, a

# **GOVERNANCE, ETHICS, AND TRANSPARENCY COMMITTEE**

**Council of the County of Maui**

**April 4, 2019**

---

few weeks ago we were here in the Chambers and we talked about the Hawaii Housing Planning Study that said we need 14,000-plus units by 2025. So, what I'm suggesting is to look at the data that we have and to break it down even further so that we're not just looking at a huge number, 14,400 but also where those 14,000 units are needed in terms of area median income. And by doing that we can start galvanizing our County resources, the resources that we have at our disposal like Affordable Housing Fund, and targeting areas, the area median income classes that we know need the most housing and focus on that. Right? And so, that's part of the strategic plan that I have committed to presenting to your Committee and to the Council in the next three months that will paint that picture about what the need is.

COUNCILMEMBER KAMA: Thank you. Thank you, Chair.

CHAIR MOLINA: Thank you, Member Kama. Councilmember Sugimura?

COUNCILMEMBER SUGIMURA: Thank you, Chair. Thank you for being here, Ms. Tsuhako. And, I guess to continue on with the question that I had for your Deputy Director Linda Munsell. I wondered the value of the SMS...you sound like you already started talking about it already. But the SMS study that was done in 2017 and, I guess, are you using it? Will you be using it along with this housing study that you mentioned and other documents that you already...or, other studies that you have in-house? So, can you make an overall statement about tying into what you just said to Ms. Tasha Kama and what Linda Munsell said?

CHAIR MOLINA: Okay. Ms. Tsuhako?

MS. TSUHAKO: Thank you, Mr. Chair. Thank you for your question, Member. Definitely. So, I think there's a value to that data and I think it behooves us as the County to utilize the data that we have. I don't think that we need another study. I really don't. I think that we need to sort of look thoughtfully and analyze the data that we have and to put it together in a picture that we can all...you know, we may not agree on all the details. That's going to be a really big lift because as my colleague Mr. Franco mentioned, people have disagreements about what the best thing to do first, second, third, is. That's not going to slow us down. What we have to do is we have to come up with a plan that most people can see is realistic and doable and doesn't matter whether we argue about this step first or that step first. We need to have the data that explains why we need to do what we need to do. And so, I don't eschew that data that comes from SMS or from the Hawaii Planning Study, or even the information that was garnered from the TIG because those folks did good work and they had a solid set of recommendations. I think prioritizing the plan of action is important and we plan on doing that. And we hope that when we present that information to the Council and to the public that there'll be a general agreement that, yeah, this moves it along. Because we need to move along.

COUNCILMEMBER SUGIMURA: Appreciate it. One more question.

MS. TSUHAKO: Thank you.

**GOVERNANCE, ETHICS, AND TRANSPARENCY  
COMMITTEE**

**Council of the County of Maui**

**April 4, 2019**

---

CHAIR MOLINA: Okay. Your follow-up, Member Sugimura.

COUNCILMEMBER SUGIMURA: Tied to that, you have a list of, I think, Buddy Almeida sends to the Council the list of all the housing projects that are currently happening, is planned, stopped, or whatever it is. But you have this master, a list of housing projects. Would you, as, in your study, would you be going back to the different developers just to ask them, "what is the delay," or, "what is the status," or, you know, I'm looking...I guess I'm more concerned about the delayed ones, what can we do to activate it. So, do you have that in your plans?

CHAIR MOLINA: Ms. Tsuhako?

MS. TSUHAKO: Thank you, Mr. Chair. Thank you, Member Sugimura. That is exactly one of the things that we'll tackle immediately. We do have a list of developments that are in various stages of planning. Some of them have already started. Some of them are very new. But one of the questions that I'll ask of the developers and the consultant is, where are you stalled? Right? Where is that obstacle that's so hard for you to overcome? And hear from them and also look at what resources we have in the County to be able to help those projects overcome those obstacles. I think one of the challenges may be that it's hard to convene a meeting with all the departments who are involved in approvals of projects along the way, and that's something that we would ask Mr. Baz and the Mayor to help us with is to be able to convene those meetings, have the developers talk with everybody at the same time, identify the obstacles, and then make a plan that everybody can hear what the plan is sitting at the table, make an agreement about what needs to happen next, and then make those assignments. Come back at a follow-up date to check on progress. And that's a lot of managing of different tasks to different people, but with the authority of the Mayor and the Managing Director, we can get those things done.

MR. BAZ: Mr. Chair, if I might add? Actually, this is a very timely topic. I just have this conversation with the Mayor yesterday and got his approval to convene a regularly set group of...

COUNCILMEMBER KING: Mr. Chair, point of order --

CHAIR MOLINA: Yes?

COUNCILMEMBER KING: --can we contain this to Ms. Tsuhako's appointment and not try to problem solve?

CHAIR MOLINA: Alright, we'll do our best. Alright, yeah, just quickly wrap up on that, Mr. Baz.

MR. BAZ: Anyway, yes, to accomplish what Ms. Tsuhako just requested, we, I did get permission from the Mayor to convene that group and we will start that process, definitely.

**GOVERNANCE, ETHICS, AND TRANSPARENCY  
COMMITTEE**

**Council of the County of Maui**

**April 4, 2019**

---

COUNCILMEMBER SUGIMURA: Very good. Thank you.

CHAIR MOLINA: Alright, thank you for that update, Mr. Baz, as well. So, and again, yeah, if at all possible, we'll let Ms. Tsuhako respond to all the questions. But, thank you for adding that, I appreciate it. Councilmember Paltin?

COUNCILMEMBER PALTIN: Thank you, Chair. Thank you, Director, Acting Director Tsuhako, for being here and for meeting with me prior. I really appreciate your plan about, or your vision for housing, affordable housing and looking at the AMI classes that need the most help. My question is, you know, given the concerns that you and I discussed earlier and even on the floor with your pre-budget hearing, is part of the plan...is there a part of the plan or a strategy to ensure that it's our local people getting these lower AMI affordable homes?

CHAIR MOLINA: Ms. Tsuhako?

MS. TSUHAKO: I, thank you for your question and thank you, again, for meeting with me and talking. I appreciate that. I think that we all share that concern. I think that's a universal...that's a universal priority for all of us. And, we can talk a little bit more and more in detail as we go along on how to craft programs that might give local residents --

COUNCILMEMBER SUGIMURA: Opportunity.

MS. TSUHAKO: --opportunities to make themselves eligible for that housing. So, for example, we have homebuyer's education program that Hale Mahaolu runs for us to ensure that when people get mortgages, they're able to maintain that and don't lose their homes to foreclosure. And we can strengthen those programs, which we intend to do this year. And we can also, I think, work off...I think the last time we met you suggest that we have a, maybe, a way to inform people that developments are coming and homes might be available so that they're ready at the time that those homes are available for sale or for rent. And those are things that we can integrate into a larger strategy.

COUNCILMEMBER PALTIN: If I may, just a follow-up. For me in speaking with Ms. Abdul from Na Hale O Maui, they have a lot of ways to ensure that it's local people. So, if you are going to follow up with that, that would be my suggestion is checking with that organization. Anybody can do the requirements that they set forth, but it's much easier if you already live here.

CHAIR MOLINA: Okay.

COUNCILMEMBER PALTIN: Thanks.

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

# **GOVERNANCE, ETHICS, AND TRANSPARENCY COMMITTEE**

**Council of the County of Maui**

**April 4, 2019**

---

COUNCILMEMBER HOKAMA: No questions.

CHAIR MOLINA: Okay, Committee Vice-Chair Rawlins-Fernandez?

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Aloha, Acting Director Tsuhako. Mahalo for being here this morning. I really appreciate your sense of urgency to this housing crisis that we're in and it's evident in your response to question four on the questionnaire that you responded to that you'll be presenting a plan, a strategic plan, by June 30, 2019. I was hoping to get a little more detail on what you're envisioning this strategic plan to look like. Will it have, like, the number of housing you mentioned, like, specific locations? Will it have, like, the amount of housing that you realistically believe that the Department can help to facilitate within each year? And do you plan to also utilize the experimental and demonstration housing provided for in HRS 46-15?

CHAIR MOLINA: Okay, Ms. Tsuhako? If you can try and answer that one question with about three responses or four? Do your best. Thank you. Proceed.

MS. TSUHAKO: Thank you. Thank you, Mr. Chair. Thank you, Vice-Chair, for asking that question. So, some of the elements of the strategic plan that we're working on will include just that, identifying housing needs, which is specific number in each AMI by general location, so geographically. I think choosing parcels that are County or State-owned and even those who are privately owned that have infrastructures to already...that will lessen the burden to the County and to the developer. I think we have to also look at infrastructure and prioritizing how we fund infrastructure. Because if the greatest need, just for example, if the greatest need is for people who are at 60 percent or below of area median income, the infrastructure cost is going to have to be borne by the County as well as by the developer. So, we have to be willing to understand that that's the contribution we make for building at that level of AMI. I think we have to look overall at financing, identify funding mechanisms, and that's where our work with developers both for-profits and non-profits will come in. Because they're the folks who have experience with the financing. That expertise does not lay with me or with the Department in particular. But we'll have to work together with people who do know that stuff and who can go out and leverage the funding that the Department might offer them and more than quadruple it or make it ten times more. And then we have to look at a prioritization of those projects that will get us to the goals that we want to accomplish and find some way to prioritize those, and as I said earlier to Member Kama, is to galvanize the resources the County has at our disposal to implement those plans.

CHAIR MOLINA: Okay. Your follow-up, Member Rawlins-Fernandez?

VICE-CHAIR RAWLINS-FERNANDEZ: There was one part of the question that you didn't respond to and that was the experimental and demonstration housing. Do you foresee including that in the plan?

MS. TSUHAKO: I do.

**GOVERNANCE, ETHICS, AND TRANSPARENCY  
COMMITTEE**

**Council of the County of Maui**

**April 4, 2019**

---

VICE-CHAIR RAWLINS-FERNANDEZ: Or utilizing it?

MS. TSUHAKO: I do.

VICE-CHAIR RAWLINS-FERNANDEZ: Yeah.

MS. TSUHAKO: I do. I think, I met recently with developer who is planning on using that statute to make a proposal for housing. So, it is, I think going to be used pretty soon. So, you'll see it soon.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. That's great. And I think having a community-supported plan is an important first step. And then my follow-up question is, what is your position on the County building housing for our community as it had done in the past?

CHAIR MOLINA: Ms. Tsuhako?

MS. TSUHAKO: Thank you, Mr. Chair. Thank you, Vice-Chair, for your question. You know, I think in the '70s up until the early '80s the County did develop housing. I think that the County's Housing Division has evolved since then and we do not have the capacity to actually be the developer of housing. We don't have the expertise. I think that there's, I heard at the meeting I attended with Mr. Franco that people have different opinions about whether the County should be a developer or not. I can tell you that we could plan for that and we could build a capacity for the County to do that but right now we don't have it. I think the tools that we do have are we have people who have worked with developers, we have people who understand the process of housing and who are willing to continue to work hard with the developers and with the construction folks to ensure that the community benefits in terms of having additional units. But to have the County be the developer I don't think is realistic right now.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Acting Director.

CHAIR MOLINA: Okay. Thank you.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

CHAIR MOLINA: Thank you, Member Rawlins-Fernandez. And now for our next line of question we have the wonderful Member from Wailuku, Member Lee, who also served as a former Housing Director. Ms. Lee, you have the floor.

COUNCILMEMBER LEE: Thank you, Mr. Chair. Wonderful Mr. Chair.

CHAIR MOLINA: Oh boy. Okay.

COUNCILMEMBER LEE: Ms. Tsuhako, I can understand your answer to Ms. Rawlins-Fernandez about the County not being the developer directly. However, I

**GOVERNANCE, ETHICS, AND TRANSPARENCY  
COMMITTEE**

**Council of the County of Maui**

**April 4, 2019**

---

really believe that the County can be the developer but not necessarily the contractor. See? Because if we become a developer or a co-developer of a project that means that we could have all, more resources available to the project than just a private developer, yeah? So, you may want to think about that in the future because it's not that we're going to do the brick and mortar thing, it's we're just going to help put the project together and then RFP out the construction. My actual question to you was because I know you from the past and I know you're fully qualified for the job and very capable and dedicated, do you have the stamina to deal with this Council that has a raging desire to move forward with housing? That's my question to you.

CHAIR MOLINA: Ms. Tsuhako?

MS. TSUHAKO: Thank you, Mr. Chair. Thank you, Councilmember Lee. I'm from Makawao.

COUNCILMEMBER LEE: Alright. That's a good answer.

MS. TSUHAKO: Okay? So, I can go.

COUNCILMEMBER LEE: Thank you very much.

CHAIR MOLINA: Thank you, Member Lee, for that very poignant question. Alright, Council Chair King?

COUNCILMEMBER KING: Thank you. I don't know if I have the same words for our Chair, but I do appreciate you, Chair, and I appreciate the discussion and the level of support that we have for Ms. Tsuhako. My question, my main question is your goal to have a plan for housing, for how we're going to get to housing our housing needs in, by 2025 and apparently every year, the benchmarks every year. Are you going to be able to do that by June 30<sup>th</sup> with your current resources? Is this something that, you know, well three parts to the question: is this something that will spill into the next year; and do you need additional resources; and the third part of that question is are you open to bringing in outside consultancy, you know, to have somebody come and take a look at the, you know, as Mr. Franco stated that...because I agree with him, that I think we really need some outside entities to take a look at this.

CHAIR MOLINA: Okay, Ms. Tsuhako? And again, yeah, do your best to answer that. I know we tried to keep it, the budget questions as much as out of it, but I'll grant a little leeway there.

MS. TSUHAKO: Thank you, Mr. Chair. Thank you, Council Chair King. I think that we've already started the strategic plan that I referenced in my correspondence of March 28<sup>th</sup>. So, we have the beginnings of that, and I think we can pull that together in the timeline that I've set. I also think that...well, let me start, let me say that Mr. Franco and I have had numerous discussions about what has been characterized as a housing czar or something. I have a little bit of a different take on that mainly because of, maybe I'm not real clear about what the role of that person would be and

**GOVERNANCE, ETHICS, AND TRANSPARENCY  
COMMITTEE**

**Council of the County of Maui**

**April 4, 2019**

---

some concerns about how that person would interact with civil service staff and direct the work or not direct the work of civil service staff.

COUNCILMEMBER KING: Okay, but that wasn't my question, because I wasn't talking about the housing czar. I was talking about somebody to help create a plan, your plan. Or do you feel that you have the resources to finish it within this current fiscal year and actually come up with a, I think you called it a plan of action?

CHAIR MOLINA: Ms. Tsuhako?

MS. TSUHAKO: Yeah, I called it a strategic plan I think in my communication.

COUNCILMEMBER KING: Right.

MS. TSUHAKO: I think we have the resources to complete that plan.

COUNCILMEMBER KING: Okay. And then that will show us benchmarks and also as a follow-up, Mr. Chair. Do...is there a recognition that within the plan and talking to different developers that there are some...there's appropriate affordable housing and then there are some inappropriate projects in some areas. And I say that as a Member from a district that has been overrun with projects. I mean, almost every two months we're seeing a new project and some of it's affordable, some of it's luxury. So, is that...there...within your Department do you intend to, you know, also scrutinize all the projects that come before you rather than just asking people how can we get this done faster?

CHAIR MOLINA: Ms. Tsuhako?

MS. TSUHAKO: Thank you, Mr. Chair. Thank you for that question, Chair King. The answer is yes. I think that our need for affordable housing doesn't outweigh the logic of what housing is provided. I think that if we have junk projects, we shouldn't take them just because they're projects.

COUNCILMEMBER KING: Okay. Because we're only ending up with, a lot of these with 25 percent affordable and we end up with 75 percent market or luxury. But I also wanted to say that I agree with my colleague Councilmember Lee that we do need to look at getting into development ourselves, you know, I don't think we need to pound nails ourselves as a County but we need to start putting some projects together ourselves and a lot of it has to do with the resources that we talked about yesterday and, you know, how much cheaper we can get bond funding as a County. Thank you, Chair.

CHAIR MOLINA: Okay.

COUNCILMEMBER KING: Thanks for the leeway.

**GOVERNANCE, ETHICS, AND TRANSPARENCY  
COMMITTEE**

**Council of the County of Maui**

**April 4, 2019**

---

CHAIR MOLINA: Thank you, Council Chair King. Oh, you know me, I always give you guys a chance. I mean, that's part of our job as a Council to vet all of our nominees and, you know, some difficult balancing act at times but I appreciate all of your efforts to cooperate with the Chair. Mr. Sinenci from Hana, you have the floor.

COUNCILMEMBER SINENCI: Thank you, Chair. Thank you. Thank you, Ms. Tsuhako. My question was, you know, I think for us Councilmembers this week affordable housing was our top five of our list so looking at your correspondence on March 28<sup>th</sup>, on number three you said that circumventing plans and rules is not your style. So, my question was, are there any current planning or housing ordinances that may prohibit you from quickly creating and building affordable homes? In the past, developers have said certain ordinances have kept them from keeping them affordable. Do you feel personally that there are some ordinances that do that?

CHAIR MOLINA: Ms. Tsuhako?

MS. TSUHAKO: Thank you, Mr. Chair. Thank you, Mr. Sinenci. And thank you for meeting with me earlier, I appreciate that. I don't know what those developers were referring to in particular. It's not something that has been raised to me in the meetings that I've been involved with and I'm sure that people will tell me after a while. But I think the challenge for some of the developers who've met with me has been about the length of time it takes to get projects reviewed and approved. I think people, depends on where projects are, they have challenges with water, with needing to get SMAs. So, some of those processes we cannot overlook. So, I don't see that as a need to need to necessarily change our ordinances but I think we have some ordinances in place that help us to encourage the production of more affordable housing and I think as the Department is responsible for ensuring and monitoring that those units are produced and that the people at the right income get placed into those units. But I'm not aware of any specific issues other than, like, the water bill and the length of time it takes for developments to get approved that have come up in our discussions.

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

CHAIR MOLINA: Okay. Thank you, Councilmember Sinenci. Ms. Tsuhako, I know we've been...a lot of your questions this morning have been related to housing. And certainly very...that is certainly a very important viable issue in this community. I'd like to just change focus now from housing and more towards the human concerns side of your responsibilities as the Director of this Department. I take note of question six in your response on the March 29<sup>th</sup> letter which was asked by Council Chair King; discuss what efforts you will initiate to improve the management of homelessness issues. And I'm particularly interested in the response with regards to the, I know you had, I saw Mr. Nakama here earlier and it's certainly becoming an escalating problem in our community and concern. Your vision, you had mentioned, well as I see here in one of your responses, your "strong partnerships with the State of Hawaii so that funding streams can work to compliment with each other." As well as moving on down in your response, "optimizing funding from all sources to help ensure that housing and services can be offered to those who are without homes." Can you

**GOVERNANCE, ETHICS, AND TRANSPARENCY  
COMMITTEE**

**Council of the County of Maui**

**April 4, 2019**

---

provide some specifics? And I know you had experience on the State level with homeless which I think is a very important asset in your role as the potential Director of this Department. Can you elaborate a little bit further on that response?

MS. TSUHAKO: Sure, thank you, Mr. Chair. So, what I mean when I talk about optimizing resources is that right now, for example, the County receives funding from the Department of Housing and Urban Development through several programs. We get money for the Community Development Block Grant program. We also get money through the HOME Program, which is administered through our Housing Division. And different agencies in our community also get funded through the State through general revenues and also get HUD funding through the Homeless Programs Office where I was the administrator for a while. So, when I talk about leveraging it means that some of the CDBG funds or the HOME funds can be used to fund programs that address homelessness and can create housing for folks who have been homeless. And if there's no discussion between those different administrators of those funding, then we could all be doing different things. But if we have the communication and we can coordinate the use of those funds, we can actually do much better. So, the funding can be used to provide units for people who were formerly homeless. We have the service providers who can provide the support services to ensure that people can remain in those homes and don't return to being unsheltered homeless. And that's the kind of coordination and discussions that I think would be really beneficial to the County overall.

CHAIR MOLINA: Thank you, Ms. Tsuhako. And that's something that I was looking for, an important skill to have as a Director to corral everybody and network so we can reach the objective. Because sometimes when you don't get everybody together on the same page, then that's where delays happens, and solutions don't happen as well. And the follow-up question will be related to Immigrant Services, of course, the whole subject of immigration has been a big topic on a national level. Any thoughts on what we can do to maybe possibly improve our services to our immigrant community? Or, I'd just like to get...pick your brain on that.

MS. TSUHAKO: Thank you for that question, Mr. Chair. Our Immigrant Services Division has really evolved into a very holistic sort of place for immigrants to get some assistance. So, recently, I think about two weeks ago the Philippine Consulate came to Maui to do an outreach event and they, I think they processed about 180 passports for Philippine citizens who are living here, they did dual-citizenship processes. And those partnerships with the consulate--earlier we did a Mexican Consulate outreach event--those save people so much money and time. They don't have to go to Oahu to get those processes done. It's an incredible savings to people who live here. It allows them to keep working and not miss work. It allows them to keep that \$200 of airfare times the number of people in their family in their pockets. And I encourage our Immigrant Services Division to continue those outreach efforts and support so that people don't have to travel to Oahu to get those basic immigration type services done and we can keep them here and working and with their families.

**GOVERNANCE, ETHICS, AND TRANSPARENCY  
COMMITTEE**

**Council of the County of Maui**

**April 4, 2019**

---

CHAIR MOLINA: Thank you, Ms. Tsuhako. And, also, I'll ask you, should you be confirmed to continue this Department's commitment towards our kupuna and the services that they need as well. Okay, second round. We'll start at the beginning, Councilmember Kama?

COUNCILMEMBER KAMA: Thank you, Chair. So, in following the discussions all to my right and coming back around, it almost seems as if the Department is charged with two of the biggest, the most broadest care from womb to tomb, from our homeless to creating housing. So, I'm think...and social services. So, I'm thinking that sometimes I think that the Department takes on more than it can chew and that maybe if you think that this might be a time to think about whether or not Maui County actually needs a housing authority. So, if you could comment on that.

CHAIR MOLINA: Yeah. Ms. Tsuhako?

MS. TSUHAKO: Thank you, Mr. Chair. Thank you, Member Kama, for your question. I think that other jurisdictions across the State have bifurcated the responsibility. So, they might have started with a housing and human concerns and then broken that off to have housing departments that are separate. I know that on Oahu the City and County has a Department of Housing even though it just has, like, one person working there. But that function is different from what our Housing Division does. But I can see...I would say that, not that I'm a good prognosticator of the future, but I could see a need to eventually divide the Department into those two areas; one for human concerns and one specifically for housing. Especially if the desire is to have the County assume more responsibility as we discussed earlier as a co-developer of housing in the future.

CHAIR MOLINA: Okay. Thank you, Councilmember Kama. Ms. Sugimura?

COUNCILMEMBER SUGIMURA: So, I have no further questions and I am ready for your question for vote.

CHAIR MOLINA: Okay. Thank you, so noted. Councilmember Paltin, any final questions for the Director?

COUNCILMEMBER PALTIN: Thank you, Chair. I kind of wanted to give you a real-life scenario and see your response.

MS. TSUHAKO: Okay.

COUNCILMEMBER PALTIN: Seeing that housing is a great need and maybe sometimes we can pick out the low-hanging fruit that might move things along faster. I had brought this up to the Administration, but I know the Mayor has his hands full with all sorts of things. We have a property in West Maui that has, like, maybe four to eight apartments that are just vacant and have been vacant for a long time and it's owned by the Weinberg...it's the Anchor Square old Travelodge property. And I was wondering, given that information that it's, you know, vacant, it was housing at one

**GOVERNANCE, ETHICS, AND TRANSPARENCY  
COMMITTEE**

**Council of the County of Maui**

**April 4, 2019**

---

time, it's right central in town, it has all the infrastructure and everything. I did speak with Ka Hale O Ke Ola and they're willing to be a partner on that. What would you do...go.

CHAIR MOLINA: Okay. Ms. Tsuhako?

MS. TSUHAKO: Thank you, Mr. Chair. Thank you for your question. Actually, we discussed that during our meeting, and I did a follow up and contacted Corbett Kalama from Weinberg and we've played phone tag twice, back and forth. So, my intention is to talk with him. The last message he left with me was, you know, "hey, we don't have any plans for that but I'm happy to talk with you." So, I think there's an openness from the part of Weinberg to discuss any future use, but we haven't gotten too far down because we haven't spoken to each other yet. But I did follow up. I think that that's a good mechanism to follow up on, you know, different properties that are identified in the community as potential places for housing. And it's just the legwork that would be done along the way. I think that particular property, I think I asked a question about that to the staff and they identified it might be in Historic District which might limit what can be done. But we can work those details out with Weinberg as we get further down into the discussion.

COUNCILMEMBER PALTIN: Cool. Thanks, I'm glad to hear that you already started following up.

CHAIR MOLINA: Okay. Thank you, Councilmember Hokama. I mean, Councilmember Paltin. Councilmember Hokama, any questions as it relates to maybe Lanai for Housing and Human Concerns?

COUNCILMEMBER HOKAMA: Chairman, I would just say how we dealing with the Human Concerns portion within our standing Committee parameters with the Director. And I would just say the Director is aware that we do have a County housing project on Lanai that we want built that is 35 years old.

CHAIR MOLINA: Okay. Thank you, Mr. Hokama. Committee Vice-Chair Rawlins-Fernandez?

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Okay, Acting Director Tsuhako, will you please share with us your...the top five human concerns issues as you see it?

CHAIR MOLINA: Okay. Ms. Tsuhako?

MS. TSUHAKO: Okay. Thank you, Mr. Chair. Thank you, Vice-Chair. You know, I think as I spoke earlier in response to Member Kama's question about housing, housing really is a human concern, you know. I don't separate housing from what we need in our community. So, I think housing remains a huge concern and I think it would be one of my top priorities. It is the top priority to make sure we have housing because, I think with housing we can work on other issues like homelessness, like taking care of our kupuna, making sure that families have safe and healthy places to be in

# **GOVERNANCE, ETHICS, AND TRANSPARENCY COMMITTEE**

**Council of the County of Maui**

**April 4, 2019**

---

communities. So, let me see, let me count that. Housing, kupuna, families, homelessness...I don't see that, you know, this part of it, I don't see that as being totally separate issues. I really view the Department as big and as wide as it is, and with the depth of work that's done as really a coordinated effort. And more and more, the need is to coordinate with other departments that handle other parts of these issues. But we have to start actually formalizing those together as pieces to make progress.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo for your response. So, I was just wondering, so you named four and I know they're all connected as you mentioned. Is mental health, behavior health like a high priority?

CHAIR MOLINA: Ms. Tsuhako?

MS. TSUHAKO: Thank you, Mr. Chair. Thank you, Vice-Chair. It is. It has...mental health and substance abuse is one of the primary needs of some of our residents who are without homes. So, part of what I discussed in my long-term plan is one of the long-term goals is to really look at how our Homeless Division can work on a Statewide level and look at what kind of changes in the mental health and substance abuse treatment arenas we can generate to help those folks to get out of their unsheltered homeless situations and get those services here. So, we don't have the breadth of services that are available on Oahu. No real big psych ward at Queens. No psychiatric outreach program to the unsheltered. But those are programs that we can start developing the foundations for going forward. And that's my passion to do that, too.

VICE-CHAIR RAWLINS-FERNANDEZ: That's great to hear. And then, my follow-up question to that is, you know, I know you mentioned that mental health, behavior health issues is one of the primary concerns for houselessness and another, you know, big reason for houselessness is the lack of livable wages and the inability for a lot of our community members to save up money. Many times or a lot of people are like one paycheck away from being houseless. And on Oahu, Catholic Charities has this program that helps families that are in that situation because it's so much cheaper to prevent houselessness than it is to help families after they become houseless. And so, it's...they help to supplement, you know, rent for a couple of months until the family is able to get back on their feet. And so, I was wondering if that's like a program that you see would be beneficial for our County?

CHAIR MOLINA: Ms. Tsuhako?

MS. TSUHAKO: Thank you, Mr. Chair. Thank you, Vice-Chair. The County actually has funded what we call a RAP program, rental assistance program, which essentially helps families to pay their rent. We also receive homeless prevention and rapid rehousing money through the State. Several agencies receive that. So, we have a good foundation. We may not have exactly the same program through Catholic Charities here, but I think we have a good network that will help to prevent homelessness where possible. Because I agree with you, it's easier to prevent someone

**GOVERNANCE, ETHICS, AND TRANSPARENCY  
COMMITTEE**

**Council of the County of Maui**

**April 4, 2019**

---

from being homeless than from trying to repair that after they've been evicted and lost their homes. So, I think if, you know, if there's a need, a more of a need for homeless prevention funds we can certainly look at that as we go forward. Again, in a big-picture view of what the social service safety net looks like.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Acting Director.

CHAIR MOLINA: Thank you, Member Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

CHAIR MOLINA: And thank you for bringing attention to the issue of mental health because that's another critical need in our community as it all ties into homeless and also issues related to domestic violence and so forth. So, that's a...certainly appreciate your comments and responses to that, Ms. Tsuhako. Councilmember Lee?

COUNCILMEMBER LEE: Thank you, Mr. Chair. Ms. Tsuhako, I'll give you a little history. Thirty years ago I was the Chair of the Housing, I mean, Housing and Human Concerns Committee, you know, for the Council. And I was so influential back then I asked the Council if we could, if they would approve a separate housing department because back then it was just called the Department of Human Concerns. So, I asked them if they would help me create a new housing department and not a single person said yes. But to pacify me, they changed the name from Human Concerns to Housing and Human Concerns. So, that's what happened. So, you have two choices. You can either increase your Housing Division, or in the future consider advocating for a housing department, which you probably won't get because it's very expensive to do that. Yeah. But I just thought I'd let you know about that just in case somebody should ask you. Thank you.

CHAIR MOLINA: Okay. Thank you, Member Lee, for that walk down memory lane. And, Council Chair King?

COUNCILMEMBER KING: Thank you, Chair. Well, my colleague may find out she might be more influential this year because many of us have talked about that, having a separate department. But, so, my question, Ms. Tsuhako, is how...I'm looking at the, and I'm sorry to bring this up, Chair, because I know you don't want to talk about the budget but this really does go towards leadership because I'm looking at a budget for Housing and Human Concerns where the goal is 175 affordable housing units approved by County Council in this next year and that's not going to get us to our goal of over, I mean, I've heard 12,500 by 2025 and I've heard 14,000 by 2025. So, can you give me a firm answer on how we are counting housing annually? Are we counting it by how many people move into...how many new housing units are move in ready every year? Or how many are on the books? Or how many have been approved by the Council? I mean, we want people living in the homes, right? So, how are we going to be counting our progress every year under your plan in order to get to that number by 2025?

**GOVERNANCE, ETHICS, AND TRANSPARENCY  
COMMITTEE**

**Council of the County of Maui**

**April 4, 2019**

---

CHAIR MOLINA: Ms. Tsuhako?

MS. TSUHAKO: Thank you, Mr. Chair. Thank you, Chair King, for your question. I think the way we count housing units is, for example, if you get a proposal that promises to provide 16 units. So, if the Council were to, or, actually, if the Department were to review a proposal from the developer that promises 16 units, we'd need to know whether those are multi-family units or are they single-family homes, are they apartments, et cetera. So, we'd need to know what type of units they are. But we would, I believe the Department counts those units after they're completed and ready for...after the building is completed and they're ready for tenancy.

COUNCILMEMBER KING: Okay, so, you know, are we going to see that as an actual goal rather than just the number of units that the Council has approved? Because we've approved projects before that have then later gone bankrupt or for some reason or another didn't pan out. I mean, that's what's in the budget, I'm looking at the 2020. It says the measurement for the goal is how many units have been approved by the Council. So, I just want to make that...you know, I just want to ask you if you are able to make that distinction to get us to actually, you know, where we need to be as far as people moved into units versus how many projects are on the books.

MS. TSUHAKO: Yeah. Thank you, I understand the distinction.

COUNCILMEMBER KING: Okay, so, are we going to be working towards a different goal for our next year as far as how to measure how we've accomplished affordable housing?

CHAIR MOLINA: Ms. Tsuhako?

MS. TSUHAKO: Thank you, Mr. Chair. Thank you, Chair King. I understand the distinction that you made earlier and I see the reason for the distinction that I know from looking over some of the material from our Housing Division that there have been developments that have been approved by Council and that just haven't gone anywhere. And we talked about some of those earlier where obstacles have come up, whether it's water or zoning, that kind of thing. And so, I think it is a good suggestion to say we should count the ones that are done. You know, the ones that have been done within a prescribed period.

COUNCILMEMBER KING: Right.

MS. TSUHAKO: And I think that that measurement gives us a better and more realistic view of how many have to be done within a certain time. You know, I'm a very impatient person. Unfortunately, it's one of my really bad traits. So, I have the urgency to get more done as well. I mean, I feel that from all of you. I feel that from my colleagues in the community, from people who corner me in the parking lot at times. So, yeah. We do have to get more done and not just plan, but more finished.

COUNCILMEMBER KING: Okay. So, I'm glad to hear you're open to the, you know, to changing the measurement because it's always been very confusing from the

# GOVERNANCE, ETHICS, AND TRANSPARENCY COMMITTEE

Council of the County of Maui

April 4, 2019

---

Councilmembers point of view when we're looking at a list of projects and all their progress. But, you know, none of them have been moved into. But, yeah, we get that, the, get cornered in the grocery stores too, so we feel your pain. But I just want to make sure that we are working towards hard numbers here. And my follow-up question is, in that SMS study, one of the things, one of the points that they made was a recommendation to condense the, what is considered affordable from 80 percent AMI, right now it's 80 percent to 140 percent AMI. And they recommended condensing it down to 120 percent. So, we're really looking at...in the requirements. I mean, this is aside from our predominant need which you mentioned, which is the below 60 percent AMI. But would you be supporting that recommendation?

CHAIR MOLINA: Ms. Tsuhako?

MS. TSUHAKO: Thank you for that question, Chair King. The answer is I don't know yet.

COUNCILMEMBER KING: Okay.

MS. TSUHAKO: I don't know.

COUNCILMEMBER KING: Are you open to that then?

MS. TSUHAKO: I'm kind of like a blank slate, you know.

COUNCILMEMBER KING: Okay.

MS. TSUHAKO: I really...I've been Director of this Department before and it had an excellent Deputy Jo-Ann Ridao who did a lot of the work and carried a big load with the housing. And I have a Deputy was before you here today who also has much more expertise in housing than I do. But, you know, as I told her when she first came into the Director's office, this Department is too big to just divide things strictly down Human Concerns and Housing lines. And so, my involvement has to be such that I'm equally literate about housing and I intend to do that. So, I'm learning.

COUNCILMEMBER KING: Okay. That was one of the few, in my opinion, few new recommendations that came out of this SMS study and so I just wanted...I mean, we haven't addressed it yet. So, I would like us to make some use of that study. Thank you, Chair.

CHAIR MOLINA: Alright. Thank you, Chair King. Councilmember Sinenci?

COUNCILMEMBER SINENCI: Thank you, Chair. My second question deals with homelessness. Homelessness, you know, it's just everywhere, where ever we go around the island and the metropolitan area we see a lot of our homeless. And in the past, we've known that we can easily move our homeless but it just...an encampment just kind of presents itself somewhere else. So, my question to you would be what are your top three action plans to deal with homelessness? Like, immediate action plans?

**GOVERNANCE, ETHICS, AND TRANSPARENCY  
COMMITTEE**

**Council of the County of Maui**

**April 4, 2019**

---

CHAIR MOLINA: Ms. Tsuhako?

MS. TSUHAKO: Thank you, Mr. Chair. Thank you, Member Sinenci, for your question. The priority we have at our Homeless Division is to address those public complaints that come into the Mayor's Office and probably to your offices as well every day. Sometimes those encampments are unsightly. Our staff just recently met with the Police Department and with Corporation Counsel about what can be done to ensure that access on public sidewalks is not impeded by those encampments. I do not want to criminalize people for being poor, okay? I want to be real clear about that. That is not the intention. The intention is to make sure that those sidewalks can be walked on by people who need to go into those businesses and buy their groceries or buy their paint. So, we're working on that and part of what that work will be is to work with the merchants to figure out a way that we can maybe limit the borrowing, the theft, whatever you want to call it, of shopping carts which makes mobility for houseless people much easier. So, we're working on that angle. We're also working on analyzing our sister counties' ordinances to look into whether they could be applicably applied here on Maui County. We're working, we're going to work with the Planning Department to look at maybe some Business zoning types of plans to prohibit residency on sidewalks. So, there's a couple strategies we're looking at, but I think in terms of homelessness, we really have to continue the coordinated effort. So, being able to identify who the houseless people are, making sure that the agencies that we're paying to do outreach to them continue to do what we call assertive outreach which means, that person could turn you down 20 times when you offer service to them but you still going 21<sup>st</sup> time and 22<sup>nd</sup> time and 23<sup>rd</sup> time. Because one day, who knows, it might be raining, they might be cold. Maybe somebody didn't give them a sandwich that day and they're hungry. They might say yes one day, and when they say yes, that service community has to be ready to address that need. And that's how we can deal with the houseless situation in a compassionate way and in a way that makes sense. In a way that utilizes the resources we have to the highest point.

COUNCILMEMBER SINENCI: Thank you. Thank you for that response.

CHAIR MOLINA: Okay. Thank you, Councilmember Sinenci. Alright, Members, the Chair...we've reached two rounds. I do believe we've exhausted Ms. Tsuhako at this point with a number of questions. So, at this point the Chair is ready to offer a recommendation. Okay? Chair recommends the adoption of the proposed resolution entitled Approving the Mayor's Appointment of Lori Ann Tsuhako for Director of Housing and Human Concerns; and to incorporate any non-substantive revisions; as well as the filing of the proposed resolution entitled, Disapproving the Mayor's Appointment of Lori Ann Tsuhako for Director or Housing and Human Concerns. The Chair has made his recommendation. Is there a motion for the...

COUNCILMEMBER KAMA: Second.

CHAIR MOLINA: Okay. Whoa.

COUNCILMEMBER LEE: No, no.

**GOVERNANCE, ETHICS, AND TRANSPARENCY  
COMMITTEE**

**Council of the County of Maui**

**April 4, 2019**

---

CHAIR MOLINA: I heard a second.

COUNCILMEMBER LEE: Move to approve.

COUNCILMEMBER HOKAMA: So moved.

COUNCILMEMBER LEE: Move to approve.

COUNCILMEMBER KING: . . . *(inaudible)* . . . motion.

COUNCILMEMBER SUGIMURA: . . . *(inaudible)* . . . make a motion.

CHAIR MOLINA: I heard motion by Member Hokama, seconded by Member Kama.

COUNCILMEMBER KAMA: Sorry.

CHAIR MOLINA: Members, the floor is open for discussion on the motion to adopt the resolution to approve Ms. Tsuhako. Mr. Hokama, you have the floor.

COUNCILMEMBER HOKAMA: Chairman, I speak in high support of the nominee. I find her approach quite refreshing, especially with her comment about a clean slate. Especially she's being very open to and receptive to new ideas, maybe some old ideas that can be revised. But I see in this woman some internal strength because the Department doesn't need a friend. The Department needs a Director that can manage people and programs. That's how we get results. Not by being a friend, by being a manager. So, I look at her and your impatience I find that to be an attribute right now. Not a weakness. Because again, Chair, and I agree with some of my other colleagues, Council has approved through zoning thousands of affordable housing units. We've zoned for thousands of affordable housing units. It's yet to be constructed. So, in Ms. Tsuhako, I see her and am glad that MD is on the side, to break down those departmental cells because Planning needs to work with them. Because for me, it is a non-compliance of a zoning ordinance and Planning should be working on their butts to get sure that we get compliance and working with her Department so that the housing can be built. It's not that Council hasn't paid attention to the housing issue. We have zoned and conditioned those projects to provide those. So, if we need to adjust ordinances, I look to you for help develop and initiate it because I have no patience for deadbeat developers. And let's find a way if we do it through a County process or write it so that we can go to a judge and have a judge make a demand for compliance of a County ordinance. Maybe that's another route, Chairman. But I see this lady as being able to whip it into shape. Thank you.

CHAIR MOLINA: Thank you very much for those comments, Mr. Hokama, certainly well spoken. Okay. Members, any other comments as it relates to the motion on the floor? Councilmember Kama?

**GOVERNANCE, ETHICS, AND TRANSPARENCY  
COMMITTEE**

**Council of the County of Maui**

**April 4, 2019**

---

COUNCILMEMBER KAMA: I just want to ditto all what the Council has been saying in terms of accepting Lori and confirming her today. Thank you.

CHAIR MOLINA: Thank you, Ms. Kama. Chairman King?

COUNCILMEMBER KING: Thank you, Chair. I wholeheartedly support the nomination and I think it's, like someone said earlier, it's one of the easiest confirmations that we've had. I think it speaks volumes that the Councilmembers were fighting the Committee Chair, the relevant committee chairs to make the motion today. But one of the things I wanted to say to Ms. Tsuhako is I really appreciate your style of leadership and looking for the expertise and knowing what you know and knowing what you don't know. Because I think that's really important. We have to do that as Councilmembers because we don't know everything, but we have to be able to recognize that expertise in others when we see it and the leadership in others. And so, I recognize that in you and I'm happy to support the nomination. Thank you, Chair.

CHAIR MOLINA: Okay. Thank you, Chair King. Members, any other comments as it relates to the motion on the floor regarding Ms. Tsuhako? Okay. Committee Vice-Chair Rawlins-Fernandez?

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. I also will be supporting the confirmation of Acting Director Tsuhako. I believe that she is qualified and that she will provide the leadership that the Department needs. As some of the testifiers mentioned, you know, she's friendly and she's very helpful and she genuinely cares. And I believe that's, you know, the customer service that the Mayor has promised to provide our community. All the written and oral testimony that I received was all in very strong support. I received no testimony that was in opposition. And, I think, your urgency for housing is very refreshing. I appreciate that. And although you may not have, you know, the strongest background in housing I think the immediate steps that you took as soon as you was, you were selected to be Acting Director, you know, was the right steps, you know. Meeting with FACE, deciding to create the strategic plan immediately and to present it by the end of June to the Council and it sounds like you have a good Housing Division to back you and I hope you take up some of the ideas and suggestions some of the Councilmembers brought up today. And I think that's everything. So, thank you so much for your willingness to take this, you know, immense responsibility on. So, mahalo. Mahalo, Chair.

CHAIR MOLINA: Thank you, Councilmember Rawlins-Fernandez. Councilmember Sugimura?

COUNCILMEMBER SUGIMURA: Thank you. I too strongly support Ms. Tsuhako. And through the years I also have been fortunate to see her in action and her fierce commitment to the people. So, by taking over and being the Director for Housing and Human Concerns, I look forward to seeing yourself and Linda Munsell leading the Department forward in the many issues that are important. And I think what's good about you with your strong social work background and the other work that you have done in the community helping those who may have a hard time doing it by

**GOVERNANCE, ETHICS, AND TRANSPARENCY  
COMMITTEE**

**Council of the County of Maui**

**April 4, 2019**

---

themselves, is that you'll lead with a big heart. You'll lead with compassion. And I think those are important ways of bringing the community together and bringing us forward. So, congratulations, I look forward to working with you. My office is always open. Thank you.

CHAIR MOLINA: Thank you, Councilmember Sugimura. Any other comments on the motion before the Chair makes his own comments? I'm sorry, Member Lee? No? Okay. Alright. Well the Chair would again like to thank Ms. Tsuhako for going through this grueling process and you certainly provided some very sound responses to the demands and inquiries of the Members. I would like to say you're, having worked with you before back in the early 2000's when you were a member of the Tavares administration and when I was a Councilmember then, I think the important thing that I liked about you was your responsiveness to any concerns as it relates to...people tend to call the Councilmembers, as you know, instead of the departments and you've always been very fast with your responses and addressing any issues out there. That to me is very important. You possess what I call the three C's: compassion, consistency, and communication. And that is very, very important for all directors. And your communication with us a member of the Administration will be imperative and very important as we address the many, many needs that we discuss here this morning from housing to mental health concerns and homelessness and everything else. And, Members, I would like to disclose to you that I probably know Ms. Tsuhako a lot longer than any of you have. We...from hanabata days, so to speak. We both went to the same preschool, elementary school, and high school. Although she looks a heck of a lot younger than I do...

COUNCILMEMBER LEE: Please recuse yourself.

CHAIR MOLINA: Yeah, yeah. Thank you, Member Lee, for that. But I can tell you from a young age Lori already possessed what you're seeing here today, the ability to lead as well as the sensitivity and ability to network and get people together to seek a goal or an objective. So, I am certainly happy to support you and I look forward to your working with us again on your next go-around and as Member Lee stated it can be a challenging, I guess...I'm trying to look for the right word, but it can be challenging working with some of these Councilmembers, you know. Or all of us.

UNIDENTIFIED SPEAKER:: Yeah.

CHAIR MOLINA: But, thank you for putting your neck on the line for this. We really appreciate it. And blessings to you and your family as well. So, with that being said, the Chair will call for the vote. 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

April 4, 2019

---

Disapproved by the Council. So, with that being said, I would like to ask Vice-Chair Rawlins-Fernandez to provide opening comments on this proposal.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Okay. With the Members' indulgence, I would like to read the timeline within the posted resolution onto the record to help refresh everyone's memories. I'll rephrase, paraphrase, removing the whereas clauses. On February 15, 2019, and on February 22, 2019, the Council adopted resolutions disapproving the nominations of three department heads appointed by the Mayor: John D. Kim as Prosecuting Attorney, David Goode as Director of Public Works, William R. Spence as Director of Housing and Human Concerns. On February 25<sup>th</sup>, the County Clerk delivered certified copies of the resolutions to the Mayor, which were stamped received by the Office of the Mayor. In a February 26<sup>th</sup> press release, the Mayor advised that he has invoked the Maui County Charter temporary appointment provision to maintain three acting department directors in their positions until replacements can be found and appointed. The press release further stated Mayor Victorino announced that he had appointed John Kim as temporary Interim Prosecuting Attorney until March 1<sup>st</sup>. He had appointed William Spence as Temporary Interim Director of the Department of Housing and Human Concerns until March 17<sup>th</sup>, and he had appointed David Goode as Temporary Interim Director of Department of Public Works. In making the interim appointments, the Mayor relied upon Charter Subsection 6-2(4) which authorizes the Mayor to appoint temporary administrative head. Subsection 6-2(5) of the Charter outlines the procedure for the Mayor to appoint administrative heads upon taking office and for the Council to confirm or deny such appointments and provides in pertinent part, "the appointee shall take office upon appointment by the Mayor but shall not continue in office if the Council denies the appointment." The resolution goes on to read, "the Mayor's appointment of the same individuals disapproved by the Council to serve as interim administrative heads creates serious questions about the validity and the appointments and the actions taken by the departments under the direction of the interim heads." Charter Subsection 8-2.3(2) provides that the Department of the Corporation Council is the chief legal advisor and representative of the County including both the Legislative and Executive branches of government. Charter Subsection 3-6.6 authorizes the Council by a two-thirds vote to retain or employ special counsel for any special matter presenting a real necessity for such employment. And, a real necessity for the Council to employ special counsel exists when the department has provided advice or representation to the Mayor or other Executive Branch officials that result in an actual or potential conflict of interest with the Council. The Council finds the Mayor's interim appointments appear to be based in part on advice from Corporation Counsel. The Council finds, because of a conflict of interest, there is a real necessity to retain special counsel to investigate and evaluate the propriety and effects of the Mayor's appointments and recommend appropriate remedies and actions including the initiation of a quo warranto proceeding under Chapter 659, Hawaii Revised Statutes, if appropriate. And now in my own words, number two of the be it resolved portion of the resolution before us today requires that the special counsel shall report to the Council's GET Committee on matters including proposed legal actions including a quo warranto proceeding if appropriate. As Deputy Corporation Counsel at our previous meeting explained, quo warranto is a special form of legal action used to resolve a

**GOVERNANCE, ETHICS, AND TRANSPARENCY  
COMMITTEE**

**Council of the County of Maui**

**April 4, 2019**

---

dispute over whether a specific person has the legal right to hold the public office that he or she occupies. For example, a quo warranto action may be brought to determine whether a public official satisfies a requirement that he or she resides in the district, or in this case, whether or not the three directors had a right to remain in the office after the Council disapproved their appointments. However, I would like the Members to know that quo warranto is only available against someone who is presently holding office, which as of today, none of the three directors remain. So, if the body decides to support the hiring of an outside legal counsel, the appropriate course of action might now be filing a declaratory judgment action to have a court definitively resolve the issue. Declaratory relief refers to a judgment of a court which determines the rights of parties without ordering anything be done or awarding damages. By seeking a declaratory judgment, the party who makes the request is seeking an official declaration of the status of the matter in controversy. In other words, declaratory actions resolve disputes and clarify legal rights. And while I do not believe the resolution before us today requires an amendment because of the flexibility of language to determine the options afforded to special counsel and that they should report to the Committee before action is taken, I did want to state that information for the Members' information on the record. So, in conclusion, for this first opportunity to speak, I will close with this food for thought. A few Councilmembers went on the record stating that the Charter is unclear and should be amended. I would argue that the Charter is clear and should be defended. I believe the prudent thing to do would be to allow the courts to decide if the Charter is clear or if it should be amended in the next election cycle. Mahalo, Chair.

CHAIR MOLINA: Alright, thank you very much, Ms. Rawlins-Fernandez, for those opening remarks. Corporation Counsel, do you have any remarks you'd like to add before I open the floor up for questions of...for either Member Rawlins-Fernandez or for you? Mr. Ueoka?

MR. UEOKA: We did submit a written memo to, in response to Chair King's request on February 26<sup>th</sup>. Our memo was dated March 7<sup>th</sup> and, I guess, we'll stand by that memo at this time. Thank you, Chair.

CHAIR MOLINA: Okay. Members, do you all have a copy of that response?

COUNCILMEMBER KING: Chair? Not on us, no it...

CHAIR MOLINA: Corporation Counsel? Mr. Ueoka? Do you have that response available at this time that could be distributed to the Members, review?

MR. UEOKA: Yes, Chair, I have my copy with me. It was, I believe, transmitted back to Chair King.

CHAIR MOLINA: Okay. Chairman King?

COUNCILMEMBER KING: I was kind of hoping it would be on Granicus. I don't...

**GOVERNANCE, ETHICS, AND TRANSPARENCY  
COMMITTEE**

**Council of the County of Maui**

**April 4, 2019**

---

CHAIR MOLINA: Okay. Can you direct us to what page...there's like 33 pages related to that communication item.

COUNCILMEMBER KING: Yeah. Let's see. Did...can I ask...

CHAIR MOLINA: Members, Chair's going to call for a recess in the meantime to address this matter procedurally. Meeting in recess subject to the call of the Chair. . . . *(gavel)* . . .

**RECESS: 11:13 a.m.**

**RECONVENE: 11:14 a.m.**

CHAIR MOLINA: . . . *(gavel)* . . . The GET meeting for Thursday, April 4, 2019, is now back in session. Members, we last left off on the response from Corporation Counsel as it relates to this matter, GET-24. I'd like to ask Mr. Ueoka to provide us, I guess, more specific details as it relates to the response not being available to us in writing as of this moment. Mr. Ueoka?

MR. UEOKA: Thank you, Chair. I apologize for the confusion, my ignorance of the internal procedures of the Council. On March, on February 26<sup>th</sup>, we received a memo from Chair King as a PAF regarding a question of legal advice regarding the Mayor's ability to appoint disapproved department heads and interim department heads. And, as you guys are aware this is very similar to the reso so our response dated March 7<sup>th</sup> was essentially that we did view Section 6-2(4) which states, "the Mayor shall have the authority to appoint on a temporary basis, an administrative head of any department, provided that such department is one where the administrative head is appointed by the Mayor," as separate from Section 6-2(5) which goes over the appointment of the, I believe, 11 directors of various departments, the Council's authority to confirm or deny within 60 days, and the fact that it does state, "the appointee shall take office upon appointment by the Mayor but shall not continue in office if the Council denies the appointment." So, we did look at the Charter history and in Chair King's memo to us there was a lot of information that they asked us to consider and we did look at it as all helpful and a lot of research was done. But essentially when we did look at the 1992 Charter which essentially changed the language of 6-2(5), and, I believe, it was later changed in 2016 just to incorporate all the other departments. Because before it was just Water, Corporation Counsel, and Prosecuting Attorney were confirmed. Our feeling was that it wasn't clear that there was a distinction between the temporary department head versus the acting department head. So, we still felt the Mayor had the authority to appoint on a temporary basis. It was recommended in the memo that the Charter...it might be easiest for the Charter to be clarified at this point to just put some language into 6-2(4) making clear that an individual disapproved under 6-2(5) should no longer be eligible to sit on a temporary basis. And we just felt as the body that can...one of the ways a Charter Amendment can be initiated is through this body. We felt that would be the cleanest, best answer for this issue. I hope that clears that up for you, Chair. I'm open to questions. Thank you.

# **GOVERNANCE, ETHICS, AND TRANSPARENCY COMMITTEE**

**Council of the County of Maui**

**April 4, 2019**

---

CHAIR MOLINA: Okay. Thank you, Mr. Ueoka. Well, it's a start, to say the least, as far as the clarity. But, again, what we're considering, Members, based on...if I'm correct, Ms. Rawlins-Fernandez is asking this body to consider the hiring of special counsel to make this interpretation. And as I hear it from Mr. Ueoka the recommendation out of Corporation Counsel is to maybe do this as a Charter Amendment. So, it's a matter of cost is what we're going to be dealing with. I'd like to recognize Member Hokama followed by Chairman King.

COUNCILMEMBER HOKAMA: Thank you, Chairman. Having worked on both the Charter and the State Constitution as experience, I would say one thing we made clear in the State Constitution is exactly what we're talking about today. Constitution is very clear about the standing of a nominee upon disapproval. I would just rather we have a Committee PAF sent downstairs to 7<sup>th</sup> floor and draft the appropriate Charter revision language because I don't need another opinion. Let's just clarify the process and make it very black and white like we did in the State Constitution and put it before the people for ratification. I think that is the best alternative because I don't need another attorney's opinion about whether it was right or wrong. It's moot already the status. I would rather we just move forward and clarify the Charter black and white, and make it very clear to all future Mayors or the existing Mayor that this process that was done this time is not allowed in the future. Very clear. And that is not an opinion of a attorney, it will be the law of the County by Charter. Thank you.

CHAIR MOLINA: Thank you, Mr. Hokama. Ms. King followed by Ms. Paltin and Ms. Kama.

COUNCILMEMBER KING: Okay, thank you, Chair. I'm trying to decide whether to read this first or explain it. But, you know, when I first came...when I first saw this item, Chair, I had thought the same thing as Mr. Hokama, we should really do this by Charter Amendment. However, I want to give you some background and give the Councilmembers some background on how this transpired and the fact that there's a memo dated February 21<sup>st</sup> from Mr. Ed Kushi of Corporation Counsel in response to my initial memo that asked, "the Council recessed its meeting of February 15, 2019 to February 22, 2019. If the Council adopts a resolution disapproving an appointment on February 22<sup>nd</sup>, when must a nominee vacate office? Does your answer depend on when the February 15<sup>th</sup> meeting adjourns? Does your answer depend on when the County Clerk has transmitted a certified copy of the resolution to the Mayor?" The response on February 21<sup>st</sup> from Corp. Counsel to me was, "the disapproved nominee should vacate the subject office upon the Mayor's receipt of certified copy of the Council's resolution disapproving such nominee. The Council's Legislative act of confirming or denying any such nominee shall be by ordinance or resolution," which is what we did at the Council meeting. So, and the second part of that response, or the question was, "once a disapproved appointee has vacated office and prior to the Mayor's nomination of another appointee to run for the relevant department, who is in charge of the department?" So, the response was, "it would be the deputy directors, or in the case of the Corporation Counsel and the Prosecutor Office, the first offices...the first deputies of the various departments." So, somehow between this memo and March 7<sup>th</sup>, the Corp. Counsel talked to the Mayor and decided that, no, that, you know, these people did not have to vacate office. And I had a conference call with

# **GOVERNANCE, ETHICS, AND TRANSPARENCY COMMITTEE**

**Council of the County of Maui**

**April 4, 2019**

---

Mr. Pat Wong and David Raatz, who is the head of our attorney services at the Office of Council Services, wherein they had different opinions. And Mr. Wong was of the opinion that the Mayor could pull out one section of that Charter section and disregard all other sections and Mr. Raatz was of the opinion that you have to look at the Charter...that section as a whole. You can't just pull out one line and say, "well, it gives the Mayor the authority to appoint an interim director." So, he can appoint anybody he wants. If you look at the overall section, it makes it clear that that person cannot continue in office once disapproved. So, I think the question is, what...how are we going to interpret that, you know, and the recommendation in that phone call by Corp. Counsel Director was, it would be good, it would be better to address this by Charter Amendment. Our Office of Council Services said, "no, it's very clear. This is what the Charter says. You cannot pull out one sentence and decide that everything else is irrelevant, you have to look at it in total." So, you know, my first thought was we could clarify this with Charter Amendment. But my second thought on looking at this is, you know, we need to clarify exactly what the Charter means as it states and if we clarify that what it means is the first memo I got from Corp. Counsel not the second memo, then we don't need a Charter Amendment. And, a Charter Amendment, you know, it's going to take till the next election to get settled. So, we can clarify this quicker. We can also clarify which opinion of...and I'm looking at three different opinions. Because I got two set different opinions from the same person in Corp. Counsel, and then I got one opinion from our own counsel. So, and two out of three of those said, "no, you cannot appoint an interim director from somebody...from a pool of people who were disapproved." So, you know, I originally looked at this and was more in favor of the Charter Amendment. Now, I'm actually thinking we do need to clear this up. Because we also need to know from our own point of view who, you know, was that correct, was that not correct. And part of the reason why the Charter Amendment was approved by the public to allow the Council, you know, the Maui County Council to use our own counsel as an alternative was that recognition that there's a conflict in Corp. Counsel between them serving the Mayor and them serving the Council. And this is a clear, this is just a very clear example of that conflict. There's a very clear conflict because the Mayor wants to do one thing, the Council's saying, no, we disapproved. We do need, I think we do need legal counsel to help us get a ruling from a judge on which one of those is right. Because this is not going to be the last time there's a conflict. But if we can't resolve these conflicts this way and we always have to do a Charter Amendment, it's going to be a very long, drawn-out process. It puts the onus on the public and not the legal system to interpret the Charter. So, that's kind of where I'm standing right now as I've actually...and I'm really glad Ms. Rawlins-Fernandez brought this up. You know, she's the one on our Council has some legal background so I'm sure that influenced her. But I don't want to leave this until the end of next year in the election to figure out. I want...I think we need a legal opinion as soon as possible. Thank you.

CHAIR MOLINA: Thank you, Chairman King. And, by the way, just as an FYI, you did submit a proposed Charter Amendment, it's in our master agenda GET item 10-1 related to a proposed Charter Amendment at that time, yeah.

**GOVERNANCE, ETHICS, AND TRANSPARENCY  
COMMITTEE**

**Council of the County of Maui**

**April 4, 2019**

---

COUNCILMEMBER KING: Right, and if we get this ruling, we don't need to do that Charter Amendment, is my point.

CHAIR MOLINA: Yeah.

COUNCILMEMBER KING: Because, the ruling will stand.

CHAIR MOLINA: Okay. So noted. We have Councilmember Paltin, followed by Councilmember Kama.

COUNCILMEMBER PALTIN: Thank you, Chair. I had a couple questions for Mr. Ueoka.

CHAIR MOLINA: Proceed.

COUNCILMEMBER PALTIN: I just was wondering based on your March 7<sup>th</sup> memo decision or, is it called an opinion? Memo opinion? What would be prohibiting the Mayor from continuing the process indefinitely of bringing a not-recommended director back continuously throughout the four years?

CHAIR MOLINA: Mr. Ueoka, prior to responding. Just as an FYI for the Members, we are having copies made of that document that you had displayed to us. So, at a later point copies will be distributed to the Members as it relates to Corp. Counsel's opinion. So, proceed to respond to Councilmember Paltin's inquiry, Mr. Ueoka.

MR. UEOKA: Thank you, Chair. I believe part of it was in our understanding of it the Charter 6-2(5) is clear that a new appointment within 60 days. So, we took new as being another person. The idea behind the individual staying on as an interim or temporary director was, they are no longer serving as the acting director or in the department because they're no longer up for confirmation, they were out so they were just acting as interim until the new appointment was made. And then as soon as the new appointment was made the individual would be the acting director at that point.

COUNCILMEMBER PALTIN: And my second question would be, what is your Department's definition of the role of the deputy director or the first deputy in the case of Corporation Counsel or the Prosecuting Attorney?

CHAIR MOLINA: Mr. Ueoka?

MR. UEOKA: Thank you, Chair. Typically, they are the individual that's second in command in the department and in certain cases, I believe...actually I'm not sure if the Charter ever states that the deputy will step in to act as the director in the absence of. But that is the general understanding that they do do that. That is our general understanding. I'm just not sure if it's directly cited in the Charter. But that is our understanding in our office.

COUNCILMEMBER PALTIN: Okay. Thank you for the clarification.

**GOVERNANCE, ETHICS, AND TRANSPARENCY  
COMMITTEE**

**Council of the County of Maui**

**April 4, 2019**

---

CHAIR MOLINA: Thank you, Member Paltin. Member Kama?

COUNCILMEMBER KAMA: Thank you, Chair. As we discussed the issue of appointments and denials and resurrection of these denied appointments into some form of interim or temporary or whatever title you want to give it. So, how does that preclude the Mayor from bringing them up from one department and then putting them in another department? Such as if we did deny them an appointment in Planning, and then the Mayor, not necessarily this one but any other, could bring them up in Housing or some other department within the County. How...is that...how do we preclude things like that from happening? Or does that already say that the way it's written in the Charter? But also, I'd like to be able to note too that there are other things in this Charter that are similar as far as I'm concerned when I read it, that there are a lot of inadequacies. And so, if we're going to talk about maybe looking at the Charter, we should look at the entire Charter at some point in time and review it and say, "this too, also, is worthy of our consideration at the next election." So, if we're going to amend, let's take a whole bunch and just get it through just for that reason. Thank you, Chair.

CHAIR MOLINA: Okay. Thank you, Member Kama. Mr. Ueoka, are you prepared to respond?

MR. UEOKA: Yeah.

CHAIR MOLINA: Good --

MR. UEOKA: I'll try.

CHAIR MOLINA: --points you've made, Member Kama.

MR. UEOKA: For the second half, the Charter does provide for a Charter Commission every ten years, I believe. So, the Charter Commission should take a more holistic look at the Charter. In regards to, I believe it's everyone's understanding that in our office that if you were denied, and the MQ is also, the minimum qualifications in Chapter 2.1(4) of the Code would also step in. But we wouldn't see anything preventing the Mayor from appointing or naming a person rejected as from department A for department B assuming that they met the minimum qualifications. And I don't think anyone was assuming that if someone was denied confirmation under Mayor A, that if Mayor B also tried to put the name up in a subsequent administration that the person would not be eligible either. But that was our understanding. Thank you, Chair.

COUNCILMEMBER KAMA: Chair, final follow up. It's kind of interesting how some appointees are resurrected at some point in time, you know, in the Mayor's Administration. I just, I'm looking at that kind of a situation. Thank you.

COUNCILMEMBER KING: Chair?

**GOVERNANCE, ETHICS, AND TRANSPARENCY  
COMMITTEE**

**Council of the County of Maui**

**April 4, 2019**

---

CHAIR MOLINA: Thank you, Member Kama. Member Rawlins-Fernandez followed by Member Lee.

VICE-CHAIR RAWLINS-FERNANDEZ: I'll yield the floor to my colleague to my right since she didn't get an opportunity to speak yet.

CHAIR MOLINA: Thank you for your courtesy, Member Rawlins-Fernandez. Member Lee?

COUNCILMEMBER LEE: Thank you. Very kind of you. Because you know I'm going to be short. Okay. I try to be polite, but...anyway. Corp. Counsel, if we took this to court and somebody didn't like the judgment of the court so this would be appealed. So, from 30,000, how far up the ladder could this turn out to be, the bill for this?

CHAIR MOLINA: Mr. Ueoka?

MR. UEOKA: Thank you, Chair. I can't tell you how much it would cost but the potential for appeal is there and cost would increase, naturally, as the process goes on. But I can't tell you definitively what it would cost. But I guess I could say it would cost extra, or more. Thank you.

COUNCILMEMBER LEE: Thank you for that definitive answer. Now, okay, we're looking at possibly a lot more than \$30,000 and possibly a lot longer than one year if this matter becomes, you know, ends up being appealed and appealed. How many times can it be appealed, anyway?

CHAIR MOLINA: Mr. Ueoka?

MR. UEOKA: Thank you, Chair. I would assume if it went to a Circuit Court opinion, you could go to the ICA. You might skip the ICA and get certiorari directly to the Supreme Court. Or it could go through the ICA and then you request certiorari to Supreme Court. So, it could be two or one step, depending, or potentially no, or only one step if...

COUNCILMEMBER LEE: Okay. So, if we went, let's say, for a Charter Amendment. It's not going to cost us \$30,000, right? And it's going to be done in two years. Right?

CHAIR MOLINA: Mr. Ueoka?

MR. UEOKA: Thank you, Chair. I am sure there will be some cost associated with going through a Charter Amendment process also but there will be no legal fees paid and it typically is cost associated with sunk costs, I guess I would say. Because it's County employees would be working with you on the Charter Amendment. And you'd have an answer one way or the other in two years theoretically.

COUNCILMEMBER LEE: Yeah. There's a certain finality to it, right?

MR. UEOKA: Yes. Thank you, Chair.

**GOVERNANCE, ETHICS, AND TRANSPARENCY  
COMMITTEE**

**Council of the County of Maui**

**April 4, 2019**

---

COUNCILMEMBER LEE: That's all I have. Thank you, Mr. Chair.

CHAIR MOLINA: Okay. Thank you, Member Lee. Prior to recognizing Member Rawlins-Fernandez, just so the Chair can get some clarity on this, and the segue is perfect because it goes right to Ms. Rawlins-Fernandez for the line of questioning. What we're considering today is authorizing special counsel for up to \$30,000 to make their own interpretation of this. And if this body passes this, then once, I guess, Corporation Counsel or we find that attorney, would this now...I guess basically there's no involvement now with Corporation Counsel?

COUNCILMEMBER KING: Chair, point of information. It's not Corporation Counsel. It's the Maui County Council looking for outside counsel.

CHAIR MOLINA: So, we would be the ones that will have to seek this attorney to provide an opinion?

COUNCILMEMBER KING: Right, it's what's allowed for in the Charter when there's a conflict, when Corp. Counsel gives an opinion that's in conflict between the Mayor and the Council.

CHAIR MOLINA: Okay. Alright. So, and that, the seeking of this attorney, should we pass this, it'll start with Council Services at your recommendation, Chairman? And whoever you assign to do this? Okay. Just trying to get a handle on this, and, like I said, because I'm trying to make sense out of all of this with potential appeals and so forth, so the cost factor. I'm sorry, Member Rawlins-Fernandez. Thank you for your patience and after that I believe Chairman King had a question. Proceed.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. So, mahalo for that clarification that the opinion that we're seeking is not from another attorney, the opinion that we're seeking is from a judge. I wanted to make that distinction since it was said on the floor that we were seeking another opinion from an attorney. The second point is that the Charter is clear, and I don't think that we need to have a Charter Amendment because the Hawaii Supreme Court has made this clear. The third point is, like Mr. Ueoka pointed out, you know, a Charter Amendment doesn't come without cost. And I believe we would save time and money and time equals money in, you know, going this route. And, you know, the Charter Amendment really that we should be investing time and energy and money into is, you know, an amendment that would allow the Council to have the same power as the Mayor to terminate Corporation Counsel so that we can avoid these types of conflicts. So, back to my second point where the Charter is clear, and we, as Chair King mentioned, we did get an opinion from our OCS attorneys and it should be noted and it was, that the Chair's request for a legal opinion to Corporation Counsel with a legal analysis provided by our own OCS attorney that a canon of statutory construction is that a more recently enacted provision of the law prevails over a potentially conflicting provision on the same subject. The Charter's subsection that the counsel is referencing is subsection 6-2(5) which was amended in 2016 to require Council approval of all Mayoral appointed

**GOVERNANCE, ETHICS, AND TRANSPARENCY  
COMMITTEE**

**Council of the County of Maui**

**April 4, 2019**

---

department heads. The Charter subsection that the Mayor has based his actions upon is Charter subsection 6-2(4) which was enacted in 1992. And, regarding specific provisions and general...versus general provisions, specific provisions are usually deemed to prevail over potentially conflicting general provisions of law. And this was, this is stated, this was from a decision at the Hawaii Supreme Court regarding \_\_\_\_\_. The more general and the more specific words of a statute must be considered together in determining the meaning of the statute and the general words are restricted to a meaning that should not be inconsistent with or alien to the narrower meanings of the more specific words of the statute. The Mayor's authority under Subsection 6-2(4) to appoint a temporary administrative head of a department for which the Mayor appoints the head appears to be general, whereas Subsection 6-2(5), and that's the, what the subsection that the Council is relying upon, specifically provides that the disapproved nominee shall not continue in office if the Council denies the appointment. So, it's very clear what the Charter says. And, we had, as Chair King pointed out, the initial opinion that she received from Corporation Counsel supported what the Council is saying, that the Mayor should not have been allowed to have disapproved department heads continue on as interim. And our OCS attorney agreed and then we have the conflicting opinion from the memo March 7<sup>th</sup> from Corporation Counsel. So, it's clearly in our favor and I think a judge would agree. And, again, going this route would save us time, I believe, and money. And just clarifying the roles and the authorities and the power of the Council and the Mayor. And that the Mayor should not be usurping the Council's authority under the Charter. And so, I think it's our fiscal responsibility to go this route. And, you know, as I mentioned, if we did want to seek a Charter Amendment, the Charter Amendment perhaps should be that the Council should have the power to terminate Corporation Counsel instead. And that would be a better investment of our time.

CHAIR MOLINA: Okay. Thank you, Ms. Rawlins-Fernandez. Chairman King?

COUNCILMEMBER KING: Okay. Thank you, Chair. So, it occurs to me that we could take this to a Charter Amendment and still not resolve the issue. You know we could take it all the way to the next ballot and if it doesn't get approved, and a lot of times things don't get approved because people don't understand what they mean. We still won't have a definitive answer. We have the answer that the general public doesn't approve a Charter Amendment, but we still don't have a legal opinion on what the Charter says. And so, if we need that legal opinion, we should ask for that legal opinion from a judge. And so, I guess I want to ask Corp. Counsel what happens if we do put this in a form of a Charter Amendment and it doesn't get approved by the voting public?

CHAIR MOLINA: Mr. Ueoka?

COUNCILMEMBER KING: Are we back to the same square one not knowing what our, what the Charter actually really says?

MR. UEOKA: Thank you, Chair. There's, we'd probably look at it as the public has spoken, they don't, what the Charter...or what wasn't approved in the Charter Amendment would say that that's not what the public wants. So, we would take that to mean the

**GOVERNANCE, ETHICS, AND TRANSPARENCY  
COMMITTEE**

**Council of the County of Maui**

**April 4, 2019**

---

other interpretation, Corp. Counsel's interpretation is what the public would want at that point.

COUNCILMEMBER KING: So, you would make an interpretation based on a Charter Amendment that didn't pass? On the existing Charter, so, we still have the existing Charter, which seems to be conflicted. How does that solve the conflict? I mean, you can't really get into the heads of every voter and say they understood this, they want the Mayor to be able to appoint an interim director even after he's been disapproved. So, how are you going to...how are we going to legally resolve this if the Charter Amendment doesn't pass?

CHAIR MOLINA: Mr. Ueoka?

MR. UEOKA: Thank you, Chair. I guess from our position we don't feel it's in conflict. We have given an opinion. And I will state, though, that all this need for statutory construction and all sorts of stuff shows that the Charter is not clear in my opinion if...so we are left in a strange spot. But we have issued our opinion and we stand by our opinion.

COUNCILMEMBER KING: I understand that, but you have issued an opinion that is in conflict to our other counsel in Office of Council Services. So, you know, it was very clear in my discussions with our supervising attorney that the Charter is clear on what it says and that there's no need for a Charter Amendment. So, we have two conflicting legal opinions and that's what we're needing to resolve, I think. And so, you know, I originally thought, Chair, this is really a Charter Amendment issue, but I really think it's a legal issue. And I...if we don't exercise our authority to seek outside counsel then we do need to do what Ms. Rawlins-Fernandez is saying and, you know, either give equal authority to the Council to hire and fire Corp. Counsel or give, you know, maybe we need a Charter Amendment that just allows us totally separate counsel to rely on. Because when we're getting this conflict and, you know, what I was told by Corp. Counsel and our own counsel is the Charter Amendment that passed that allowed Council to seek a different, the Maui County Councilmembers to seek a different opinion, allows us just that. We can go to our legal counsel and say, what is your opinion of this, and we can choose to believe their opinion, or we can choose to abide by Corp. Counsel. That's our choice. So, when it's in conflict, you know, I think it's very important that we seek a legal opinion so we can put this to rest once and for all and not leave it...I mean, legal opinions are not up to vote. You know it's either legal or it's not legal. And, it doesn't matter if people vote one way or another because people aren't attorneys. So, I'm not sure how we can resolve this by Charter Amendment if it doesn't go...if it goes our way and we can just clarify that, that's one thing. But if it doesn't it just leaves the Charter exactly like it is which is in conflict.

CHAIR MOLINA: Right. Okay. Thank you, Chairman King. I think your points are certainly especially appropriate should we consider a motion on this matter today. Thank you for your thoughts. Again, Members, this is the question and answer phase,

**GOVERNANCE, ETHICS, AND TRANSPARENCY  
COMMITTEE**

**Council of the County of Maui**

**April 4, 2019**

---

exploratory phase of this matter. Member Paltin? Or, excuse me, Mr. Ueoka, do you have a quick response to Chairman King's comment?

MR. UEOKA: Oh, I'm sorry, not a response, Chair. The, just for clarification, I think we should keep things clear. You know the lawyers will issue opinions, a judge would issue a declaratory order. So, we'd be listening to the order. Thank you.

CHAIR MOLINA: Alright, thank you. Councilmember Paltin?

COUNCILMEMBER PALTIN: Thank you, Chair. I had couple more questions.

CHAIR MOLINA: Okay. Oh, by the way. Sorry to interrupt you again, yeah. Members, you've been, what's been distributed to you are copies of the March 7<sup>th</sup> comments or opinion from Corporation Counsel Ed Kushi, and then the February 21, 2019 opinion to Chairman King again from First Deputy Ed Kushi. For your review as it relates to this matter. Thank you, Member Paltin, proceed.

COUNCILMEMBER PALTIN: Thank you, Chair. So, my question was, is Mr. Kushi here today to explain himself on the conflicting opinions that he's given?

CHAIR MOLINA: Mr. Ueoka?

MR. UEOKA: I'm covering this meeting today. I can say the February 21<sup>st</sup> statement isn't necessarily in conflict with what we said. It was a question asking, "once a disapproved appointee has vacated office and prior to the Mayor's nomination of another appointee to run the relevant department, who is in charge of the department? If your answer is the department's deputy director, please identify the relevant Charter provision, if any, supporting the answer. If your answer is the department's deputy director, please advise who is in charge of the department if the position of deputy director is also vacant." So, the response to that was, it would most likely be the deputy director or first deputy. Oh, I'm sorry, it would be. It would be the deputy director. Or in the case of Corporation Counsel and Prosecuting, first deputy. We could find no direct relevant Charter provision to support this statement; however, it's clearly understood intended and accordingly compensated by the Salary Commission that in the absence of a director for whatever reason, the deputy or first deputy is in charge of the day-to-day operations of the department. In the event of the position of deputy or first deputy is also vacant, the Mayor has the authority to appoint a temporary administrative head of the department. However, I think that statement is broader than that. It just states in the Charter, which controls that the Mayor shall have the authority to appoint on a temporary basis an administrative head of any department provided that such the department is one where the administrative head is appointed by the Mayor. So, oh I'm sorry, I left out the on a temporary basis. So, I don't feel they're in conflict, the answers. They're...just one's more specific than the other. It was an answer to a direct question.

COUNCILMEMBER KING: Chair?

**GOVERNANCE, ETHICS, AND TRANSPARENCY  
COMMITTEE**

**Council of the County of Maui**

**April 4, 2019**

---

CHAIR MOLINA: Member Paltin?

COUNCILMEMBER KING: Can I also get him to read the first question?

CHAIR MOLINA: Yeah. Hang on, we'll do that at a later point. I want to recognize Member Paltin first.

COUNCILMEMBER PALTIN: So, I was here at the meeting when he kind of said that and I believed what he said the first time and then it felt like it was something different. But that's beside the point. My second question, like my colleague from Lanai stated, it seems like, you know, different people, or attorneys, or counsel, or Corporation Counsel's give different opinions. So, like, say nothing gets resolved, and, like, eight years down the road we're in a similar position with a different person as the Corporation Counsel, if nothing gets resolved, that Corporation Counsel can interpret it differently and it would be the opposite. Is that a possibility?

CHAIR MOLINA: Mr. Ueoka?

MR. UEOKA: Thank you, Chair. I will say law is often dynamic. So, circumstances changes, things change. So, it's difficult to just say everything will be interpreted the same way for the rest of time. You know, that's why judges issue over conflicting opinions on different matters over time as things change, circumstances change. Charter has the ability to be amended so that the document can change to, you know, accommodate different needs. But you are correct, the next Corporation Counsel could issue a completely opposite opinion of what we issued today.

COUNCILMEMBER PALTIN: On the same Charter?

MR. UEOKA: On the same issue on the same Charter, yes.

COUNCILMEMBER PALTIN: Okay. Thank you.

CHAIR MOLINA: Okay. Mr. Ueoka?

MR. UEOKA: Again, we're advisors. We advise. That's what we're here for. We...you...this body can do what it wants. The Mayor can do...we're advisors. Thank you.

COUNCILMEMBER PALTIN: Thanks for your advisement.

CHAIR MOLINA: Thank you, Member Paltin. That's an interesting topic because, yeah, attorneys certainly have, can have, different opinions depending on who it is. But judges were once attorneys too, yeah? So, they can have different interpretations of the law as well. Okay. Questions? I'm sorry, Member King, you wanted Mr. Ueoka to read that second...

**GOVERNANCE, ETHICS, AND TRANSPARENCY  
COMMITTEE**

**Council of the County of Maui**

**April 4, 2019**

---

COUNCILMEMBER KING: Yeah, I think he skipped over the...because the first question on this memo, February 21<sup>st</sup> memo has the response that's in conflict with the second memo, so.

CHAIR MOLINA: Okay. Mr. Ueoka, can you proceed with the request?

MR. UEOKA: Thank you, Chair. I apologize for that confusion, Chair King. I was trying to directly address her question. "The Council recessed its meeting of February 15, 2019...the February 22, 2019. The Council adopts a resolution disapproving an appointment on February 22<sup>nd</sup>, when must the nominee vacate office? Does your answer depend on when the February 15<sup>th</sup> meeting adjourns? Does your answer depend on when the County Clerk has transmitted a certified copy of the resolution to the Mayor?" The response was, "the disapproved nominee should vacate the subject office upon the Mayor's receipt of the certified copy of the Council's resolution disapproving such a nominee. The Council's Legislative act of confirming or denying any such nominee shall be by ordinance or resolution, see Section 4-1 of the revised Charter of the County of Maui (1983), (herein referenced as the "Charter"). That section basically says that Council acts by resolution or ordinance.

CHAIR MOLINA: Okay.

MR. UEOKA: So, the statement, or I guess, the differentiation here in the March 7<sup>th</sup> opinion was that the person is no longer continuing in the acting director position. They are now a temporary or interim appointee and are not going to be up for confirmation and they're just there until the Mayor names a new acting director and the Mayor has 60 days to act on such. Thank you, Chair.

CHAIR MOLINA: Okay. Thank you, Mr. Ueoka.

COUNCILMEMBER KING: But, Chair, just to follow up.

CHAIR MOLINA: Okay.

COUNCILMEMBER KING: It says that the disapproved nominee shall vacate the subject office upon the Mayor's receipt of certified copy of the Council's resolution. So, if you're...whether you're interim or you're acting, you're still in that subject office. You have not vacated it.

CHAIR MOLINA: Mr. Ueoka?

MR. UEOKA: Thank you, Chair. I believe the differentiation was made between the office as acting versus the office as temporary or interim.

COUNCILMEMBER KING: But, where does it say that? I mean, your response doesn't say anything unless they're "acting" or "interim." It just says that person should..."The disapproved nominee should vacate the subject office upon the Mayor's receipt of the

**GOVERNANCE, ETHICS, AND TRANSPARENCY  
COMMITTEE**

**Council of the County of Maui**

**April 4, 2019**

---

certified copy of the Council's resolution." There's no distinction between any title they may be given. The office is the office. Leave the office. That's what it says.

CHAIR MOLINA: Mr. Ueoka?

MR. UEOKA: Thank you, Chair. I believe we get into that in the March 7<sup>th</sup> response. When responding to some of these questions not every single situation or hypothetical comes up and we try to answer directly. And we typically do try to avoid hypothetical's. So, I believe Mr. Kushi was just answering your question directly on February 21<sup>st</sup> and he was responding to your questions posed in the February 26<sup>th</sup> memo in the March 7<sup>th</sup> memo. Thank you, Chair.

CHAIR MOLINA: Okay. Members, any other questions for Mr. Ueoka as it relates to this matter prior to the Chair making the recommendation? Member Rawlins-Fernandez, you had inquiries?

VICE-CHAIR RAWLINS-FERNANDEZ: No, I just...make a recommendation, Chair.

CHAIR MOLINA: Okay. Alright. I'm actually going to look at a potential deferral of this. I mean I would like to bring this back because there seems to be a lot of things that are unclear to me. However, you know, you are the body, if you would like to consider another alternative to a deferral and having this matter discussed in the future, Chair is open to that. Councilmember Kama?

COUNCILMEMBER KAMA: Thank you, Chair. My sense is that we could discuss this up and down this Chamber and we're probably going to ask the same questions over and over in a different way in a different manner and still come up with the same conclusion of that we need to go and do something beyond what we are all able to do in this Chamber. So, my sense is that we should just call for the question. Or, what is your recommendation? Except a deferral. I just want to...we should just ask the question and we're going to either do it or not do it. But we need to resolve this because we do not want to leave the next Council in this situation that we found ourselves in. And I am at the place right now that I'm beginning to see that there are many loose ends that have been left from prior Councils that we are now discovering and we'll probably see much more things that need to get done that we're going to have to take care of. So, let's not leave it for the next Council to have to take care of all of these things. We should just...I would have loved to have come in with a totally perfect clean slate but that didn't happen. But maybe we can help the next Council to have that. But I would like to ask for your recommendation and not a deferral.

VICE-CHAIR RAWLINS-FERNANDEZ: Chair?

CHAIR MOLINA: Thank you. Thank you, Member Kama. Prior to recognizing Member Rawlins-Fernandez, let me just make it clear to all of you. I certainly don't want to pass this off to the next Council. I do want to get it resolved. Whether it be via Ms. Rawlins-Fernandez's resolution or by Charter Amendment. One way or another it needs to have some clarification on this because it certainly brought up some major

**GOVERNANCE, ETHICS, AND TRANSPARENCY  
COMMITTEE**

**Council of the County of Maui**

**April 4, 2019**

---

issues here. And, I guess, we're having to weigh the time issue along with the cost. But, anyway, I just want to let you know, I'm not going to let this sit. That's for sure. Ms. Rawlins-Fernandez?

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Respectfully, and, you know, with your blessing, I agree with Member Kama and I'd like to move to recommend adoption of the resolution.

CHAIR MOLINA: Okay.

COUNCILMEMBER KAMA: Second.

CHAIR MOLINA: Okay, motion has been made by Member Rawlins-Fernandez to authorize the employment of special counsel to advise and represent the Council in the Mayor's appointment as interim administrative heads the same individuals disapproved by the Council, it's been second by Member Kama. Member Rawlins, you have the floor.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. First, I'd like to thank Mr. Ueoka for the clarification on what we would be seeking is the judge's order and not the judge's opinion. So, mahalo for that. And, you know, so with the Charter or with any law there's always some kind of wiggle room and you leave it up to the lawyers to lawyer it out. And I feel that we need to...the Council needs to take a strong stance on this. You know, we as a body as the Legislative body should not be allowing the Executive Branch to, again, usurp our authority under the Charter which is very clear. And I wanted to point to Legislative history and intent. Subsection 6-2(5) was proposed by the Council based on the need for the Council to have approval authority for all of the Mayor's appointments of the department directors to ensure transparency in the appointment process and the appointment of qualified candidates. And this is from the Policy and Intergovernmental Affairs Committee Report 16-1(10) on July 5, 2016. In addition to a Committee of the 1991-1992 Charter Review Commission recommended that a rejected appointee cannot serve as an acting or interim department head after being rejected. Charter Review Commission report and recommendations to Charter Review Commission dated April 30, 1992. The Charter Review Commission recommended passage of the version of Section 6-2 that was in place from 1992 through 2016 including the statement that a rejected nominee for Corporation Counsel or Prosecuting Attorney shall not continue in office. This recommendation and the subsequent Charter language following the County's experience the prior year in having nominees for Prosecuting Attorney and Corporation Counsel remain in office on an interim basis after having their appointments rejected by the Council. Charter Subsection 6-2(5) appears to have a similar purpose as section 26-34 in Hawaii Revised Statutes which provides for Senate approval and disapproval of various State, board, and commission appointees. The Hawaii Supreme Court has found the statute disqualifies the nominee from holding over in office after being disapproved by the Senate. Analyzing Legislative history and intent, the Supreme Court held that allowing a disapproved nominee to temporarily remain in office would have the unquestioned effect of diminishing the advice and consent power of the Senate contrary to the statute's purpose, strengthening the Senate's authority

**GOVERNANCE, ETHICS, AND TRANSPARENCY  
COMMITTEE**

**Council of the County of Maui**

**April 4, 2019**

---

over gubernatorial appointees. Also under the opinion, actions taken by individuals with invalid temporary appointments may be called into question. George Santayana, a philosopher, essayist, poet, and novelist said, "those who cannot remember the past are condemned to repeat it." I find it unfortunate that we find ourselves in this Groundhog's Day loop due to blatant manipulation and disregard for the sanctity of our law and our Charter. I respectfully request that my colleagues vote in favor to approve legal counsel with the intent of requesting the filing for a declaratory judgment action and have a court's definitive resolve the issue. And to the extent it might be moot at this time, it's clearly capable of repetition as we see. But evading review since the turnaround time is so short. Mahalo, Chair.

CHAIR MOLINA: Thank you for your remarks, Attorney Rawlins-Fernandez. That was good. A good argument for the courts, for sure.

VICE-CHAIR RAWLINS-FERNANDEZ: No, I just have my law degree, I'm not an attorney.

CHAIR MOLINA: Alrighty. Okay. Comments as to it relates to the motion. Chairman King?

COUNCILMEMBER KING: Thank you. I'm not an attorney either, but I think I'm a pretty smart person. I can look at...I can interpret what I'm reading. But I also wanted to offer, Chair, if it would be helpful to his body to bring out David Raatz, he's standing by in case we would like his opinion which I didn't get in writing, so it was a verbal, it was in a conversation, a conference call with Corp. Counsel. But I think it's pertinent to the idea of this being a conflict. And I do want to say that, actually I was going to bring up some of the same points that Ms. Rawlins-Fernandez brought up but that this is a larger issue than just this issue. It's actually goes to how we interpret the Charter in the future. Are we going to pull out individual lines that suit us and that we can follow without regard to the entire section? Or are we going to get some kind of a ruling that says, no, the section is the section and what it means overall is what the legal interpretation should be. So, I think it has implications beyond just this one issue in how we address the Charter going forward and whether or not parts of it are going to be able to be ignored due to somebody wanting, you know, one certain line or one certain subsection to apply. So, I would urge my colleagues, you know, let's get a legal ruling on this from a judge and we'll know how to approach the Charter in the future. This will set a precedent for future Charter, you know, differences of opinion on the interpretation of the Charter.

CHAIR MOLINA: Okay. So, Chairman King, we didn't receive anything in writing, though, from Mr. Raatz as it relates to this matter?

COUNCILMEMBER KING: No --

CHAIR MOLINA: Nothing to memorialize...

COUNCILMEMBER KING: --well, because at the time that I had that conversation I had that opinion from Corp. Counsel that they, you know --

**GOVERNANCE, ETHICS, AND TRANSPARENCY  
COMMITTEE**

**Council of the County of Maui**

**April 4, 2019**

---

CHAIR MOLINA: So, you just relied on that.

COUNCILMEMBER KING: --they said that they should vacate the office.

CHAIR MOLINA: Okay.

COUNCILMEMBER KING: And that's why I sent another memo to Corp. Counsel saying, well, you know, you already gave me an opinion, why, you know, then that came out, then it came out with this conflicting opinion.

CHAIR MOLINA: Okay. And the only reason I'm asking because at this point, I don't see the need to have Mr. Raatz here to give additional comment. I just want to act on this now. And should it pass and move on to Council, then at that point we can get something in writing from Mr. Raatz as well. So, if there are no objections to that, Members.

COUNCILMEMBERS VOICED NO OBJECTIONS

CHAIR MOLINA: Alright. We still have the motion on the floor. If there is any other comments? Okay, Member Lee followed by Member Sugimura.

COUNCILMEMBER LEE: Mr. Chair, I'm not going to be voting in favor of the motion. I believe that there seems to be a huge presumption here that a judge is going to be ruling in favor of a certain interpretation and we have no idea what the judge is going to rule and then where does it go from there? I believe in, I have faith in the people --

COUNCILMEMBER SUGIMURA: Me too.

COUNCILMEMBER LEE: --in making the right decision with regard to the Charter. And it's a clarification, you know, it's not like reinventing the whole matter. It's just putting words into the, adding words into the Charter that make the interpretation clearer. So, I shall vote against the motion.

CHAIR MOLINA: Okay. Thank you, Member Lee. Member Sugimura?

CHAIR SUGIMURA: Yeah, thank you. I too will be voting against the motion. Appreciate all of the communication that we've had so far. I sat on the Charter Commission so I know what the Charter Commission goes through in order to come up with the final questions that appear before the voters which will be in 2020. So, the Charter Commission is right around the corner and to take this. And they actually almost act like Councilmembers or the Council by taking all of the discussions to the various districts like what we're starting to do with the budget. So, it's not like the Charter Commission acts independently, but they act in behalf of the community and the voices that appear before them when they go...same meetings. It looks just like our budget meetings when we go through the districts. And then we take votes based upon what we hear from the community, what sits with what we believe, you know, the questions are, and the facts that are generated. And so, I believe that the Charter

**GOVERNANCE, ETHICS, AND TRANSPARENCY  
COMMITTEE**

**Council of the County of Maui**

**April 4, 2019**

---

Commission, which is next year, will be the final questions that will come up that we as a body can send the question that we want to the Charter Commission to discuss and they can take it out to the community in a broader perspective than even what we're doing right now and then it'll be voted on by the public in November of 2020. I believe in the process. I believe in the transparency of that. I believe that what we've uncovered is what I've been calling a puka in the process. That's what's causing this discussion. And it's a good discussion and I believe...and I would like to believe in the people that we represent. And for the question to be taken to them and the vote to be taken with the rest of the, you know, Charter discussion. So, thank you.

CHAIR MOLINA: Okay. Thank you. Member Paltin?

COUNCILMEMBER PALTIN: Oh, thank you, Chair. I am requesting a point of information.

CHAIR MOLINA: Proceed.

COUNCILMEMBER PALTIN: How are the commissioners selected to sit on the Charter Commission?

CHAIR MOLINA: Okay. Mr. Ueoka? Well, I can add to it, if you like. I was involved with the previous Administration. Typically the Mayor will appoint, I'm trying to recall, is it nine...

COUNCILMEMBER SUGIMURA: I think it's 11.

CHAIR MOLINA: No, 11, yeah? Yeah. And then the...well, go ahead, Mr. Ueoka.

MR. UEOKA: Thank you, Chair. You were right there, Chair, was not later than the first day of March 2000...well, this was 2001, so every ten years. So, the Mayor with the approval of the Council shall appoint a Charter Commission composed of 11 members to study and review the operation of the government of the Charter under this County. So...

COUNCILMEMBER PALTIN: Appointed not elected.

MR. UEOKA: By the Mayor, approved by you folks.

CHAIR MOLINA: Yeah.

MR. UEOKA: Thank you.

COUNCILMEMBER PALTIN: Okay. Thanks. I just wanted to know.

CHAIR MOLINA: Much like directors, Mayor nominates, Council confirms.

COUNCILMEMBER SUGIMURA: Or like other boards and commissions.

**GOVERNANCE, ETHICS, AND TRANSPARENCY  
COMMITTEE**

**Council of the County of Maui**

**April 4, 2019**

---

CHAIR MOLINA: Just like that. Yeah. Thank you for the clarification, Councilmember Sugimura. Any other comments as it relates to the motion on the floor? Mr. Sinenci from Hana?

COUNCILMEMBER SINENCI: Thank you, Chair. And thank you for this healthy, vibrant discussion. I too would like to, you know, just considering some of the comments from the other Members and the expediency of this, I would want to support this just to get a quick response to this. And also, I, you know, under Section 3-6, the powers of the Council. I'd like to exercise, you know, our right to designate, you know, special counsel to deal with this issue. So, I'll be supporting it.

CHAIR MOLINA: Alright. Thank you very much, Mr. Sinenci. Now, as I understand it, if this passes today then it'll be the Office of Council Services will be seeking an attorney to take this to a judge. If, and we've set a limit at 30,000, if it exceeds 30,000...

COUNCILMEMBER KING: Chair, just correction because it still has to go to full Council.

CHAIR MOLINA: Oh, okay, full Council. I'm assuming that, looking way ahead. So now, if it exceed 30,000 for the cost of this attorney whoever, then would this matter have to come back to the Council for reauthorization?

COUNCILMEMBER KAMA: Yeah.

UNIDENTIFIED SPEAKER: Correct.

COUNCILMEMBER KAMA: Yes.

CHAIR MOLINA: I'll just state it clear. I am not going to support anything that'll go past this \$30,000 ceiling should this matter pass us. But that's looking ahead.

COUNCILMEMBER KING: Chair?

CHAIR MOLINA: Charter Commission will be convening in 2020, so that's two years from now where the Mayor will be nominating 11 members.

COUNCILMEMBER SUGIMURA: Next year.

CHAIR MOLINA: Every ten years. Next year, yeah. So, okay. So, I can see the points of some of the Members seeking the Charter Amendment route. Also, good points with the judge. So, this is a real tough one.

COUNCILMEMBER KING: Chair?

CHAIR MOLINA: But we're trying to reach the objective. Thank you for waiting so patiently, Chairman King. Go ahead.

**GOVERNANCE, ETHICS, AND TRANSPARENCY  
COMMITTEE**

**Council of the County of Maui**

**April 4, 2019**

---

COUNCILMEMBER KING: No, I just wanted to comment that I agree with you that we shouldn't go over the 30,000 limit. If it does come back...I mean I don't see this as an appeal issue because if we do get an unfavorable ruling then we just make a Charter Amendment and we let the people decide but if we can get a ruling, a legal ruling that will help us decide if we need to keep doing this, you know, or if we can just refer to the previous ruling when we get to another section and we have a disagreement then it will help us tremendously. I think it would be worth whatever portion of that 30,000 we have to spend.

CHAIR MOLINA: Okay. See if you can find an attorney that will do this --

COUNCILMEMBER KING: Yeah.

CHAIR MOLINA: pro bono, right? Just kidding.

COUNCILMEMBER SUGIMURA: Can I ask a question?

CHAIR MOLINA: Alright. Yes, Ms. Sugimura?

COUNCILMEMBER SUGIMURA: So, I was just wondering about our attorneys, right? Because in house we have three attorneys and they get paid like Corp. Counsel. We pay for their bar renewal licenses. So, when that happened were there certain kind of expectations for our in-house attorneys? We're fortunate to have David Raatz as, you know, the supervisor and we have two very capable staff people. I'm not too sure what all their requirements were. But I wonder if somebody has history as to why we, I'm just curious we why pay for their renewal of their bar licenses or what their responsibilities are. I know they're unlike Corp. Counsel where they get overtime in some cases whether it's for time off, CTO comp time off is not for pay or money but, there is some kind of expectations that we have for them to represent us. So, I'm not too sure if...I don't know if Mr. Ueoka would be or if somebody could answer that. Or maybe Mr. Hokama might have been there.

VICE-CHAIR RAWLINS-FERNANDEZ: Chair, I can comment on that, Chair.

CHAIR MOLINA: Okay. I don't want to spend too much time on this aspect of the motion that's on the floor but please be brief, Miss...Member Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: I will. I did ask our attorneys if they would be able to represent us in litigating this issue and basically they don't have the manpower for this. They don't have the capacity. They are there for us to provide legal advice similar to the Corporation Counsel section that provides us legal advice and then they have a different section that does litigation. And so, it's not all the same and it doesn't involve all the same amount of time and effort. And so, if they did have the capacity then perhaps. But we have three or two...three. We have three.

COUNCILMEMBER SUGIMURA: So, you're saying they're too busy?

**GOVERNANCE, ETHICS, AND TRANSPARENCY  
COMMITTEE**

**Council of the County of Maui**

**April 4, 2019**

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COUNCILMEMBER KAMA: Capacity. It's capacity.

VICE-CHAIR RAWLINS-FERNANDEZ: No. It's not that they're too busy. They don't have enough staff to do this. If they had a larger staff, like Corporation Counsel has --

COUNCILMEMBER KAMA: They have litigants.

VICE-CHAIR RAWLINS-FERNANDEZ: --like a whole team of litigators.

COUNCILMEMBER SUGIMURA: Or maybe they're not quite the same kind of attorney as they have different expertise.

COUNCILMEMBER KING: Chair?

CHAIR MOLINA: Okay. Alright, Chair's going to end the conversation on that. But thank you for bringing that to the attention.

COUNCILMEMBER KING: Well, if there's outstanding questions can I answer them for Ms. Sugimura?

CHAIR MOLINA: At a later point is fine.

COUNCILMEMBER KING: I just wanted to let her know that our attorneys don't get overtime.

CHAIR MOLINA: Yeah, yeah. Alright. Chair's ready to call for the question. Okay. Motion is on the floor. All those in favor of the motion on the floor as made by Vice-Chair Rawlins-Fernandez signify by saying "aye."

COUNCILMEMBER KAMA: Aye.

VICE-CHAIR RAWLINS-FERNANDEZ: Aye.

COUNCILMEMBER KING: Aye.

CHAIR MOLINA: Excuse me. Let's do this—sorry. If the Members don't object, I want to do a roll-call vote. Staff.

MS. ESPELETA: Yes, Mr. Chair. Okay. Starting with Councilmember Sinenci.

COUNCILMEMBER SINENCI: Aye.

MS. ESPELETA: Councilmember King?

COUNCILMEMBER KING: Aye.

MS. ESPELETA: Councilmember Lee?



**GOVERNANCE, ETHICS, AND TRANSPARENCY  
COMMITTEE**

**Council of the County of Maui**

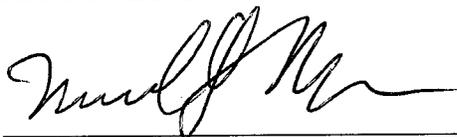
**April 4, 2019**

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CHAIR MOLINA: All right. Thank you. There you have it, Members. The motion has passed and will now go on to the full Council. I believe this concludes our agenda item for today. Staff, is there anything the Chair needs to be made aware of? Okay. Seeing none, 12:13. Thank you very much, Members, for your hard work today. We will be taking a break and we'll reconvene, well we'll, shall convene our Budget and Finance meeting at 1:30 today. So, the Governance, Ethics, and Transparency Committee meeting for April 4<sup>th</sup> is now adjourned. . . . *(gavel)* . . .

**ADJOURN: 12:14 p.m.**

APPROVED BY:



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

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Transcribed by: Crystal Sakai

**GOVERNANCE, ETHICS, AND TRANSPARENCY  
COMMITTEE**

**Council of the County of Maui**

**April 4, 2019**

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CERTIFICATE

I, Crystal Sakai, hereby certify that 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 8<sup>th</sup> day of May, 2019, in Kahului, Hawaii



Crystal Sakai