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TESTIMONY

JUNE 27, 2016

Good Morning and Aloha. My name is Dave DeLeon, speaking as an individual. I wish to speak on two items: 10(16) County Manager and 10 (11) relating to Appointments to the Planning Commissions

10(16) I am speaking in opposition to the proposal to place before the voters a major change in our current form of county government.

As mentioned on previous occasions, this proposal is being unduly rushed, without proper due process and deliberation of the proposal's ramifications. This is a major concern raised by the County Cost of Government and by the minority members of the Special Committee in their review of this proposal, that a rush to judgment will lead to unintended consequences. One of those consequences luckily came to light before the Council acted on this proposal. On June 6, the State Attorney General ruled that the "County Manager" position as envisioned by this proposal is not exempt from the State Civil Service Law, Chapters 76-77.

While the AG's opinion was directed at a similar Kauai proposal, in a June 22 opinion, the Maui Corporation Counsel said the AG opinion applies equally to the Maui proposal. That seems to leave Maui County with two options: proceed with the proposal, and if it succeeds at the polls, hire the County Manager via the Civil Service system. Or ask the State Legislature at its next session to amend the Civil Service law to exempt the position of County Manager. I would not advise betting the farm on such a bill passing.

An interesting exercise is trying to imagine which HGEA bargaining unit the County Manager and his staff would fall under. They may have to create a whole new one just for County CEOs.

Left unanswered at this point is whether the department heads hired by the County Manager would also come under Civil Service; the role of Salary Commission in setting salaries; how the County Manager CEO will be able to interact with his Corporate Board – the County Council – given Chapter 92; and whether the Corporation Counsel be conflicted by the current proposal that puts him inappropriately in the line of succession to the County Manager.

RECEIVED AT PIA MEETING ON 6/27/16

Who knows what other legal pitfalls await us if this matter is passed on to the voters and if they approve it. This rush-job is sort of a tap-dance recital in a minefield. Who knows what other elements of local law will be triggered next.

10(11) On the question of requiring the appointment of Hawaiian Cultural Practitioners and Environmentalists on the three Planning Commissions, I wish to make a clearer statement than the one I made earlier.

I believe that both groups have a right to seek and win nomination to the Planning Commissions, just as anyone else does. Nominations to Boards and Commissions are among the powers of the Mayor. Maui County has an open process that allows anyone to apply for the appointment. Of course, those individuals must also win the confirmation of the County Council. So this is a political process and if these groups want to gain appointments, they need to do what the Realtors, the Chamber of Commerce, the unions, the hotel association and other groups do: work the system.

It is proper to have persons focused on Hawaii's cultural heritage and the environment on these important bodies. So is it proper to have persons of Filipino and Japanese ancestry. Young folks and as good mix of sexes. And persons from each area covered by the commission. And if possible, persons with unique skills and knowledge: like historians, architects, engineers, and economists.

As someone who dealt with such appointments for 12 years, I can tell you that finding anyone to serve on Molokai and Lanai commissions can be difficult. The more criteria you place on the process, makes filling those positions all the more difficult.

Regarding Hawaiian cultural practices: We have a whole Cultural Resources Commission dedicated to that function. The new Public Works Commission also has a Hawaiian language specialist on it because it deals with the naming of streets and facilities, among its other duties. Both of those functions are proper and necessary.

The Planning Commissions, however, are where the rights of property owners to use their property as they see fit and the public's right to protect public resources intersect. There is nothing overtly cultural about that process. If the commissions need help with a cultural matter, they can request it from the Cultural Resources Commission. Requiring a Hawaiian cultural bias on the Planning Commissions is just that: bias.

I would suggest that before the Council proceeds on this matter that it get an opinion from the Corporation Counsel to find out whether such an action is in conflict with a variety of recent federal court opinions on this general topic.