

October 19, 2020

MEMO TO: Riki Hokama, Chair
Healthy Families and Communities Committee

F R O M: Traci N.T. Fujita, Director ^{tn+tf}
Office of Council Services

SUBJECT: **ELECTION BY MAIL SYSTEM** (HFC-31)

2020 OCT 19 PM 12:43
OFFICE OF THE
COUNTY COUNCIL

RECEIVED

The purpose of this memo is to respond to your inquiry regarding the public education document covering the seven Charter amendment proposals that will be placed on the November 3rd General Election ballot.

The public education information on the Charter amendments was disseminated to the public as follows:

- Posted on the Council website at <http://mauicounty.us/wp-content/uploads/2020/09/1604392.pdf>
- Published in The Maui News on September 19, 2020
- Posted to Council's Facebook and Twitter on September 24, 2020
- Radio public service announcement requests submitted to Pacific Media Group, KAOI, and Mana'o Radio on September 29, 2020
- Press release issued by Chair Lee on October 1, 2020
- Posted to Council's Facebook and Twitter on October 1, 2020
- Published in The Maui News on October 3, 2020

While there was discussion at the Chair's meeting on August 5, 2020 about an Informational Pamphlet Regarding Charter Amendments, no decision or recommendation was made at the meeting. Please see attached excerpt from the minutes of the August 5, 2020 Chair's meeting.

Chair Lee called a staff meeting on August 14 via BlueJeans to consider options for producing and disseminating a public education document. In attendance were the Council Chair and her staff, the County Clerk, the Deputy

Riki Hokama, Chair
October 19, 2020
Page 2

County Clerk, the OCS Director, the Supervising Legislative Attorney, OCS staff, and a Deputy Corporation Counsel. After considering time constraints and cost, the decision was made for OCS staff to draft objective public education information on the Charter amendments, and have it reviewed by the Office of the County Clerk, the Corporation Counsel, the Hawaii Campaign Spending Commission General Counsel, and the Councilmembers. Revisions were incorporated into the final document that was published twice in The Maui News and posted on the Council's website and social media accounts.

Please let me know if there are any further questions.

ocs:ltr:201019a

Attachment

COUNCIL CHAIR'S MEETING

Council of the County of Maui

MINUTES

August 5, 2020

Online Only via BlueJeans

CONVENE: 10:14 a.m.

PRESENT: Councilmember Alice L. Lee, Council Chair
Councilmember Keani N.W. Rawlins-Fernandez, Council Vice-Chair, and Chair,
Economic Development and Budget Committee
Councilmember Tasha Kama, Presiding Officer Pro Tempore, and Chair,
Affordable Housing Committee
Councilmember Riki Hokama, Chair, Healthy Families and Communities
Committee
Councilmember Kelly Takaya King, Chair, Climate Action and Resilience
Committee
Councilmember Michael J. Molina, Chair, Government, Ethics, and
Transparency Committee (via telephone)
Councilmember Tamara Paltin, Chair, Planning and Sustainable Land Use
Committee
Councilmember Shane M. Sinenci, Chair, Environmental, Agricultural, and
Cultural Preservation Committee
Councilmember Yuki Lei K. Sugimura, Chair, Multimodal Transportation
Committee

STAFF: Traci N. T. Fujita, Director, Office of Council Services
David M. Raatz, Supervising Legislative Attorney
Tammy M. Frias, Supervising Committee Secretary
Laksmi Abraham, Legislative Analyst
Kathy Kaohu, County Clerk, Office of the County Clerk

CHAIR LEE: . . .(*gavel*). . . So this is the Chair's meeting and we are going to start right now. And I am Alice Lee, the Chair, and I will be greeting each of you, okay, as we take...there's nobody really to take roll call. So mirëmëngjes means good morning in Albania. So mirëmëngjes, my colleagues. So I'm going to call you according to how I see you. So mirëmëngjes, Member Tamara...Member Tamara. I keep getting calls, is this Mike, again?

COUNCILMEMBER PALTIN: Mirëmëngjes, Chair Lee. Mirëmëngjes. Aloha kakahiaka.

CHAIR LEE: Thank you. And then, mirëmëngjes, Yuki Lei Sugimura.

COUNCILMEMBER SUGIMURA: Mirëmëngjes.

CHAIR LEE: Okay. Mike just emailed...texted me that he can hear us. So you can say,

COUNCIL CHAIR'S MEETING
Council of the County of Maui

August 5, 2020

piece...the five sections are just a few minutes apiece. I think the longest section is maybe five minutes. So it's intended to be somewhere around 25 minutes max, 25 to 30 minutes max if you showed all of it. But you can pull out pieces of it, and just talk about pieces of it. And we're going to...the plan is to distribute this to community associations, to schools, to wherever and whoever is interested in...I spoke at a couple of civic classes, high school civic classes in the last couple of years, and it's amazing how interested the students are in, actually, the differences in government. They don't understand why we can't do anything about the schools, and why the State people can't do anything about our parks. You know, like the differences in what we do versus what the State Legislature does, and the Administration versus the policymakers is a big difference too, that people don't quite understand. So I was...it was interesting that I got so many questions when I spoke at King Kekaulike, that the bell rang and they were still asking questions. You know, I expected everyone to head out the door. So this will be a tool that we can use. It's ongoing. It'll make it easier...if we make changes to our process, or if the laws change, we can pull out sections and redo pieces...correct pieces that might not be...to update it as we go. But hopefully, we'll have...maybe if there's another Chair's meeting in the next few weeks, we can have some...a little bit of a trailer to show to the Councilmembers. But, you know, it's totally meant to be non-political, so no elected officials or anybody...candidates or anybody in the videos. It's just pure...it's really trying to focus on the process, and trying to make that interesting without big personalities has been a challenge, I think, to our videographer. But he's very dedicated to what...to going through this process.

CHAIR LEE: Thank you very much.

MS. ABRAHAM: Thank you.

CHAIR LEE: Sounds wonderful. Great project.

COUNCILMEMBER KING: Okay. Well, we'll try to get some little snippets, at least, to show to the Councilmembers. And then the...are we...do you want to go onto the second...the next one?

CHAIR LEE: Yes.

11. INFORMATIONAL PAMPHLET REGARDING CHARTER AMENDMENTS
(Councilmember King)

COUNCILMEMBER KING: Okay. So the next one was creating an informational pamphlet. And I opened up a PAF on this, because when we started talking about Charter Amendments early or maybe mid-last year, and hopefully Mike Molina is still on the call, there was a lot of talk about --

COUNCILMEMBER MOLINA: I'm here.

COUNCIL CHAIR'S MEETING
Council of the County of Maui

August 5, 2020

COUNCILMEMBER KING: --thanks, Mike--there was a lot of talk about, you know, some of the complicated background on some of these issues. And back then, our County Clerk had made a commitment to publishing information on the Charter Amendments once they got passed through the Council. And so I did go back to Kathy Kaohu, and she indicated that she would not be doing that. And so rather than push her on it...because I know she's just still feeling her way, and there's a whole new process. So I did go to OCS, and OCS is looking at it. I asked them to send...I got a email from James Forrest with a copy of...an attachment that's a PDF of a pamphlet that the Honolulu County Clerk did for their Charter Amendments, and so he was...did you guys get that? Because I asked him to send it to everybody. It's...this is back in 2016. They had a little brochure they put out, and it says, "your"...it's on Charter Amendments, and it says, "your vote counts." And so I can, I'll have them...did anybody get that? Anybody? You got it? Okay, Keani got it.

VICE-CHAIR RAWLINS-FERNANDEZ: I got it.

COUNCILMEMBER KING: So, you know, I really felt like this should come from the County Clerk's Office, but I think the next best thing is if OCS can put it together, and then bring a draft to the Council so we can make sure that it's...everybody's comfortable with it, that it's purely informational, and it's not advocating for any of the Charter Amendments one way or the other. I mean, having a brochure is purely informational, I'm sure people will pick it up and use it to advocate for, and use it to advocate against. So we're not making a judgment call, it's just trying to get the information so people understand what the...what these Charter Amendments mean. And there'll be links to the actual committee reports, after the...after passing them out of Committee . . . *(coughing)* . . . sorry about that. So anyway, that's kind of...I just wanted to update everybody on that project. And I know there've been a couple of other Councilmembers who have talked to OCS about the same thing, so hopefully we can move forward with it.

CHAIR LEE: Okay, everybody. Comments? Mr. Sinenci?

COUNCILMEMBER SINENCI: Thank you, Chair. Yeah, I was just wondering if..was the Council going to be sending out, like, a mailer that has all the Charter Amendments in it prior to the November election?

COUNCILMEMBER KING: Well, we don't have that budgeted. You know, to tell you the truth, we could if we wanted to because there's a precedent for it. Back in the last term, when the State Legislature had proposed to tack on a fee onto our real property tax, and the Council sent out a mailer about that issue to all of the residents. I think Mike White put \$50,000 in the budget for that. And we actually got taken to court over that because we're not supposed to be using taxpayer dollars to advocate. And the case was made that we weren't advocating, we were just presenting the information, and it actually held up in court. So we didn't get...we were cleared of that...as a Council, we were cleared of that charge. But that...that is the precedent, although we don't have any...I don't know that we have any money in the budget specified for this. That was a case where the Council put \$50,000 in the budget to do

COUNCIL CHAIR'S MEETING
Council of the County of Maui

August 5, 2020

that mailer. And they didn't use the whole thing, so I don't...I can't remember the amount that they used. So we could do that if we had money, and if we wanted to. But for right now, it's just getting it in a format where we can share it, and it can be on our Council website to explain the...what the Charter Amendments mean.

COUNCILMEMBER SINENCI: Okay. I thought maybe prior, that Ms. Fujita said that there was some funds for just mailers in general for...that was budgeted.

COUNCILMEMBER KING: Yeah, I would love to...I would love to be able to do that if the Council wants to. I think that's something that we can decide on as a body if we want to do that.

CHAIR LEE: Okay. Mr. Molina?

COUNCILMEMBER MOLINA: Yeah, no. I just want to say I appreciate Member King bringing this matter up. And just as an FYI, for next week's GET meeting, August 11, I plan on having the Clerk's Office, you know, share with us a presentation, if they have any, about educating the public about the Charter Amendments. So I think this is quite timely that Member King is bringing this up. So I just wanted to share that with you and the Members, Madam Chair. Thank you.

CHAIR LEE: Thank you.

COUNCILMEMBER KING: Thank you.

CHAIR LEE: Ms. Rawlins-Fernandez? No?

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Yeah. So yeah. So the former Clerk, Josiah Nishita, put \$60,000 in for Charter Amendment education. And so...I don't know if everyone's seeing it, but I can share my screen. So that's what the Charter Amendment that Member King sent...so that's what it looks like. The Charter Amendment question, the present situation, the proposal passes...proposal...if the proposal passes, so what we're going to do. So I'm not sure if it's something that, as far as process goes, and I'm not sure if our attorneys would want to weigh in on this, but if Council would...or I don't know. Maybe the question is, how was Honolulu's one put together? Was it the Clerk's Office, their Clerk's Office that put that together?

COUNCILMEMBER KING: Yeah. Yes.

VICE-CHAIR RAWLINS-FERNANDEZ: It was? Okay. Yeah. So...and my...my...I guess my thought was that. . .*(audio interference)*. . .if we could have a resolution that would...that we would discuss what would be on the pamphlet? . . .*(audio interference)*. . . And that way--I think that's Member Molina--that way we would...it would be more fair. ...That's not me.

COUNCILMEMBER KING: No that was...I was just showing...I was just sharing what the...what the piece was from Honolulu. It looks like this.

COUNCIL CHAIR'S MEETING
Council of the County of Maui

August 5, 2020

VICE-CHAIR RAWLINS-FERNANDEZ: Yeah, yeah. I did. I shared it. Yeah. So I think our Council, if by weighing in on what would the language be for what the current situation is, and then if the Charter Amendment passes, what would be the new...or what would be the new situation. And then that way, both those that agreed with the Charter Amendment, and then those that didn't, would be able to wordsmith the language that would go into the information, the pamphlet. And then that way it would be perceived as more fair, so that that pressure of choosing the right words and how to frame it wouldn't be solely on the shoulders of the Clerk's Office, which I can understand it would be a really uncomfortable position to be in. And so I don't know if that's something that would be legal, if like we created a resolution for us to help to wordsmith or choose the language that would be in the educational pamphlet for the Clerk's to use to send out to the public. But that was something that I was thinking could help with the perception of it being fair. Mahalo, Chair.

COUNCILMEMBER KING: So we...so Chair, can we maybe ask David Raatz to weigh in? Because that's one of the reasons I went to OCS because I was figuring, you know, we...we have legal advice of our attorneys. You're muted, Alice.

CHAIR LEE: Yeah, we will. So first, Member Kama.

COUNCILMEMBER KAMA: Thank you, Chair. So my sense is that I would think that the Clerk would probably be a lot more fair in terms of just saying, "This is the Charter Amendment. This is what"...if you pass it, this is what will happen. If you don't pass it, this is what will happen." And just kind of, like, let it go at that. But just explain it to the people, so that it's clear to them, that if they say, "yes," this is what will happen; if they say, "no," this is what will happen. And it could be just as simple as that, so that maybe we don't get into the weeds of stuff, but just, you know, at least a summary of what it would do. And I think if the Clerk's Office did it that way...that way we don't get into that discussion that we got into when we started talking about the Amendments to begin with, which brought us to where we are today. So my sense is that, if the Clerk doesn't...similar to how...what O'ahu did. If you look at that brochure with their 20 Amendments on it, that it's very clear. It says, this is what it is. If you vote "yes," this is what it will do. If you vote "no," this is what it will do. And then they just let the public decide. I think that's probably a lot more fair, and a lot more in terms of...there's no biases. Because, you know, we're all going to be fighting for our biases now, and no matter how much you wordsmith, we want to make sure our word gets in there. But if it's from a Clerk perspective, it comes out a little bit more equitable and, you know. So that's my sense of...you know.

COUNCILMEMBER KING: Okay. Can I respond, Chair?

CHAIR LEE: Yeah, okay. Ms. King?

COUNCILMEMBER KING: So...okay. So exactly what you just said was what I was hoping for. And so...but when I emailed the Clerk and asked her if she was planning to do something like that, or if she would, I got a response to that, "No, we're just planning

COUNCIL CHAIR'S MEETING
Council of the County of Maui

August 5, 2020

to put the actual question on...out there, so people know what the questions will be." So that's why, you know, I have no...I think...you know, that was my first thought is, it should come from the Clerk's Office. But...and then I thought, well, maybe, okay, if they're too busy or if they're...if they're, you know, having issues with all the other stuff their dealing with; the mail-in, the COVID-19 pandemic, and now we have Trump threatening to shut down the Post Office. So, you know, I understand that they're busy. So maybe we could...and possibly through the Chair, get OCS to work with the Clerk's Office to help them put that together. But I thought it should come from either OCS or the Clerk's Office in that...that that would make it more fair and objective, rather than coming from my office. You know, if I put something together, probably it would be more subjective because I have opinions on these things, and every Councilmember does. And I've seen things come out of other Councilmembers' offices that have an opinion on some of the Charter Amendments. But I think we need...just...you know, for the general public, we need to put something out there that's objective, that has just the black and white, here's what happens if you vote "yes," here's what happens if you vote "no," what does this mean? And then, you know, it has links to the Committee meeting, so that if people really wanted to delve into why they...why this came about and what the discussion was, that they could go back to that...that Committee meeting, and see what it was that we were thinking when we were making these decisions.

COUNCILMEMBER SUGIMURA: Here's Kathy Kaohu.

COUNCILMEMBER KING: Anyway, that's my...yeah, that's my...that was kind of my...well --

COUNCILMEMBER SUGIMURA: Here's Kathy.

COUNCILMEMBER KING: --and I see we have our Clerk here, so maybe she has some comments.

CHAIR LEE: Okay, Kathy, do you have any comments? You can unmute yourself. Unmute your...you're muted.

COUNCILMEMBER KING: Sorry, we're not laughing at you. We're just...we've got a...

MS. KAOHU: Good morning.

CHAIR LEE: Wow, Tamara.

MS. KAOHU: Oh, my gosh.

CHAIR LEE: Okay, Kathy.

MS. KAOHU: I'm just looking at the pink hair, sorry.

COUNCILMEMBER KING: It's a little distracting.

COUNCIL CHAIR'S MEETING
Council of the County of Maui

August 5, 2020

MS. KAOHU: We have our final election...our primary election day is Saturday. And so there are some things we're looking into. As far as the educational piece from the Honolulu City and County, that came from their Charter Commission. And so I...but I got at least a week or a few days after primary to look further into this. I do have some legal questions that I'd like to pass, perhaps, or express to the Chair. And then maybe more comment will be ready for the GET meeting that Councilmember Molina just informed us about . . . *(inaudible)* . . .

CHAIR LEE: Okay. That sounds good. That sounds good.

COUNCILMEMBER KING: Yeah. Thank you for . . . *(inaudible)* . . .

CHAIR LEE: Okay. We'll just wait for them then, the GET meeting.

MS. KAOHU: Thank you. But taking everyone's comments in heart and consideration.

COUNCILMEMBER KING: Okay. And can you...can you...Kathy, can you do me a favor and just talk to James Forrest and OCS to see where they're at with moving this along? Because he was the one that sent me that brochure and said it was from the County Clerk over there. So...however, I think it's great that we're all kind of working on this together, and however you can get it done.

CHAIR LEE: Yeah.

COUNCILMEMBER KING: I'm not married to having to be directly involved. . . *(audio interference)* . . .want it to happen. So thank you for that.

MS. KAOHU: I'll check with James, and I'll also check with Josiah --

CHAIR LEE: All right.

MS. KAOHU: --and...to better understand what his intentions were.

COUNCILMEMBER KING: Okay. Good.

12. CHAIR'S MEETING SCHEDULE (Council Chair Lee)

CHAIR LEE: So the next item is the Chair's meeting schedule. And all I have to say about that is, we...for some reason, some of our Council meetings have been going extremely long. So it would be torturous to add the Chair's meeting on top of the Council meeting. So if you don't mind, we're going to move that meeting around so that we don't have such long, long meetings, okay? Any problems with that? Okay.

COUNCILMEMBER MOLINA: No objections.