

# **POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE**

**Council of the County of Maui**

## **MINUTES**

**June 27, 2016**

**Council Chamber, 8<sup>th</sup> Floor**

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

**PRESENT:** Councilmember Michael P. Victorino, Chair  
Councilmember Don Couch, Vice-Chair  
Councilmember Gladys C. Baisa, Member  
Councilmember Robert Carroll, Member  
Councilmember Elle Cochran, Member  
Councilmember Stacy Crivello, Member  
Councilmember Don S. Guzman, Member  
Councilmember Riki Hokama, Member (In 9:03 a.m.)  
Councilmember Mike White, Member

**STAFF:** Kimberley Willenbrink, Legislative Analyst  
Sharon Brooks, Legislative Attorney  
Tammy M. Frias, Committee Secretary  
  
Tina Thompson, Executive Assistant to Councilmember Crivello, assisting at the Molokai Council Office (via telephone conference bridge)  
Denise Fernandez, Council Aide, Lanai Council Office (via telephone conference bridge)  
Dawn Lono, Council Aide, Hana Council Office (via telephone conference bridge)

**ADMIN.:** Lance T. Hiromoto, Director, Department of Personnel Services (Item PIA-10(16))  
David J. Underwood, Deputy Director, Department of Personnel Services (Item PIA-10(16))  
Edward S. Kushi, Jr., First Deputy Corporation Counsel, Department of the Corporation Counsel

*Seated in the gallery*

Michele N. McLean, Deputy Planning Director, Department of Planning (Item PIA-10(11))

**OTHERS:** Mark Hyde (Items PIA-10(7), 10(9), 10(11), 10(14), 10(16))  
Jonathan Starr (Items PIA-10(11), 10(16))  
Louise Corpuz, President, Maui ILWU Pensioners Club (Item PIA-10(16))  
Sheri Morrison (Item PIA-10(16))  
Jim Smith (Items PIA-10(3), 10(5), 10(6), 10(10), 10(15))  
Bill Greenleaf (Item PIA-10(16))  
Linda Berry (Item PIA-10(16))  
Rita Massey (Item PIA-10(11))  
Flo Wiger (Item PIA-10(16))  
Mike Moran, President, Kihei Community Association

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Marjorie Bonar (Item PIA-10(14), 10(16))  
Lana Vernir (Item PIA-10(16))  
Lisa Selman (Item PIA-10(16))  
Ke`eaumoku Kapu, CEO, Aha Moku O Maui Inc. (Item PIA-10(11))  
Andrew Beerer (Item PIA-10(16))  
Kevin Mulligan (Items PIA-10(13), 10(15))  
Dick Mayer (Items PIA-10(11), 10(14), 10(16))  
Tiare Lawrence (Items PIA-10(11), 10(13), 10(16))  
Dr. Paul Kailiponi, Chair, Cost of Government Commission (Items PIA-10(14), 10(16))  
Alana Kay (Item PIA-10(16))  
Nell Woods (Item PIA-10(16))  
Dale Bonar (Items PIA-10(11), 10(14), 10(16))  
Kelly King (Items PIA-10(1), 10(10), 10(11), 10(16))  
Paul Janes-Brown (Item PIA-10(16))  
Jacob W. Verkerke, Chief Technology Officer, Information Technology Services Division, Department of Management (Item PIA-10(16))  
Rosemary Robbins (Items PIA-10(3), 10(5), 10(9), 10(11))  
Trinette Furtado (Items PIA-10(11), 10(16))  
Timothy Lara (Items PIA-10(11), 10(16))  
Kai Nishiki (Item PIA-10(11))  
David DeLeon (Items PIA-10(11), 10(16))  
Lawrence Carnicelli (Item PIA-10(16))  
J. Alohalani Smith, Aha Moku O Kaupo Representative, Aha Moku Maui Island Council (Item PIA-10(11))  
Ben Wilson, Unit 2101 Editor, International Longshore and Warehouse Union ("ILWU"), Local 142 (Item PIA-10(16))  
Randy Wagner (Item PIA-10(16))  
Daniel Grantham, Board Member, Sierra Club  
Tom Blackburn-Rodriguez, Executive Consultant, Go Maui, Inc. (Items PIA-10(14), 10(16))  
Larry Koss (Item PIA-10(16))  
Nick Drance (Item PIA-10(16))  
Susan Vickery (Item PIA-10(11), 10(16))  
Tom Croly (Items PIA-10(5), 10(11), 10(16))  
Joseph Aquino (Item PIA-10(16))  
Emmanuel A. Baltazar, Representative, ILWU (Item PIA-10(16))  
Lei Sato, Representative, ILWU (Item PIA-10(16))  
Madge Schaefer (Items PIA-10(9), 10(13), 10(14), 10(16))  
Stephen West, Business Agent, ILWU (Item PIA-10(16))  
Clyde Hayashi, Hawaii Laborers Union, Local 368 (Item PIA-10(16))  
Jason Medeiros (Item PIA-10(16))  
Additional attendees (25+)

**PRESS:** Colleen Uechi, *The Maui News*  
Akaku--Maui County Community Television, Inc.

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CHAIR VICTORINO: . . .(*gavel*). . . Good morning. The Policy and Intergovernmental Affairs Committee will come to order. I will ask, everyone, if you have a cell phone please put it on silent or turn it off. Decorum will be carried out in this Chamber. Before we get started, I have a few words I would like to pass on to both my Members and to the audience at large, and the people who are watching. We have some very interesting and very important decisions to be made today and probably Wednesday if necessary. One of the things I will accept is public testimony, but the public testimony will be in a respectful manner. If any member out there in the public thinks he or she can come here today and bully and/or use vulgarity in this Chamber, I will ask them to leave. Decorum will be followed. I want respect because respect is earned both ways. My Members are here and they're here for the day or maybe a day and a half, listening to all of your testimony and trying to put everything in perspective. So I will ask you to please give us that courtesy. You have your right, it's a free country, you have free speech, but vulgarity does not necessarily have to be a part of. And I will not accept cheers, applause, this is not a circus. This is a meeting of this Committee and I hope to make sure everyone here understands we're going to conduct this meeting and we're going to get the people's work done. Do I make myself clear? I hope I do, because I want this meeting to be completed and then when we all walk away, we walk away with the reasonable decisions that needed to be made. Thank you very much. At this time, I'd like to call upon the Members that are present. First of all, I am the Chair, Michael Victorino. The Vice-Chair of the Committee is Mr. Don Couch from South Maui.

VICE-CHAIR COUCH: Aloha. Good morning, Chair.

CHAIR VICTORINO: Good morning. Our East Maui representative, Mr. Robert Carroll.

COUNCILMEMBER CARROLL: Good morning, Chair.

CHAIR VICTORINO: Good morning. Ms. Gladys Baisa, our lovely Councilmember from Upcountry.

COUNCILMEMBER BAISA: Good morning, Chair.

CHAIR VICTORINO: Good morning. And I want to welcome back Elle Cochran from her surgery. I know she has to keep her hand up, she's not telling me she wants to speak all the time.

COUNCILMEMBER COCHRAN: Ah, I'm ready.

CHAIR VICTORINO: She has to keep it up, I got you. My wife had that so I understand what you're going through right now. Welcome.

COUNCILMEMBER COCHRAN: Thank you. Thank you very much, Chair.

CHAIR VICTORINO: Our Member from Molokai, the lovely young lady Stacy Crivello.

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COUNCILMEMBER CRIVELLO: Aloha. Good morning, Chair.

CHAIR VICTORINO: Good morning. Returning from Lanai, Mr. Riki Hokama.

COUNCILMEMBER HOKAMA: Mr. Chairman.

CHAIR VICTORINO: And thank you for your leadership at HSAC at our conference this past weekend, this past end of last week I should say. Our returning Vice-Chair from his vacation, Mr. Don Guzman.

COUNCILMEMBER GUZMAN: Good morning, Chair.

CHAIR VICTORINO: You're looking really spiffy today.

COUNCILMEMBER GUZMAN: Thank you. Thank you.

CHAIR VICTORINO: Thank you. And our Chair of the Committee [sic], Mr. Mike White.

COUNCILMEMBER WHITE: Good morning, Chair.

CHAIR VICTORINO: Good morning. Also from the Administration, we have the First Deputy Corporation Counsel, Mr. Ed Kushi. We may have other...good morning, Mr. Kushi. We may have other department heads coming in to speak and if necessary as resource people so we will be calling them in. Right now, we have Will Spence listed but others are on my list if necessary. Our invaluable Committee Staff, Ms. Kim Willenbrink, our Legislative Analyst.

MS. WILLENBRINK: Good morning, Chair.

CHAIR VICTORINO: Good morning. And of course our Committee Secretary, Ms. Tammy Frias.

MS. FRIAS: Good morning.

CHAIR VICTORINO: Good morning. Let me check with the District Offices if they are connected and ready to go. Let's start with Dawn Lono in the Hana Office. Dawn, are you there?

MS. LONO: Yes, good morning, Chair. This is Dawn Lono in the Hana Office.

CHAIR VICTORINO: Good morning, Dawn. From our Lanai Office, Ms. Denise Fernandez. Denise, are you there?

MS. FERNANDEZ: Good morning, Chair. This is Denise Fernandez on Lanai.

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CHAIR VICTORINO: Thank you, Denise. And substituting for our Molokai Office is Tina Thompson. Tina, are you there?

MS. THOMPSON: Good morning, Chair. This is Tina Thompson from the Molokai Office.

CHAIR VICTORINO: Thank you. We have 11 proposed Charter amendments on today's agenda. As you can see, there's a lot of important work that needs to be done. We have discussed on...we have had discussions on most of these items prior to this meeting, so I would ask you not, Members, ask you not to rehash what has been discussed so that we can make decisions whether amended...amendments should be brought forward or not. After our discussions of, at our last meeting, I transmitted a new amendment for consideration, it is PIA-10(14). I have attempted to combine Mr. Carroll's, Mr. Hokama's and Mr. Guzman's proposed amendments relating to direct...department directors into one comprehensive amendment to be worked from. This doesn't mean I've done away with your proposals, I've just tried to incorporate them, and we will discuss that at a later point of the meeting. I do not want to have confusion, because the public and the Committee is welcome to amend whatever way they see fit. I would like to also make it clear that filing of any amendment, if the Committee has an amendment or form of County communication or County report, this item must be included in the filing. If there is a form of correspondence, it does not need to be filed unless specifically requested, a specific request is made. I recommend that the items that this body decides not to move forward that, this term be deferred so that it can be brought back up next term in, and be revisited. Finally, may I remind you that we are only voting on whether these Charter amendments are to be placed on the General Election ballot. With that, I would like to begin public testimony.

COUNCILMEMBER COCHRAN: No objections.

CHAIR VICTORINO: No objections?

COUNCILMEMBERS VOICED NO OBJECTIONS

CHAIR VICTORINO: Thank you. Public testimony will be limited to two and a half minutes and one minute...and half a minute to conclude. When the yellow light turns on, that's two and a half minutes, when the red light turns on, that's three minutes, and I will ask you to conclude to respect all those having an opportunity to speak. Please state your name and organization that you may be representing. We've established, as you saw, our District Office communication. We will rotate between locations. With that, with nothing else to be said, I will ask Ms. Willenbrink to call up the testifiers, and if you would, call on the testifier that's coming up and the immediate testifier behind of that person, please.

MS. WILLENBRINK: Thank you, Chair. Hana Office, do you have anyone wishing to testify?

MS. LONO: The Hana Office has no one waiting to testify.

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MS. WILLENBRINK: Thank you. Lanai Office, do you have anyone wishing to testify?

MS. FERNANDEZ: There is no one waiting to testify on Lanai.

MS. WILLENBRINK: And Molokai Office, do you have anyone wishing to testify?

MS. THOMPSON: There is no one waiting to testify on Molokai.

MS. WILLENBRINK: Thank you, ladies. We will be checking in with you a little later. The first person in the Chamber signed up to testify is Mark Hyde and he will be followed by Jonathan Starr.

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

MR. HYDE: Good morning and thank you, Mr. Chair. I wish to testify on five matters, I'm not going to use three minutes on each one. So let me knock off two that are kind of short just to give you confidence in that. First, I'd like to speak to PIA-10(11) which has to do with designating Planning Commission seats for leaders of Hawaiian cultural and environmental protection groups. I support this proposal. The Planning Commission plays an important role in our community yet there are no guidelines for how to best constitute that group for decision making. Adoption of this proposal would begin to better align the Commission's makeup with the 11 strategies that are contained in the Countywide Policy Plan, 2 of which call for protecting the natural...the natural environment and preserving local cultures and traditions. Currently a majority of Commission members work in the real estate, building and construction industries. This coupled with the absence of those with special knowledge in the environment and local cultures creates a decision making body out of balance with our adopted policies, priorities and goals. And so I think this would be a first, a good step toward making sure that we have better balance in that group. Next I'd like to speak to PIA-10(9) which is Council approval of Mayor's appointment or removal of Director of Finance. In my view, whether the Director of Finance is hired by a manager or a mayor, I support the Council having the power to remove, to approve and remove the Finance Director so long as it is done by a vote of at least six Councilmembers. The Director of Finance is a critical executive post that warrants an added level of oversight by this body. Now with that, I'd like to move on to the County Manager proposal, PIA-10(16). I don't know if you want to reset the clock, Kim. I support putting your Special Committee's recommendation on the November ballot for the people to decide, and these are the reasons why. Number one, it would significantly reduce the presence of politics in management of County operations. Number two, it would install a professional manager whose tenure is dependent on achieving results and not according to election cycles. Number three, it would improve the director and deputy director selection process. Number four, it would eliminate...this is important, it would eliminate the complete and simultaneous turnover of directors with each new mayoral cycle. Thereby it would boost efficiency and create a situation that allows good people--and we have good people as directors--to build careers rather than have to rely on political fortunes. Next, it would expand

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the pool of potential candidates for directors by eliminating what the Administration has called a short shelf life for director positions. It would improve accountability of management and it would address the unproductive relationship that now exists between the Executive and Legislative Branches of government. With respect to concern among some of you that there is insufficient time to educate the public on this proposal, keep in mind that there have been numerous editorials, viewpoints, letters to the paper on this topic. There have been community forums and presentations on the subject, several of which are available online viewable 27/7 in the home or in the library. And there are 9 contested Council elections this fall wherein at least 7 of those races a candidate is openly advocating for adoption of the Special Committee's recommendation. This will put the fat in the fire. And because this is an issue of tremendous interest to the electorate, election outcomes may turn on candidate positions on the question whether for or against which will heighten the public debate. The electorate is smart and capable of making this decision, we do it all the time. Every day in our lives we make complex calculations. For instance, take the decision of who to vote for for president. In making that determination, we weigh social policy, international concerns, economic concerns, safety concerns. We also know, you know, baseline whether or not our local government is working for us. And if many of us believe it is not working optimally, we can do better and that we need a change in structure to move Maui County forward in what is going to be a much more complex world in the future compared to that which existed in 1968 when the current Charter was adopted. Thank you.

CHAIR VICTORINO: Thank you. Questions for the testifier?

MR. HYDE: I have one more comment on two items unless you want to handle that now?

CHAIR VICTORINO: That's going get confusing now but you know what, let me do on this one first, and then you can go ahead and give your comments on the other two.

MR. HYDE: Thank you.

CHAIR VICTORINO: If that, you know...questions from the, for the testifier on this matter? Seeing none, go ahead.

MR. HYDE: Thank you. I'd like to comment on PIA-10(14) and (7). I know you've combined those you just said. This has to do with Council approval of a Mayor's appointment of department directors. I think these proposals speak volumes about our strong mayor system of government where an elected mayor not only serves as the County's chief executive but also as the County's chief operating officer. After 50 years of strong mayors responsible for County operations, you should not have to at this point ask for job descriptions from the Administration, nor should you have to check every appointment to make sure the directors possess basic qualifications to do the work that they're hired to do. So the root cause of the problem at hand is not a lack of Council oversight over these appointments but the way we select our County chief operating officer that is the Mayor by popular vote with criteria that's based upon being 18 years of age or older, a citizen able to vote, and have lived in the County for

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at least 1 year immediately preceding election to the post. Now political skills needed to get elected Mayor are very different from management know-how needed to be effective operationally. So in the current structure, we are actually asking our elected Mayor to do something that the Mayor is not able to do. It requires management know-how and skill. Furthermore, the process of becoming the chief operating officer through the electoral process entails campaign financing which creates at a minimum the appearance of undue influence in operational decision making by those who donate to the winning candidate. Second, these measures if enacted would likely serve to further erode the already fractious relationship between the Legislative and Executive Branches of government. I think it would be counterproductive. Third, if enacted, they would not address the forced turnover of departmental directors and deputies with each new mayoral administration which is an unfortunate part of the strong mayor form where each new mayor brings his or her team in, resulting in a new set of directors who have to learn the job, learn the issues, learn the lay of the land, get to know the people, all detrimental to the efficient use of County resources and the work culture. Fourth, they don't address politicization of our directors inherent in a model that bases job tenure on election campaigns and fortunes. This radically changes behavior and focuses management on politics and not on the people's work. Fifth, they are in conflict with the Maui County Manager proposal, and because it's unlikely there will be more appointments made by the current Administration through the end of this Mayor's term, these proposals can and should be deferred until a later date. Thank you very much.

CHAIR VICTORINO: Thank you, Mr. Hyde. Any questions now for the testifier? Seeing none, thank you. Next testifier please, Ms. Willenbrink.

MS. WILLENBRINK: Yes, Chair. Jonathan Starr, followed by Louise Corpuz.

MR. STARR: Good morning, Chair Victorino, Vice-Chair Couch, Chair White, and honorable Councilmembers. My name's Jonathan Starr. I had the positive experience of serving on the Special Committee on Governance. I thank you for entrusting us with that responsibility. And I also served on the TIG that actually drafted most of the language. I hope that since the Council entrusted us and empowered us to come back with a recommendation, that that process be honored and that the recommendation be put forward to the voter so that the people of Maui have the opportunity to weigh in on this matter. Governance is a most important thing. Over the past 50 years or so, the jurisdictions, municipalities, counties and cities of the US have moved from about 20 percent to over 65 percent toward having professional managers in the position of governing the administration of the jurisdiction, and there's a reason for that. Because for the most part, it functions more harmoniously, it creates a spirit and conditions for teamwork rather than conflict between the different sides. The roles are set out clearer. It's more like the way the military functions with a clear chain of command instead of bifurcated entities that fight with each other. I think that Maui can really move forward to a situation where our \$700-million-a-year organization functions a lot more efficiently and as a team. The Mayor in the structure that we created would be a very important part of it. In a sense, the Mayor becomes the voice and face and cheerleader, and hopefully this is the aunt or uncle that pulls all the

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different sides together and talks to everyone. That is really the intent. It'll also lessen the power of special interest and lobbyists who some feel are quite strong. And it will create I believe an opportunity for better governance. One thing that the Committee couldn't do, I feel there should be a deputy. That can be done administratively or handled at a later date. But there should be a deputy manager. Anyway, thank you very much. I'm happy to be a resource at any time in the process. I wish to speak on one other item very briefly, Mr. Chair.

CHAIR VICTORINO: Go ahead, Mr. Starr.

MR. STARR: I'm speaking about 13(11) [sic] which is creating positions on Planning and some other commissions for environmental and Hawaiian cultural knowledge. I've served in that position on a number of major commissions in the past from the autonomous Maui Water Board, the Hana Advisory, the Planning Commission. I served on the Planning Commission and as chair, and I'm just finishing up my term on the State Commission on Water Resource Management. And it is really important to have a varied voice and the voice of the environment, and the voice of TNC on those entities. I also feel that it'll help the community of people who both live to try to protect and malama the environmental resources as well as cultural, the cultural needs of our community to step up their game. Because when you're on a commission and you're the one person representing, you know, the environmental interest say, you really have to work a lot harder and it creates an incentive to work harder. I applied for State Water Commission 11 times before I was finally appointed. I applied for Maui Planning Commission 4 times before I was appointed and was honored to serve as chair. It really takes that kind of commitment and the time to work with staff. Mr. Carroll is nodding because he's been there. You really have to work harder and then you can accomplish wonderful things. Anyway, thank you for putting that forward as well. Aloha.

CHAIR VICTORINO: Thank you. Any questions for the testifier? Seeing none, thank you.

COUNCILMEMBER COCHRAN: Chair? Oh sorry. Chair? No, not a question but just clarification. He mentioned 13(11) but 10(11), the item number.

MR. STARR: Yeah.

COUNCILMEMBER COCHRAN: Yeah, just for the record.

MR. STARR: Yeah, I apologize.

COUNCILMEMBER COCHRAN: Thank you.

MR. STARR: I wrote it down wrong.

COUNCILMEMBER COCHRAN: No problem. Thank you, Chair.

CHAIR VICTORINO: Thank you for that clarification. Ms. Willenbrink, please?

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MS. WILLENBRINK: Our next testifier is Louise Corpuz, followed by Sheri Morrison.

MS. CORPUZ: Good morning. My name is Louise Corpuz. I'm representing the Maui ILWU Pensioners Club. Could I please touch on the subject of affordable housing? My issue is there is no such thing as affordable housing...

CHAIR VICTORINO: Louise? Ms. Corpuz, I beg...

MS. CORPUZ: Excuse me?

CHAIR VICTORINO: One moment.

MS. CORPUZ: Yeah.

CHAIR VICTORINO: We have definite --

MS. CORPUZ: Oh.

CHAIR VICTORINO: --items on the agenda and we need to --

MS. CORPUZ: I see.

CHAIR VICTORINO: --stick to those items. So affordable --

MS. CORPUZ: Is it on government?

CHAIR VICTORINO: --housing is not a part of the --

MS. CORPUZ: Okay.

CHAIR VICTORINO: --discussion today.

MS. CORPUZ: Oh okay.

CHAIR VICTORINO: And I apologize.

MS. CORPUZ: I'm sorry.

CHAIR VICTORINO: You need to speak on the governance or any of the --

MS. CORPUZ: Oh, the government. Okay.

CHAIR VICTORINO: --other items that are on...

MS. CORPUZ: Okay, thank you.

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CHAIR VICTORINO: Please. Thank you, Ms. Corpuz.

MS. CORPUZ: Okay, thank you. On the government items, as a pensioners club, we have 80 members and we have been talking about how our government has been operating. We the kupunas for the Maui ILWU are really concerned about how things are changing. We also support whatever the Mayor is doing his very best for Maui County. So we cannot understand why there is so many changes. We already have a lot of changes on Maui County. Some of the things that we all don't agree 'cause many freedoms has been taken away from us old-timers who have born and raised here for many years. There was so many freedom before and now more and more things are taken away from us. As we are concerned we are really trusting our Mayor to do the best we can. The biggest fear is not having a mayor or a government manager, the fear is the more you change the Charter, the more and more young, middle-age, and older people are refusing to come out and vote. That's why our population on Maui is dropping, because people are very uncomfortable of all these new Charter changes. So I think we should look at it and try to see how we can work with the regular people. And as far as getting along, I think every politician and every mayor, they try to have a lot of commitment, hard work, and sacrifice to help all our citizens of Maui County and to conserve our budget. Our budget is very tight. So I appreciate all of you and we thank you all as Council and the Mayor, and whatever you can do for us. Mahalo.

CHAIR VICTORINO: Thank you, Ms. Corpuz. Questions for the testifier? Seeing none, thank you, Ms. Corpuz.

MS. WILLENBRINK: Sheri Morrison, followed by Jim Smith.

MS. MORRISON: Aloha, Chair Victorino and Members. My name is Sheri Morrison. I'm here to...

CHAIR VICTORINO: Sheri, can you get the mic a little closer? Yeah, there. Thank you.

MS. MORRISON: Okay.

CHAIR VICTORINO: There you go.

MS. MORRISON: Is that better?

CHAIR VICTORINO: That's good.

MS. MORRISON: I'm here to give testimony on the Committee item relating to a County Manager form of governance, sub-item 16 I believe. As a former County employee and former Managing Director for the County of Maui, I'm interested in the Committee's review and where we go from here. They say the devil is in the details and that's definitely true of this proposal. We all need to understand the consequences of such a major overhaul in order to make an informed decision. I ask that you consider a few questions as you deliberate this item. If the Department of Personnel Services and a

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recruiting firm draft the position description for a new County Manager, will the public have any input? Will the Council have the power to review and approve the position description? Will the new County Manager need a recruiting firm to find and screen new department heads and deputies? Will Council approval of these appointments be required? Will employment contracts be open-ended or will a set number of years be established with renewal a possibility? Will there be a deputy County Manager? What sort of action or ethical breach will be considered as cause for the Council to remove the County Manager? How many votes will it take? Will the Mayor have veto power? What happens if the County Manager is actually fired? Who runs the County then? Would the deputy County Manager and the department heads leave with the person who appointed them? Is there a way to plan ahead for such a transition? How much will a County Manager be paid and who decides that? Will the County Manager have executive staff that he or she appoints? What happens to the Department of Management and all the civil service employees currently working there? Will the County Manager be their department head as well as head of Countywide operations? Or will another department head be appointed? Will the Mayor have executive staff? How many and for what purpose? What happens to CDBG or Community Development Block Grants and the Office of Economic Development? Who will draft the position descriptions and contracts for department heads and deputies? Will the County Council have any power to review and approve? And finally, will the County Manager be called the County Manager or the Managing Director? These are just a few questions that seem worthy of deliberation by this Committee and the community before we are asked to vote on such an important issue. Thank you for your consideration. Aloha.

CHAIR VICTORINO: Thank you, Ms. Morris. Morrison, I should say. Yes, Ms. Baisa?

COUNCILMEMBER BAISA: Thank you very much, Chair. And thank you, Ms. Morrison, for being here this morning. I thank you for the work that you submitted, your testimony and all the questions. They're good ones and we probably should be taking a good look at them. But absent the answers to those questions, I'd just like if you would be willing to share what is your general opinion at this point? Do you think that this issue is ready to go on the ballot?

MS. MORRISON: I think that's why I gave the testimony is that I don't feel ready to vote. I think it's a very intriguing question and one that's worthy of review definitely. I just don't feel I know what the specific implementation is going to be, and therefore I'm not comfortable voting one way or the other.

COUNCILMEMBER BAISA: Okay. Thank you very much.

CHAIR VICTORINO: Any other questions for the testifier? Seeing none, thank you, Ms. Morrison.

MS. MORRISON: Thank you, Chair.

CHAIR VICTORINO: Next testifier please.

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MS. WILLENBRINK: Yes, thank you, Chair. Our next testifier is Jim Smith and he will be testifying on five items. After him will be Bill Greenleaf.

MR. SMITH: Aloha, Chair. Aloha, Members of the Committee. My name is Jim Smith and I'm testifying on several items. I think you could look at these different items and have one to do with ethics and the other has to do with performance. I think there are like four for ethics, six for performance, and one that is neither.

CHAIR VICTORINO: Mr. Smith, if you would do me a favor and do the Council a favor, as you get to each item, what specific number of the item you're referring to.

MR. SMITH: I certainly will.

CHAIR VICTORINO: So we can correspond our...

MR. SMITH: I certainly will. I'm going to start off with Item No. 16 which is the governance item. One of the problems I'm having is trying to decide where the problem is. Is the problem with you? When the Mayor took the word "rehabilitate" and demolished, demolished the post office, you did nothing. He said I'm sorry. He said a formality and you sat on your hands. Now when the Launiupoko came up, okay, you got lied to and you bought the property and you sat on your hands. So where is the oversight? So where is there a Legislative Branch when you sit on your hands? So I'm wondering what the question is to have you change the structure of government? I mean an item comes up, a Member votes to amend a bill. Comes up again, he says I thought the amendments were innocuous. Innocuous, what does innocuous mean as it relates to a Legislative act? Innocuous. And then a former employee of this Member comes up and he changes his mind, and this employee now is a director and there's no reason. The employee misrepresents what the language is in the plan and this Member finds it worthy of voting. So where is the problem? So before you go forward and change this beautiful Charter, this beautiful Charter don't...this thing is years in the making, the answers are all in it. The Board of Ethics has the authority as long as you establish policy across the board. What have you done? So what, you want to take the power and put it in yourself when you don't exercise your power? So we have to I think put our feet on the ground and say, you know, there's more important things than the supremacy movement that's taking over Maui that thinks its moral, ethical background is so much superior to an existing Charter. You can't legislate morals. Ethics, you've got a Board of Ethics. We don't need all of this nonsense. What we need is for this Council to do oversight on an Executive power. And I don't care if he plays bridge or chess.

CHAIR VICTORINO: Mr. Smith? Mr. Smith?

MR. SMITH: So I'd ask you to do that.

CHAIR VICTORINO: I don't want you go back to Washington, but would you go on to the next subject matter please? I've got to stop you. I know --

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MR. SMITH: No, I appreciate that.

CHAIR VICTORINO: --your passion, Mr. Smith.

MR. SMITH: There is a timeframe here and I --

CHAIR VICTORINO: Yes, please.

MR. SMITH: --respect that very much. I have established testimony on 10(5) I guess, 10(3). I had 10(16) was the waving of the arms. And the one more is this notion of replacing appointees and of hiring relatives. Come on. Come on. That ends my testimony.

CHAIR VICTORINO: Thank you, Mr. Smith. Questions for the testifier? Seeing none, thank you very much. Next testifier please.

MS. WILLENBRINK: Yes. Our next testifier is Bill Greenleaf and he will be followed by Linda Berry.

MR. GREENLEAF: Good morning, Chair.

CHAIR VICTORINO: Can you put the microphone closer to you please?

MR. GREENLEAF: Oh. Good morning --

CHAIR VICTORINO: Thank you.

MR. GREENLEAF: --Chair, Vice-Chair, Councilmembers. My name is Bill Greenleaf. I'm here to testify on 10(16) in support of the Charter amendment being put on the ballot. I've been a resident for 16 years, and I've gotten active in Maui community government. And in that time, I've really learned a lot about what the Council deals with by being here and I thank you. I know the amount of issues that you deal with is, across the board is incredible, and I've looked into some of the more complex energies myself like the Anaergia waste-to-energy and the ongoing fines that we're receiving in Maui County from the EPA for sewage going into the ocean. And I think like everybody in this room, we're here for a reason. We want to see government work at its very best, and when we have things that come up that are difficult to deal with, we ask ourselves is there a better way? What's the problem here? And this is, this seems to me like a really good solution. I've researched it, I've gone to the national association of City and County Managers. Ms. Morrison's questions, many of them have crossed my mind and they have, at that association they have a frequently asked questions section. They have a national resource where governments such as ours have dealt with the transition and used, they've pulled together their information for what solutions worked, what solutions didn't work, what approaches needed more time, what things needed to be implemented immediately. So we have, there is good resources out there for this pathway that we're now considering. I just want to read one thing, I'm going to keep my testimony short today. So from the international

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managers association, they describe what happens with...what a manager is. Managers are the professional executives within local government who see the community in its entirety without being tied to one department, one interest group, or a political perspective. Working in partnership with elected officials, they help translate policy into action and visionary ideas into real results. They manage the day-to-day operations that keep services up and running while planning for the future. They supervise department heads, engage community stakeholders, develop and implement budget, and procure products and services. So to me it's the buck-stops-here desk, and as I've spent my 16 years here in my time involved in governments...governance, I've seen that it's a challenge --

MS. WILLENBRINK: Three minutes.

MR. GREENLEAF: --between the way that governance is laid out now, the defined steps, the relationships between the...

CHAIR VICTORINO: Mr. Greenleaf, could you conclude please?

MR. GREENLEAF: Oh sure. The defined steps of relationships between a Council, the Mayor, the department directors, commissions, Corp. Counsel are complex. There's things get lost in the shuffle. And so I'm strongly in support of this. Thank you.

CHAIR VICTORINO: Thank you, Mr. Greenleaf. Questions for the testifier? Seeing none, thank you.

MR. GREENLEAF: Thank you. Thank you, all.

CHAIR VICTORINO: Next testifier please.

MS. WILLENBRINK: Linda Berry, followed by Rita Massey.

MS. BERRY: Good morning, Chair and Councilmembers. My name is Linda Berry. I'm here to testify in favor of Item 10(16). Recently I heard Hawaiian scholar John Laimana say good governance creates aloha. Good governance creates aloha. What a powerful yet simple message that is. And then this morning I was reading the paper and the Mayor had his weekly message there in which he takes you the Councilmembers to task for not doing the work of the County. In this case, it was to do with homelessness. And I read that and I thought does this message from the Mayor create aloha? And my answer to that is no, this is divisive. I'd like to say to the Mayor, stop complaining about the Council, man up and get the job of doing the work of the County done, and yet we know I can't do that and that's not going to happen. Yet if we had a professional County Manager, that would be his job or her job, and if they did not perform to create aloha, you would have the ability to let them go and find somebody that would. Some of the opponents to this amendment say that the system's not broken so why fix it? And I'd like to ask them if the system's not broken then why do we constantly see messages from the Mayor in the paper taking the Council to task for not doing their job? I don't agree with the Mayor's analysis, but I do believe that the

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system is broken, that it's not creating aloha. I think that today we have an opportunity to do something that can change that, and I hope that all of you today when you're making all the decisions that you have on your plate, I know that some of you already do this but I hope that all of you will keep in your heart the principle that good governance creates aloha. Thank you.

CHAIR VICTORINO: Thank you. Any questions for the testifier? Seeing none, thank you very much. Next testifier.

MS. WILLENBRINK: Mr. Chair?

CHAIR VICTORINO: Yes?

MS. WILLENBRINK: I would just like to mention that I guess the Hana Office lost electricity.

CHAIR VICTORINO: Oh okay.

MS. WILLENBRINK: And so the ladies will be e-mailing me if they have testifiers. So we do not...

CHAIR VICTORINO: Okay. You can come up, come please. And call up the next testifier and thank you for that information, and we now know that Hana right now--go ahead, come--at this time the Hana Office is disconnected due to an electrical, an electricity shortage, if you want to use that term. Go ahead, Ms. Willenbrink.

MS. WILLENBRINK: Yes. This is Rita Massey and she will be followed by Flo Wiger.

MS. MASSEY: Aloha, Committee Members and...

CHAIR VICTORINO: Can you speak into the mic please?

MS. MASSEY: Yeah.

CHAIR VICTORINO: Thank you, Ms. Massey.

MS. MASSEY: Aloha, Committee Members and Council people. I'm testifying regarding the proposal PIA-10(11). I support this proposal because I feel we must ensure that we have a balanced commission. It can be very easily that we have non-commercial interests get lost in the shuffle when there's money involved or potential for moneymaking and I'm, sadly this can be the case a lot of times. And we need to consider what's best for the land, what's best for the culture, what's best for all of us here and not just the money interests. Thank you.

CHAIR VICTORINO: Thank you very much. Any questions for the testifier? Seeing none, thank you, Ms. Massey. Next testifier, please.

MS. WILLENBRINK: Our next testifier is Flo Wiger, and she will be followed by Mike Moran.

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CHAIR VICTORINO: What was the name again?

MS. WILLENBRINK: Flo Wiger.

CHAIR VICTORINO: Okay, sorry. I thought, I thought you said. Sorry, Flo.

MS. WIGER: Good morning, Councilmember Victorino --

CHAIR VICTORINO: Good morning, Flo.

MS. WIGER: --Members of the Council, and a special hello to Ed Kushi. We spent hours together on the Charter Commission going through all of this. I'm here to speak in favor of 10(16), and I want to speak particularly about the process issue. I know there's been some concerns raised about the fact that well, this isn't really what we thought we were going to get coming out of the Charter Commission, and I can only speak for myself. But in saying that, I will tell you this is exactly what I hoped was going to come out of the vote that the Charter Commission took to send this information to the Council. My intent was that the Council would in fact establish a special committee. The special committee would take this issue on. They would have deliberation. They would do investigation. They would do research. They would reach out to members of the community. They would then talk among themselves, and they would come up with a recommendation. That recommendation then would go back to the Council. And from my perspective, I had always felt that whatever the recommendation would be, it would go on the ballot, and the reason I believe that it should go on the ballot is because this is an issue of real significance. There are some issues in my mind that need to go to the community. The community's vote and voice need to be heard. This is one of those particular issues. There are people who say the vote was so close on the committee. That being the case, it's even more important that it should go to the community, that people can actually vote. This allows members of the Special Committee to make their voices heard. They can say this is why we're in favor of it. Other people can say this is why we're opposed to it. It puts everything out there in front of the voters, but the voters then have the right to make that decision. One of the other things that happens when you send something to a committee and I thought a long time about whether I should even raise this issue or not. You send something to a committee because either you want the work to be done, or you send it to a committee in hopes that it will go to committee never-never land. And we all know what committee never-never land is, it just goes on and on and on and nothing ever happens. This is too important to be in committee never-never land. That's why I think it really needs to go on the ballot. The voters can make their voices heard. Thank you.

CHAIR VICTORINO: Thank you, Flo. Any questions for the testifier? Seeing none, thank you very much. Next testifier, please.

MS. WILLENBRINK: Yes, our next testifier is Mike Moran, and he would like to speak to all items, followed by Marjorie Bonar.

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CHAIR VICTORINO: And, Michael, I hope you're not going to use three minutes on every item.

MR. MORAN: Not even two-and-a-half.

CHAIR VICTORINO: All right, you're my man. Thank you, Mr. Moran. Go ahead.

MR. MORAN: Good morning, Chair Victorino and Councilmembers. Mike Moran for the Kihei Community Association. And yes, established, we do have opinions on all matters but in the interest of brevity, for many we will simply state yes or no as we see the number of potential testifiers and the complexity of the agenda. Where we believe necessary we will give very brief comment or explanation, and we did them in order of the agenda. So 10(13), the County employee campaign contributions, we understand the intent but we would say no to this one. Ten-sixteen, the County Manager, yes place on the ballot, give the citizens a choice. Please have respect for the guys who elected you. If you had confidence in them to elect you, please have confidence that they can make decisions as well. At KCA, we observed all the Special Committee meetings, testified at a few, heard most of the Cost of Government Commission meetings, now it is up to the voters. So yes, please place this on the ballot in November. Moving on to 10(14), obviously we were not aware that it was going to be combined with 10(7) but we're in favor of both, so I'll mention briefly our words on, as it was stated, 10(14), Council-approved director appointments. Our query is if 16 were to become law, how could 14 become law? We need a plan which I'm sure you'll do in your discussion. But so we would say yes to this if the language was modified. Okay, moving on to the some of the short ones. Ten-one, removal of Corp. Counsel, yes please give the, put this on the ballot. Ten-three, code of ethics, the same, yes on that one. Ten-five, Council Service lawyers, yes on that one. Ten-seven, Council approval of director appointments, if 16...and this is complicated but if 16 is not approved then if 14 is not approved, then we would say yes to No. 7. If the others, either of the others are approved we would say no. That's as clear as I can make that.

CHAIR VICTORINO: Thank you.

MR. MORAN: Ten-ten, Corp. Counsel involvement in elections, yes. This can be done as many Federal employees do have such restrictions. Okay, one rather lengthy one, 10(11), and that's the Planning Commission seats. We would say yes to this for the one that we're familiar with, the Maui Planning Commission. We testify very often at the Maui Planning Commission, and we see volunteer commissioners obviously appointed by their occupation or affiliations even though we see nothing in the Charter with any requirement beyond proper island residence. We say obviously as when one terms out after the five years, the replacement appointment is a match. You see this as well as you approve them. Perhaps this very powerful Commission should have requirements as other commissions and boards do, and we believe beginning with these two qualifications is an excellent start. Yes, to be clear we see past and present commissioners who are very ethical and make fair decisions, so our issue is

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not with the individuals, it is with the current system, and we say yes to 10(11). And finally 10(15) very simply yes to this one. Thank you very much for your diligence.

CHAIR VICTORINO: Thank you for that very comprehensive and to-the-point overview. I appreciate that.

MR. MORAN: You're welcome, sir.

CHAIR VICTORINO: Any questions for the testifier? Yes, and specifically which one to please, Mr. Couch. . . .*(inaudible)*. . . gotta be real specific, please. Go ahead.

VICE-CHAIR COUCH: Sure. Did you mention 10(9) at all?

CHAIR VICTORINO: Yes he did.

MR. MORAN: Yes, sir.

VICE-CHAIR COUCH: I'm sorry, I didn't hear 10(9).

MR. MORAN: Yeah, well it was the whole list. We said yes to that one.

VICE-CHAIR COUCH: Okay, good.

MR. MORAN: We're in support of that one.

VICE-CHAIR COUCH: And also you mentioned in 10(11) you said just to the Maui Planning Commission?

MR. MORAN: Yes, sir. Because we're not familiar enough with the other two commissions.

VICE-CHAIR COUCH: Oh, so you're taking no stance on...

MR. MORAN: Exactly.

VICE-CHAIR COUCH: Okay, gotcha. All right, thank you.

MR. MORAN: Thank you.

CHAIR VICTORINO: Any other questions for the testifier? Seeing none, thank you.

MR. MORAN: Thanks.

MS. WILLENBRINK: Marjorie Bonar, followed by Lana Vernir.

MS. BONAR: Move that down to where I can even see it. Good morning, all. Aloha. I'm here primarily to testify surprisingly about 10(16). The current proposal for a change in the County Charter, it's a baby step toward a full-fledged change. This incremental effort

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to increase efficiency and accountability is a compromise that all sides of the issue should be able to live with. It is neither sweeping change nor sweeping things under the carpet. Give the voters the responsibility of making this decision. It is more likely to correct many of the problems with functions and procedures within and between departments and programs with the perceptions of malfeasance and favoritism that accompany them. And that's only perceptions. Putting this change on the ballot and opening it up for healthy debate in the community should not be a problem for any person interested in honest and open government. Ten-fourteen was giving the Council approval for Mayoral selections doesn't and also...doesn't address the pool of applicants and does nothing to assure that the best person available is even considered. It's a move to forestall making a change for professionalism, accountability, and its presence on the ballot would only serve to confuse the electorate. The work of the Special Committee should not be disrespected. This violation of Sunshine Law that went with the minority report and the cavalier manner in which this violation has been allowed and included as appropriate is an example of what is broken in the current system. A lot of this would be addressed by the number of the questions that Ms. Morrison posited. And given that only shows is it a chicken or an egg? Do you work out every detail before you know you have a need for doing it? That is where it's going to be the huge amount of work going to both the County Council and the County services. Thank you. Just put it on the ballot.

CHAIR VICTORINO: Are you done, Ms. Bonar?

MS. BONAR: That's it.

CHAIR VICTORINO: Thank you. Any questions for the testifier? Seeing none, thank you very much, Ms. Bonar. Next testifier, please.

MS. WILLENBRINK: Yes, Chair. And I apologize if I mispronounce this name. Lana Vernir, followed by Lisa Selman.

MS. VERNIR: Good morning, Mr. Chairman.

CHAIR VICTORINO: Can you...yeah, speak into the mic. Yes, thank you.

MS. VERNIR: Good morning, Committee Members. My name is Lana Vernir and I'm here to testify on 10(16). And I would like respectfully request that the County Manager issue be placed on the ballot on November 16. From what I understand, a lot of issues to be discussed but please let the people of Maui to make this decision. Thank you very much.

CHAIR VICTORINO: Thank you. Any questions for the testifier? Seeing none, thank you. Next testifier, please.

MS. WILLENBRINK: Yes. Lisa Selman, followed by Ke`eaumoku Kapu.

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MS. SELMAN: Good morning, Chairman, and good morning, Councilmembers. My name is Lisa Selman. My husband and I have just returned to Maui after living in Honolulu for eight years and we are so happy to be here. It's like a breath of fresh air. And I'm here to testify on PIA-10(16). I respectfully hope that it would be put on the ballot. I do believe it's an important...that the people of Maui are allowed, Maui County are allowed to hear the debate, the issues back and forth, and to be able to make the decision for themselves. I can't tell you how frustrating it has been to be in Honolulu and hear the dialogue on the rail and know that there's really not much the normal citizens can do about it. So I'm looking for a new kind of I guess participation here in Maui and I'm...thank you very much for allowing me to testify.

CHAIR VICTORINO: Thank you very much, Ms. Selman. Any questions for the testifier? Seeing none, thank you. Next testifier, please.

MS. WILLENBRINK: Yes. Our next testifier Ke`eaumoku Kapu, followed by Andrew Beerer.

MR. KAPU: Aloha, kakahiaka kakou. . .(*spoke in Hawaiian*). . . My name is Ke`eaumoku Kapu, I'm from Lahaina. Good morning, everybody.

CHAIR VICTORINO: Aloha.

MR. KAPU: Trying to get my brains kind of wrapped around this situation, at the same babysitting my moopunas over there. So I get multiple tasks today. I'm in support of the proposed Charter amendment 10(11). And I wanted to kind of press this body as how long it was for us to establish some policies and rules within legislation. In 2006 there was a convening of a lot of practitioners throughout the State of Hawaii that brought together major policymakers and stakeholders in the protection of our Hawaii ecosystem. Native Hawaiian practitioners and expertise in traditional methods of sustainability, government policy makers, including members of the Legislature, State agencies, directors, environmental groups and educational leaders, and Hawaiian community organization discussed existing programs and their successes and failures in the community building. In conclusion, it was agreed that the statutes and ordinances and the framework for community consultation using Hawaiian perspective and traditional methods such as the ahupua`a management system was needed and the creation of the Aha Moku Council should be established. In 2006 Governor Linda Lingle signed Act 212 of the Aha Moku system to exist throughout the State of Hawaii. Additionally, in 2012 Governor Neil Abercrombie signed an existing Act 288 in the formation of the Aha Moku, the AMAC, the Aha Moku Advisory Committee under the Department of Land and Natural Resources. So there is an existing body that is made up throughout all the different islands. Maui has 12 representatives of 12 different districts. Every island has representation there to serve as an advisory capacity to policies that are horrendous and needs to be addressed pertaining to the Hawaiian methodology and how things need to work in County ordinances and government. I urge this Council to take into high perspective of how and why it is important to assure that we have people that is adequate in understanding what their roles are and sitting on these committees. I sat on the County Culture Resources Committee for Maui. I also served on the State, Maui and

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Lanai Island Burial Council. I served on, served as an advisory panelist for WestPac Fisheries and that's a Federal advisory council. And I still serve as the Aha Moku CEO, but I also serve as the chair of the Native Hawaiian Historic Preservation Council for the Office of Hawaiian Affairs.

MS. WILLENBRINK: Three minutes.

MR. KAPU: So mahalo. Take in that into consideration. Thank you.

CHAIR VICTORINO: Thank you. Any questions for the testifier? Yes, Ms. Crivello?

COUNCILMEMBER CRIVELLO: Aloha and mahalo for being here.

MR. KAPU: Hi, aloha.

COUNCILMEMBER CRIVELLO: In reference to the Aha Moku, do you feel that their participation is, as the advisory, do they participate with the Planning Commission, the Maui Planning Commission in particular?

MR. KAPU: I feel it's really important because for me being in front of the Planning Commission many times, it's very troubling to know that there isn't people that is adequately in that body that can address certain issues when it comes to sustainability, when maybe a development might be encroaching. You know the simplest thing as a seawall being built, I think high recommendation should be given on those kinds of things, and should be given from people that really understand the lay of the land. Yes.

COUNCILMEMBER CRIVELLO: Okay. Mahalo.

MR. KAPU: Okay, thank you.

CHAIR VICTORINO: Ms. Cochran? Yes, Ms. Cochran, I'm sorry.

COUNCILMEMBER COCHRAN: Thank you. And good morning, thank you, Mr. Kapu, for being here. And speaking on the Aha Moku Council and sticking with that. So in reference to also Ms. Crivello brought up that point and you mentioned that Planning Commission. So am I feeling...am I hearing that you feel it'd be...you're talking about the adequacy of people on the commissions and that's why I guess Aha Moku is able to come in and testify and bring points to the floor. But you felt, feel that there could be someone within that body to have these credentials I guess to better address situations that come up on behalf of Hawaiians and cultural practices and what have you?

MR. KAPU: Yes, most definitely, because I think it's too quaint a lot of the permitting that is going to the Planning Commission that there is, I mean there is 343 in the policies of the County but where does that go? It goes to the Cultural Resources Commission. Not everything goes through the Cultural Resources Commission when it comes to the

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planning. But when you have certain issues that address 343, that goes directly to the Planning Commission, there is, I feel there is nobody adequate enough to speak on that behalf. I've come in front of this Council many times, four years ago when we were well established to ask to be in front of this body to share what the system was all about and how we can incorporate. I also, you know, mahalo the Chair for also attending one of our conferences in Oahu on how it was really important, how we can incorporate the moku representatives to be a part of the system to create a partnership. We've created a partnership with the State Department of Land and Natural Resources, with DOBOR. We sit at the table with them on conflicting issues when it comes to our land and ocean environment. Now we're in front of the County and we've been in front of the County many times on how it is very important that we start looking into the community on that expertise on how it would be viable. Very important to have people with that knowledge sitting on these committees, especially with the Planning Committee [sic].

COUNCILMEMBER COCHRAN: All right.

MR. KAPU: So thank you for the question.

COUNCILMEMBER COCHRAN: And thank you for your time. Thank you, Chair.

CHAIR VICTORINO: Thank you. And, Kapu, thank you. I think it's very important to understand what's going on out there and have people who are knowledgeable. And that was very much an eye opening, plus having the couple that I attended here on Maui County really makes me understand the importance of what you folks do, and that should be brought to the table. But thank you.

MR. KAPU: Thank you. Thank you very much.

CHAIR VICTORINO: Any other questions? Seeing none, next testifier, please.

MS. WILLENBRINK: Yes, our next testifier is Andrew Beerer, followed by Kevin Mulligan.

MR. BEERER: Aloha, Chair, and aloha, Council. My name is Andrew Beerer, 15-year resident of South Maui. I'm here to respectfully testify in support of 10(16) to put the County Manager amendment on the ballot. By now you have heard verbatim the pros and cons of a mayor versus manager system and many hybrids of it. At this point in your Council careers, you have been well versed in public service and County planning. Whether through academia and/or simply your real-life experience on Council, you have been enlightened to different types of government structure and their benefits, and you surely have your own opinion and voice. I humbly do not have your experience as a public servant and I am certainly not an expert on all political structures, but I do hold a degree in political science from a major university. I can tell you that the study of a manager/director structure is an integral part of the urban politics model. This model has been proven effective in contemporary municipalities with populations over 100,000 persons such as ours. It is time to honor our representative political system and give that voice to the people. Let them be

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educated, let them be opinionated, but please just let them vote. Please put the issue on the ballot. Thank you.

CHAIR VICTORINO: Thank you, sir. Any questions for the testifier? Seeing none, thank you very much. Next testifier, please.

MS. WILLENBRINK: Yes, our next testifier is Kevin Mulligan. He is speaking on two items and he will be followed by Dick Mayer.

MR. MULLIGAN: Good morning, Chair Victorino, Members. Kevin Mulligan testifying for Hawaii Government Employees Association. We're testifying on a couple of matters. I apologize, our testimony was listed as PIA-10(3), it should have been PIA-10(15). Our concern here is that allowing the Board of Ethics to impose disciplinary action on employees is inappropriate. And I think that Corporation Counsel in the last hearing that occurred on June 1<sup>st</sup>, raised the same issue. Any discipline should be vested solely in the appointing authority and not in the Board of Ethics. And if you look at the Honolulu Ethics Commission, they do have the authority to impose civil fines and they have the authority to recommend disciplinary action, but they do not have the authority to impose disciplinary action, and that should rest solely with the appointing authority. With regard to PIA-10(13), this is the item that would restrict County employees from political activity. We have serious concerns about infringement on the First Amendment. I believe that too was raised by the Corporation Counsel. There are already sufficient restrictions on political activity by government employees while on the job. Even the Hatch Act which imposes serious restrictions on Federal employees, does not prohibit them from making donations or participating in Federal campaigns. So I would respectfully ask that you hold that measure. Thank you.

CHAIR VICTORINO: Thank you.

MR. MULLIGAN: Be happy to answer any questions.

CHAIR VICTORINO: Any questions for the testifier? Seeing none, thank you.

MR. MULLIGAN: Thank you very much, Chair.

CHAIR VICTORINO: Next testifier, please.

MS. WILLENBRINK: Yes. Our next testifier is Dick Mayer, he will be testifying on three items, and he is followed by Tiare Lawrence.

MR. MAYER: Good morning, Chair Victorino, Members.

CHAIR VICTORINO: Good morning, Mr. Mayer.

MR. MAYER: First one I'd like to speak on is the environment, Hawaiian appointments to the Planning Commission. I strongly support this motion and I'd like to give an example from my own life. I was on the County Planning Commission back in 1973, '72-'73,

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that period of time, and I was appointed by Mayor Cravalho at the time sort of to be a different voice on the Commission. Most of the people at that time were members of the union, business community, very much like it is today. And when one of the projects came up, it was Wailea to the Commission, I was able to insert certain language into the final approval for that project. And I'm using this as an example of how an environmental voice might make a difference. At that time, we had in Hawaii the large development in Waikiki where the hotels were right on the ocean as they, you all seen. Out in Kaanapali, the hotels were being built right on the ocean, and I insisted in the Planning Commission that there should be a setback from the ocean of 100 feet or larger amount. Eventually my voice was heard and the condition was put in there, and that's why Wailea has a whole different feel along the ocean. It has a walkway, it's one of the most important parts, the amenities of that whole resort. That's the kind of thing that an environmental person might be able to insert. I wish I could say I was knowledgeable enough about ocean levels rising that that's why I did it, but that was not the case. But it was for the purpose of creating a more beautiful environment. The second aspect of that same thing, our most important industry on this island, as we all know we're dependent on it is tourism. And these two areas, environment and Hawaiian culture are the keys why Hawaii and why Maui keeps getting voted so highly in tourist rankings. And to have a voice on the Planning Commission dedicated to protecting Hawaiian culture and the environment I think is absolutely critical and I think it should be an important part of it. I would caution you that you make sure that the final language of this thing does not say it has to be a Hawaiian person, someone of Hawaiian heritage, because that might be challenged in the courts as being unconstitutional profiling. It can certainly say somebody who represents the Hawaiian culture, who's spoken for it, who's knowledgeable, all of that could be in there, but you may not want to put it in the language that it has to be Hawaiian. Obviously I would hope that somebody would be of Hawaiian heritage but that is not a critical element of it all. Let me move on to the second item and that is the argument on governance or the amendment for governance. I have several arguments. I was trying to think, you know, what it would be in your mind about this and what would be the arguments against putting this on the ballot. I'm in favor of putting it on the ballot. One argument might be our Maui County government structure is working perfectly right now. If you have any doubts at all that it's working perfectly, you would want to examine how can we make it better. And one of the areas that I think you're frustrated with is very often you pass budget items that the Administration does not do. Launiupoko was mentioned as a land purchase was an example and other things that are done. And you have very little ability to go against what the Mayor is doing right now. Reports are required, our Charter now requires certain reports to be prepared. For example, the Planning Director is supposed to give you an annual report on the General Plan and how it's functioning and where that's being implemented, et cetera. You've never gotten that report, and you have no control over that kind of an item. I'm hoping that changing the structure, by your having the ability to appoint a Managing Director will give you much more leverage over the types of reports, the types of implementation that goes on in the County and keeps the Mayor a little bit away from that section of operating. There's an important role for the Mayor and this amendment would not eliminate the Mayor, it would just change the responsibilities in the Administration, and would create better balance

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between the Council and the Executive Branch. The second idea that you may have against it, it's just a bad idea, the proposed changes aren't workable or are inappropriate. The majority of communities and counties and communities have accepted the County Manager as their form of government. They must know something. There's a long track record of them working well. Yes, there are some counties where it may not have worked as well, but the majority of the communities have done that. Another argument that might be against it is the voters will be confused and most Maui voters would not know how to vote on this type of government structure if it was on the ballot. I would only ask you to look at your own being here now. If you doubt the voters of Maui's intelligence, you are all here now as a result of their intelligence. Sheri Morrison gave you a long list of items that were questionable, and I think those items can be taken up. If this measure were to pass, you have two years, and I would hope that you would insert into the Charter change the year 2018 as to when it would go into effect and make sure that that's in there. You will have two years to make provisions in there, to make amendments, in some cases to the County Code, in other cases, perhaps even a new Charter amendment to implement a number of things, including the appointment of department directors, how it's all done. If you put the department director thing on the ballot right now, it probably will have very little effect between now and 2018, because the present directors are already there and the Mayor is not changing between now and then. So those directors would stay in position.

MS. WILLENBRINK: Three minutes.

MR. MAYER: I'm really speaking on Item 2(7)...No. 7 and No. 14 right now. Department directors I think I would like to see them being vetted better, that the Council would have some say on it, but I don't think you need to put in here...and in fact it may be contrary. In other words, if the amendment on governance does pass and then you also pass this, there's an interaction between the two that may cause problems. I would urge you to pass the governance one on to the ballot. I would urge you to hold back on the department directors at this time, knowing that you could then make the changes depending on how the public votes on the governance issue. And I thank you for your time.

CHAIR VICTORINO: Questions for the testifier? Mr. Couch?

VICE-CHAIR COUCH: Thank you, Mr. Chair. And thank you, Mr. Mayer, for your comments. On 10(14) and 10(7), so you're saying that if, for instance if the 10(16) gets on the ballot and it passes, that you wouldn't need 10(14) or 10(7)? Obviously it says the Mayor in 10(14) or (7), but if it got changed to say the Mayor or the hired Managing Director...

MR. MAYER: Right. It would create, perhaps that would create confusion in the minds of the public how to vote on it. It would be tough to interpret what that vote was. And I think that I would hold it back. If it, the County Manager or the Managing Director item passed, the governance matter passed, you would then have two years to examine all of those questions that Sheri Morrison wisely gave you, to make the

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modifications, to make sure it will implement. Right now there probably will be no changes. Maybe one change here or there of a department director but not worthy of going through the whole exercise of that amendment.

VICE-CHAIR COUCH: Okay. So it sounds like you're supportive of the Council approving the appointments of the department directors whether it's from the Mayor or for the Managing Director?

MR. MAYER: That's correct. I think the Council --

VICE-CHAIR COUCH: Okay.

MR. MAYER: --should have a role.

VICE-CHAIR COUCH: Okay, thank you.

CHAIR VICTORINO: Thank you. Other questions for the testifier? Seeing none, thank you, Mr. Mayer.

MR. MAYER: Thank you and best wishes.

CHAIR VICTORINO: Next testifier, please.

MS. WILLENBRINK: Yes, our next testifier is Tiare Lawrence and she will be speaking to two matters. Oh, and she will be followed by Dr. Paul Kailiponi.

CHAIR VICTORINO: Okay, thank you. Go ahead.

MS. LAWRENCE: Aloha, Councilmembers. My name is Tiare Lawrence and I'm testifying on two different matters, PIA-10(11) and 10(16). And I just wanted to remind you guys that your vote today is just to put it on the ballot, from there allowing the people to decide what they want. And you personally can say yes or no on your own ballot, so just kind of wanted to put that out there. I wanted to reference Mr. Dave DeLeon's written testimony that he submitted today. It states that nominations to the boards and commissions are among the powers of the Mayor and goes on to state that anyone can apply and be appointed, alluding to the fact that it is already a fair selection process, that anyone can participate in; however, if you look at the nominations that are sent down to you for approval, you rarely see any representation from these two very important groups in our community makeup. On our current Maui Planning Commission, the body is a real estate person, union, visitor industry, union, union, real estate, union. We need this type of direction from our Charter so that equality is required. I also just wanted to say that we need balanced representation to ensure responsible development, that it will help to preserve Maui's integrity and to keep Maui Maui. None of us want to see Maui look like Oahu. We have seen time and time again that interveners usually come from the environmental and Hawaiian community. I think that if you give the environmental and the Hawaiian community a voice at the table, then you would actually be speeding up the process. To address

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bias, my feeling right now is it's biased right now, because those two views are not being represented on the Commission at all. Mr. DeLeon also said in his written testimony and it states, there is nothing overtly cultural about the Planning Commission process. In Hawaii, land use is culture and history. In Hawaii, land use by definition is cultural. Making decisions on land use with no knowledge of culture, history, or environmental impact is reckless and irresponsible and has brought to us many of the problems that we face today. And then I'll go into PIA-10(16). I just believe that our community deserves to have directors with the right experience and qualifications. Best management practices teach us to promote within from a department, and currently we're not doing that because of course every four to eight years, there's a turnaround. This seems to me to be the right solution in the best interests of our community, so I urge our County Councilmembers to let the people decide what they want and to please put it on the ballot. Mahalo.

CHAIR VICTORINO: Thank you, Ms. Lawrence. Questions for the testifier? Seeing none, thank you very much for being here.

MS. LAWRENCE: Mahalo.

CHAIR VICTORINO: Next testifier, please.

MS. WILLENBRINK: Our next testifier is Dr. Paul Kailiponi, followed by Alana Kay.

MR. KAILIPONI: Good morning, Committee Members. My name is Dr. Paul Kailiponi, I'm the chair of the Cost of Government Commission. The testimony that I'll be providing today is similar to testimony that I provided to the Special Committee on Governance a month ago. In September of last year, representatives from both the Maui County Council, specifically Chair White, as well as members from the Mayor's Office came to our Commission asking us to investigate this very topic about a change of form of governance from a strong mayor form of government to a council-manager form of government. We decided to take on that topic, and as part of our Charter mandate, decided to focus on economy, efficiency, and costs of a possible change from a strong mayor form of government to a council-manager form of government. Although some of the other issues and values that were discussed in other venues were also considered in our own report. In the focus of our understanding, we looked at historical and current council-manager forms of government across the country, thousands of municipalities over a course of over a 20-year period, looking at whether a council-manager form of government could be stated to be more efficient and less costly, result in more professional management, result in lower turnover costs, result in lower executive costs, or result in greater financial terms for those counties. We looked at over 200 pieces of written and oral testimony that was presented to our Commission as well as the Special Commission [sic] on Governance; over 20 academic and practitioner articles looking at comparisons between those forms of government; phone interviews with department heads and division heads within our County; director interviews with people from the Mayor's Office including the Mayor and Managing Director; salary information from the Office of Personnel Services, 11 other municipalities and the League of California City Managers; interviews with

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professionals from executive search organizations and credit surveyors; charter and city ordinance analysis from eight other municipalities; and testimony from the Salary Commission in particular. Our findings indicate that a council-manager form of government fairs no better than a strong manager [sic] form of government in terms of efficiency and cost effectiveness. We found that the turnover rates for chief administrative officers would be no different between a strong mayor and a council-manager form of government. And in terms of department heads, we did not have sufficient evidence to say one way or the other. We found also that the financial standing of our County would not improve through a change to a council-manager form of government. Of particular interest is a salary issue, and in fact the way that it stands within this proposed Charter amendment, costs for executive salaries could be estimated to increase significantly. The normal cost for a City Manager of a comparable size to Maui and California is on average \$268,000 a year. If we were to have a council-manager plus a deputy and eliminate the Mayor's position, that would still indicate an increase of 83 percent in the cost of executive salaries within this County. The form of government that's proposed by the Special Committee does not eliminate the Mayor's position, thus suggesting that that, those costs would be even higher.

MS. WILLENBRINK: Three minutes.

MR. KAILIPONI: The Salary Commission also suggested that just because we would change to a council-manager form of government, that they would not necessarily increase that salary because the duties for that office would not change.

CHAIR VICTORINO: Mr. Kailiponi --

MR. KAILIPONI: The duties would remain the same.

CHAIR VICTORINO: --I'm going to have to ask you to conclude, if you don't mind, please.

MR. KAILIPONI: Would it be possible to testify because this transitions into testimony on PIA-10(14) as well.

CHAIR VICTORINO: If you're going to testify on PIA-10(14) then fine, you may start.

MR. KAILIPONI: Thank you. Our recommendation therefore based on this is similar to PIA-10(14). Essentially allowing the...

CHAIR VICTORINO: He's doing PIA-10(14) at this point. Okay. I've allowed everyone else to do this, please no qualms from the gallery. Do I make myself clear? Please go ahead, Dr. Kailiponi.

MR. KAILIPONI: Thank you. PIA-10(14) places the ability for the County Council to have more say into who is put into positions in departments. Our recommendation was, is very similar to that in that this County Council should have more say in deciding on who those department heads are in order to more adequately account for

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professionalism in those jobs and in those positions. We see this Council amendment as being one that very closely aligns with the values that we understood from those personal testimony from the public, from the County Council, from departments and division heads, as well as from the Mayor's Office. If we care about professional management...and professional management can assist in a strong mayor form of government just as much as it could in a council-manager form of government, then what we need is change in making sure that that professionalism exists. Having the County Council as part of that vetting process or reviewing in some way those applicants is a very positive step in that direction. Especially because many of the other advantages of a council-manager form of government simply do not hold true according to the investigations that we did. Our report is currently available, freely accessible, and looks at a lot of the different types of evidence that we used. And we focused very, very hard on that evidence. We care a lot about a proper process and a breadth and depth of analysis, and that's what we wanted to present to our County Council. If you have any questions, I'd be happy to answer them.

CHAIR VICTORINO: Thank you. Any questions for the testifier? Seeing none, thank you very much. Appreciate it. Next testifier, please.

MS. WILLENBRINK: Yes, Chair. Our next testifier is Alana Kay and she will be followed by Nell Woods.

MS. KAY: He actually saved me a lot of time. Good morning, Council and everybody. I'm here to express support for the...oh, I'm addressing PIA-10(16). I'm here to express...

CHAIR VICTORINO: Your name please?

MS. KAY: Pardon me?

CHAIR VICTORINO: Your name.

MS. KAY: Alana...my name? Alana Kay.

CHAIR VICTORINO: Thank you, dear.

MS. KAY: I am here to express support for the findings of the Cost of Government Commission with regard to the proposed Charter amendment to convert our existing form of government to a County Manager form of government. They determined that the County Manager form of government does not result in savings of delivery of public services, nor are there marked savings in administrative salaries or turnover costs as suggested by the initiators of the proposed change to the Charter. Therefore, due to the high price tag involved in such a substantial change in management structure and the suggested salary of said County Manager, I don't believe it is wise at this time to prioritize or even consider something of this magnitude. This proposed change does not address the causes of our problems at their most basic level. Our problems lie in lack of implementation and enforcement of current laws as they are written. Workforce housing that was to be built as part of entitlements has yet to be built,

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creating a growing homeless crisis. The Water Use and Development Plan that was ordered in 1990 has not yet been completed. And on the State level, the Commission on Water Resource Management has been slow to establish instream flow standards, causing the public to engage in litigation to obtain their legal rights. Government administration, large corporate entities on Maui have made decisions that are in utter disregard of the constituency or the laws established by other governing bodies such as the EPA. The Cost of Government Commission noted that the change in management structure would potentially depoliticize aspects of executive appointments and approve checks and balances. Putting the Council in charge as in 10(14) of the appointment of executive staff and department heads would be sufficient for the de-politicization. They also suggest that there's a need to improve job descriptions, and I definitely think that's something that should be done. What Maui County government needs is accountability, implementation, enforcement, and a change in attitude, not new job titles. We need a Mayor who can demonstrate what governance with integrity looks like. In the end, whether or not this form of government would be more effective in solving our problems is purely speculative, and as a matter of fact, the report kind of shows--they really did study a lot, I watched their proceedings--it too would be subject to personalities, interpretations, and politics. Once again, I don't believe this proposed change is a priority. The energy and costs involved in the changes that would be required would be better spent on the rehabilitation of the Upcountry water system so the Iao Aquifer will no longer be over pumped, creating a better organizational flow between departments and addressing the homeless crisis. Thank you.

CHAIR VICTORINO: Thank you, Ms. Kay. You wrapped that up in three minutes. I give you credit. Any questions for the testifier? Seeing none, thank you very much, Ms. Kay, for being here.

MS. KAY: Thank you.

CHAIR VICTORINO: Next testifier, please.

MS. WILLENBRINK: Yes, sir. Our next testifier is Nell Woods, to be followed by Dale Bonar.

CHAIR VICTORINO: What we're going to do at this point is I'm going to take Ms. Woods as our last testifier, so, Dale, you hang on. You know Dale's ready to go. And we'll take our morning break. And I know my Members can run off and do their needs, but unfortunately myself and the Staff cannot so we're going to take a ten-minute break as soon as Ms. Woods is done. Go ahead.

MS. WOODS: Good morning, Chair Victorino and Members of the Committee. My name is Nell Woods, and I'm testifying in favor of putting PIA-10(16) on the ballot. It's been said it's too complicated, that it's been a rush to judgment. This matter has been studied and suggested a number of times over the decades. It is neither too complicated nor is it a rush to judgment. It's a very simple proposition that the committee has put before you. I would posit that it's actually elegant in its simplicity. It changes two things, who and how the County Managing Director is selected and

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changes the responsibilities of the Mayor so they are in the hands of the County Managing Director. That's what it does. We have the right, we have the intelligence to decide the matter. We need a professional management of County operations, and most important you need to give us the right to vote. Should you fail to pass this out of Committee and onto yourselves sitting as the Council and give the voters the opportunity to decide this issue, you will be guilty of the ultimate disrespect to your constituents. Thank you.

CHAIR VICTORINO: Thank you, Ms. Woods. Any questions for the testifier? Seeing none, thank you, Ms. Woods. So I will ask everyone to be back in their seats by 10:40, please. This meeting is in recess. . . .*(gavel)*. . .

**RECESS: 10:30 a.m.**

**RECONVENE: 10:40 a.m.**

CHAIR VICTORINO: . . .*(gavel)*. . . The meeting will reconvene please. Oh, you cannot leave, Mr. White. Mr. White, you cannot leave 'cause you're part of my quorum right now.

COUNCILMEMBER WHITE: No, he is.

CHAIR VICTORINO: Well, somebody be part of my quorum, please.

COUNCILMEMBER CRIVELLO: There you go.

CHAIR VICTORINO: All right. Thank you.

COUNCILMEMBER CRIVELLO: You call, they respond.

CHAIR VICTORINO: Thank you very much, Ms. Crivello. All right. We still have 17 more testifiers so I'd like to continue so we can at least get all our testimony out of the way by lunchtime, so that we can dedicate our afternoon to discussion on these matters. So, Ms. Willenbrink, would you call our next testifier up please?

MS. WILLENBRINK: Yes, thank you, Chair. Our next testifier is Dale Bonar and he will be speaking on three items, and he will be followed by Kelly King.

MR. BONAR: Aloha, Chair Victorino, Members of the Council who are here. Thank you. I'm Dr. Dale Bonar and I will be testifying on three of the issues on the docket today. The first will be 10(11), the Planning Commission. I served as chair of two State commissions, both the Natural Areas Reserve System and the Legacy Lands Commission for eight years. And those commissions, the Natural Areas Reserve Commission was set up back in 1973, had not been changed since then. And so it's got environmentalists on it and it's got people representing the different islands, nothing about cultural side though. And so we went through strategic planning, made the very, very strong recommendation to DLNR to push the Leg about ensuring that Hawaiian expertise would always be present on the commissions as well as the other

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ones that were already designated. That went into effect and so there is cultural and local representation on the committee there. The second I'll speak to is 10(14), the department directors. With the understanding of what Dick Mayer said about potential problems, I would say that this should be amended. I would approve of this if we don't go ahead with 10(16), but it should be amended to involve the Council in both the defining the job descriptions, searching and selecting the chair of the department chairs. That just gives a better review, a more thorough review and it helps separate out some of the politics of assignments here. The third and most important here is the council-manager, 10(16). I'm strongly in support of this. I had done extremely deep research on this and in fact was quite surprised when the Council or the Cost of Government Commission report came out. And what I was surprised at was the number of omissions that were in there. The glowing report that you've heard here avoided comparing certain things. One of the big ones is the cost that there is in the turnover of your senior management teams at every new mayoral election there. There have been numerous national studies, some very big ones, and these have looked at the different jurisdictions and on average found a 12 percent increase in efficiency of the government or 12 percent savings in cost of government there. The Council...the Cost of Government Commission did not look into that. They were avoiding looking at the costs of all of the staffing that's in our executive offices here compared to our other counties in the State. Their costs, their number of staff is far over what the other councils have there. The question of we're moving too fast on this, this is too big an issue, we're moving too fast. This has been an issue since the 1970s, and it kept getting kicked down the road. The classic well, you know, let's push it down the road and we can worry about it later, let somebody else deal with it there. It's been brought up the only thing that's finally forced it now is the pressure on the Council to bring this forward finally even though it was a very, very strong recommendation of the last Charter Commission there. It is time, this isn't rocket science. This isn't a huge turnover, it's a readjustment of the professionalism that we want to see here. That professionalism will provide both the efficiency, consistency in management, as well as having well-trained, professional-level people to do it. Thank you.

CHAIR VICTORINO: Thank you, Mr. Bonar. Any questions for the testifier? Seeing none, thank you, sir. Next testifier, please.

MS. WILLENBRINK: Yes, our next testifier is Kelly King. She will be testifying on four items.

MS. KING: Thank you. Aloha, honorable Councilmembers and Chair. And I thought I was going to be speaking to just a quorum but we got the whole Committee back so thank you for returning. I'm going to speak first on PIA-10(16) which I think is the most important issue of the day, putting that on the ballot. I want thank the Special Committee for its work and for the recommendation that came out despite some very heated arguments. But I think all of the testimony from the, the meetings I attended it seemed like all the testimony was predominantly in favor of a County Manager model over the mayoral, the strong mayoral model we have today, and I think we need to honor that recommendation to put that on the ballot. Folks will have a chance to discuss this issue and vote which way they think is the best, but I want to reiterate

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some earlier testimony I gave to the Council that all the successful organizations I've ever served on and there have been half a dozen boards for different corporate businesses and small businesses that I've served on, probably more than that of nonprofits that I've served on, they all use this type of governance model where they have a governing board that hires and fires the chief executive. And they work together, that's what saves money and makes it more efficient. My understanding is that our current...just to speak to the previous testifier's point was that the current Administration has about 28 assistants and staff under those assistants that would not be necessary under this new model, so there's a lot of savings there that the Cost of Governance [sic] Committee did not include in that report. And I think we have a report, we have a report specifically focused on this by the Special Committee and it was vetted over months and months. And like was said before, has been said, this is not a new issue, this issue has come up in the past two or three decades. There has been opportunity for public input, and there will be more opportunity for public input in the next two years should this pass, and the details can be worked out there as has also been said. I've been reading through the County Charter, and it's sadly lacking in position descriptions right now, and that's why we're getting people who aren't really well vetted for these director positions. Most of them the only qualification is five years of administrative assistant or administrative experience, and it doesn't even say what that experience has to be in. I also wanted to address the previous statement about voter attrition, because in my experience, voter attrition is not due to changes that are being made, it's due to the lack of ability to be involved in positive change. When things are always the same, there's no reason to come out and vote, and this is a strong argument for putting this on the ballot and letting the people decide. So people want to come out and they want to be in this discussion and they want to be able to decide for themselves. That will engage more voters, not discourage them, in my opinion.

MS. WILLENBRINK: Three minutes.

MS. KING: Thank you. I'm going to go real quickly through a couple of the other PIAs that, two of the other ones that I just wanted to voice strong support for are PIA-(1) which is the Council-initiated removal of the Corporate Counsel, and I think the Council has to be able to be part of the hiring and dismissal process for the Corp. Counsel or get your own Corp. Counsel, because I don't see that position serving both the Administration and the Council well. Prohibiting the Corporate Counsel and the Prosecuting Attorney from aiding in the election or defeat of any candidate for County public office, this is PIA...the number's not on the same page. I don't see the number on this page but PIA-10(10). I just wanted to speak in strong support of that as well. I think those are really key positions that should not be involved in lobbying. I do support people who are in administrative staff positions or employment positions to be able to get involved in the process of the elections and showing their support one way or the other because it is their inalienable right. Okay. The last one I would like to speak on, this is really another important issue is PIA-10(11) I believe it is. I wanted to speak about the designation, designating Planning Commission seats for leaders of Hawaiian cultural and environmental protection groups. The Countywide Policy Plan is an overarching value statement and provides a policy framework. That's in the description of our

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policy-wide plan that was adopted in 2010. And there's actually a mandate in this plan for this movement. The vision starts out saying Maui County will be an innovative model of sustainable island living and a place where every individual can grow to reach his or her potential. The needs of each individual, the needs of the whole community, and the needs of our natural and cultural assets will be brought into balance and reflect the high value we place on both our natural environment and our people. The core principles include one, excellence in the stewardship of the natural environment and cultural resources; two, compassion for an understanding of others; three, respect for diversity; four, engagement and empowerment of Maui County residents; five, honor for all cultural traditions and histories. And I'm not going to read all the rest of them, but I just wanted to give the public here and the Council the flavor of what is actually mandated as our vision and our shared values in this Countywide Policy Plan. And that speaks directly to making sure that the Planning Commission is fair and balanced and has an environmental voice. I wanted to end that testimony with one of my favorite quotes which is by US Senator Gaylord Nelson, and he was the founder of Earth Day. And he said...this is not even truer for any other place than Hawaii, this is so true for our State. The economy is a wholly owned subsidiary of the environment, not the other way around. So we have to remember that our environment is our economy and vice versa. And that if we don't care of it and we don't include that in every discussion, we're just, we're going to cut our own throats.

CHAIR VICTORINO: Are you done, Ms. King?

MS. KING: I'm done. Thank you.

CHAIR VICTORINO: Thank you, Ms. King. I appreciate it. Any questions for the testifier? Seeing none, thank you, Ms. Kelly.

MS. KING: Thank you.

CHAIR VICTORINO: Next testifier, please.

MS. WILLENBRINK: Chair, our next testifier is Paul Janes-Brown and he will be followed by Jacob Verkerke.

MR. JANES-BROWN: Aloha mai kakou, Mr. Chair, Members of the Committee. I'd like to take you on a time machine journey. The County Manager has been hired and we're in budget preparations, and the budget has been developed with the County Manager, the Finance Department and you together working on each item. Instead of having to tear apart what's been done, you will be putting it together. Together let the people decide. Together instead of apart, let the people decide. Together all of you working in concert, no name calling, no recriminations. You all know exactly what has been, what's in the document because you worked on it together. Let the people decide. The budget is the most important thing that you do. I see the Chair of the Finance Committee here. Think about the possibility of developing that budget throughout the year. Think about that process that would occur together. Let the people decide

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together. That's what it's about. Our democracy, our country, let the people decide. It's your most important obligation. We deserve this right. Please let the people decide. It's 10(16) this item. It's very propitious and it was my father's birthday. It's also Marge Bonar's birthday today. Happy birthday to Marge. Thank you very much. Let the people decide. Together we can all make this place a better place for all of us. Your responsibilities are huge and you don't need to have arguments about them. Together we can make this a better place. Thank you.

CHAIR VICTORINO: Any questions for the testifier? Thank you, Mr. Brown.

MR. JANES-BROWN: Janes-Brown.

CHAIR VICTORINO: Janes-Brown, excuse me. I'm sorry. Janes-Brown. Excuse me. Next testifier, please.

MS. WILLENBRINK: Yes, Chair. Our next testifier is Jacob Verkerke, and he will be followed by Rosemary Robbins.

MR. VERKERKE: Good morning, Chair, Members of the Committee. My name is Jacob Verkerke. I'm here in my capacity as the Chief Technology Officer for the County of Maui. As such I head up the IT Services Division which is a Division of the Department of Management. You've heard a lot of testifying today about letting the people, letting the voters decide. We have probably a very simple statement that represents 41 pages of Charter modifications. I'm not sure that a simple statement can capture all the modifications in their true essence that are presented to the voters. One of those modifications is turning the IT Services Division into a department. The first time I heard about that was when I read the Charter changes proposed. Even though some people say the report by the Special Committee was well vetted and they spent many months discussing the options, I have not been approached and I would have expected to be approached by something that's such a fundamental change. I do not know the reasons 'cause I couldn't find any explanation of the reasons for that change in the report, so I'm not really in a very good position here to address some of those reasons. I have my concerns obviously. There are a lot of impacts from a change like this that appear not to be well considered. And I'm really concerned that if we're asking the voters to make a decision on the simple statement that they not always understand the consequences. Those of you that have an interest in world affairs, you've probably with a lot of interest been following Brexit. I'm afraid that we're moving to Mexit, Maui's version of that problem. 'Cause there is a lot of reasons that this really needs to be considered. One of the reasons also and that may be something you may want to check with Mr. Kushi about is that the creation of the department requires a Charter amendment, but I don't think you can do that by tucking it into something else that doesn't really mention that. I believe the change, the creation of a department needs to be an explicit Charter amendment statement that the voters can vote on. This is not the way to do that and especially not without any discussion about the merits or the reasons for such a change. So I ask that you really consider the impact of all these hidden changes in the document that may not be apparent to the voters. Yes, we should let the voters vote, but they should know

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what they're voting on and what the impact is. You know Brexit now is being called Regrexit, you know, a lot of people have regrets about their vote, I'd hate for that to come to Maui. We can do better than that. Thank you.

CHAIR VICTORINO: Thank you, Mr. Verkerke. Questions for the testifier? Seeing none, thank you, sir.

MR. VERKERKE: Thank you.

CHAIR VICTORINO: Next testifier, please.

MS. WILLENBRINK: Yes, thank you, Chair. Our next testifier is Rosemary Robbins, and she will be followed by Trinette Furtado.

MS. ROBBINS: Good morning. Good morning, everybody. This is exciting. The people who are here, the people that I know are watching.

CHAIR VICTORINO: Ms. Rosemary, can you introduce yourself please, and speak a little closer to the mic please.

MS. ROBBINS: Okay. The other half of Rosemary is Robbins. Rosemary Robbins, concerned --

CHAIR VICTORINO: Thank you.

MS. ROBBINS: --citizen. So I'd like us first to take a look on today's agenda over on to Page 5 if you would. And just for clarification, we see Mike Molina identified as the sponsor of all 11 of the points on our agenda today, that he's not currently on there but during his previous time with the County government he had been a Councilmember. So apparently even though the dates aren't in here he was involved in that at the time, so.

CHAIR VICTORINO: Well there was...actually because these items were brought up and deferred like I mentioned earlier and it carried forward so his name appears first, but it's actually those who have sponsored it that we will look at the names for right now. Okay so that you understand the process.

MS. ROBBINS: I got it.

CHAIR VICTORINO: Thank you, dear.

MS. ROBBINS: I'm just saying that there's a history involved in that since he's now with a different setup. So over on Page 5 on Item PIA, Policy and Intergovernmental Affairs on Item 10(11) and that's the one that has Elle Cochran's name as being sponsored in this. I am so excited as an educator in particular to see this. It's, I'm sure it's going to be read when you actually get into your deliberations, but it's talking about that it will require for Planning Commission seats at least one member from each Planning

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Commission to have a background in conservation and natural resources and one member to have a background in, expertise in Native Hawaiian traditional and customary practices. How exciting is this? I mean we've got a water situation where nobody has to come in knowing a lot about water, just have to have had some government experience or business experience. So it's very exciting for me to see that. Also I went through everything that was in the binder on this item. There were many, many people who had written testimony in there, so thank you to those other concerned citizens. And to let you know that this Hawaiian law training course is going to be offered and required to be taken by each new member to participate in Council within one year of the member's appointment. So if he/she doesn't have that yet, it's going to be available to you. And the Richardson Law School conducts these educations periodically and we can --

MS. WILLENBRINK: Three minutes.

MS. ROBBINS: --get those by way of televised conferencing, so hurray for Maui for being up on all of that. So that was on Page 5. The next item, I would ask you to turn to Page 4. And I'd like to speak about PIA-10(9). Okay. This is to propose an amendment to the revised Charter of the Council [sic] of Maui since '83, as amended, to require Council approval of the Mayor's appointment of. And then it talks in here originally as this is stated about the Director of Finance. But when I went and got the actual material out of the binder, it's speaking about not only of the Finance Director but also the Corporation Counsel, the Water Supply Director, and the Prosecuting Attorney, so there are actually four positions that are being taken when this comes to have evolved to the stage that it's at. And it's asking that these people who are going to be serving in those capacities will have the background. There's an item in here called Exhibit "1" that talks about the backgrounds that you have to have coming into this, not that you're going to learn just on the job but you're hitting the ground running with these. And it talks about personal references, the academic represents...histories representing the capacities they're going to be working with, official transcripts of the appointee's post-secondary academic record, so whatever were their master, doctorate, beyond, written transcripts by those higher education institutions, not just somebody writing down oh yeah, I did this, I got a degree in that. So there's going to be actual documentation that'll be available for all of us to read on the 7<sup>th</sup> floor so we all have the same opportunity. So I'm again delighted about the fact that people have put all of this together to have gotten to this stage. And I saw a handout coming in this morning that I haven't seen yet but apparently these are still actions in process. So if it gets on the ballot and I'm certainly recommending that these, this collection gets on the ballot, that not only the folks who are at home and not here this morning will have further opportunity to be educated by the goings on that will be in the paper, that will be in the 7<sup>th</sup> floor, that will be if Dick Mayer is going to be doing the education to the community that he had volunteered to do. So people being in the dark is maybe a reflection of the dark ages that weren't so dark when these original proponents came about.

MS. WILLENBRINK: Three minutes.

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MS. ROBBINS: We've grown hugely, we need to grow with that. So thank you very much. And now I would recommend that you come over to Page 3 on your agenda. And this refers to County Communication 14-165. It was presented with much work done by our Councilmember Don Guzman. And I heard people this morning talking about the cost of the potential capacity of a recommended new Council governance model. We're paying a fortune right now for attorneys to come in from elsewhere to be able to defend us for what the court has acknowledged we fouled up in things like clean water, clean air. These are basics. It's not like when you and I might have been playing stickball in the street years ago and now we have a park. These are things that everybody needs so we need to take careful look at that. It says in here, whereas permitting attorneys within the Office of Council Services to serve as legal advisors to the legal representatives of the Council and its Members will ensure the Council and its Members have access to independent legal advice when there is an actual or a potential conflict or disagreement between the Executive, the Mayor and his folks, your folks and the Legislative Branches of government. So right now that's not happening, the Councilmembers don't have their in addition to the folks that are in the legal profession that are representing the Mayor and the folks on the Mayor's staff. This would allow there to be a second capacity of that, fully in favor of that. Remember, keep in mind this is in addition to the attorneys within the Department of the Corporate Counsel, meaning for the Mayor and the folks with him or her. So all of these I'm recommending. I hope this is a help. I heard a lot of independent, heartfelt stuff this morning which is what happens so often, but the larger scale on this and one of the previous testifiers this morning reached out to me when I was out in the foyer and said the folks out there just don't understand what this is about. So I hope when people get up and they give the larger scale of this, that's a help. I hope that they will be able to take advantage of reading what's going to be in the media, what's going to be in the 7<sup>th</sup> floor. Any of us that run into out there, feel free to ask. If we don't know, we'll tell you who to come to, and if we do know, it's because we've been able to participate in a more extensive level here. So thank you to all of the folks who had good input to that and bless the Staff for sparing with us all this. Thank you.

CHAIR VICTORINO: Thank you, Ms. Robbins. Any questions for the testifier? Seeing none, thank you, my dear.

MS. ROBBINS: You're welcome.

CHAIR VICTORINO: Next testifier, please.

MS. WILLENBRINK: Yes, our next testifier is Trinette Furtado, she will be speaking on two items, and she will be followed by Mr. Timothy Lara.

MS. FURTADO: Aloha mai kakou. Thank you for being here this morning. I know it's going to be a very long meeting from what I can see from the testifier list out there. So thanks for sitting tight. My name is Trinette Furtado, I'm from Hamakualoa, and I'm going to be speaking on two agenda items so I'm going to consolidate my testimony to try to include both and not take the full six minutes. First, I'd like to speak on PIA-10(11) regarding cultural and environmental presence on the Planning

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Commission. I strongly support this amendment and ask that you also support it. I am disgusted by the previous comments made by a testifier a few days ago who I am not personally familiar with regarding the need for a cultural practitioner or one with cultural knowledge as well as a stronger environmental presence on our Planning Commission. I do not agree with his statement regarding bias, especially since our Countywide Policy Plan outlines the necessity for protecting our natural environment and preserving our local cultures and traditions. If you don't know about a thing, how can you say that you've given it adequate and proper consideration? I don't believe these practices should only occur at special events, hotel properties, or only for visitors. To say that there would be a bias to have someone knowledgeable of mea and ike Hawaii shifts focus away from the blatant fact that there already appears to be a bias on the Planning Commission with the imbalance of developer, real estate, and private interests that have served and in some cases still serve in that group. Our Countywide Policy Plan also outlines the need to protect the environment, and our Planning Commission should reflect at least a passing knowledge of the issues involved in that. I ask you to remember too, and if you have forgotten, refer to this Policy Plan and our Maui General Plan if you are unsure of what your kuleana to all of us is. Is what is written in those documents just pretty words with no teeth to them or words to consider when looking at future planning regarding our home? Secondly, speaking of future planning, I also strongly support and ask that you place on the ballot the issue of a County Manager system of governance, PIA-10(16) on your agenda. To me the core of this issue is not whether it's right or wrong, the issue is that some cannot admit that our current system is not working and has not been working for quite some time. It's clear to many that a popularly elected mayor cannot adequately manage the complex workings of our County corporation, because that's what it is, a corporation with a budget whose service is governance to our County, a business that requires a competent manager who can hire other competent managers to assist in various departments as directors. I absolutely believe that our people should have the opportunity to decide this for themselves as a ballot item this year. Currently the Mayor appoints the manager in a closed process as his aide, not as a manager to identify and acquire competent people to lead departments. With a County Manager there would be more accountability not just from that manager but from those he or she hires. Employees here within our departments would have an opportunity for advancement in a system where advancement is currently not possible unless there is a death, illness, or political connection involved. We need to change that. Do we value our people who work for our government? Do we value efficient, effective, transparent, and accountable governance, or are we satisfied with what we've got up until this point? It's not about whether or not we believe our current Mayor is good or bad, it's about looking at our greater community and what we'll need to move forward together. In order to move forward together, we have to allow people the right to choose. Mahalo for your time.

CHAIR VICTORINO: Thank you, Ms. Furtado. Questions for the testifier? Seeing none, mahalo. Next testifier, please.

MS. WILLENBRINK: Our next testifier is Mr. Timothy Lara, and he is followed by Kai Nishiki.

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MR. LARA: Aloha, Councilmembers, Victorino. Tim Lara speaking on behalf of myself on both 10(16) and 10(11). I'm in favor of the recommendation from the Special Committee to send the proposal, proposed resolution to the ballot for the General Election. This would allow the County to recruit and hire professional directors who would have the security of knowing that their employment is based on their performance reviews, not their political alignments. The merits of this proposal isn't what we're here to discuss today; that time has come and passed and was heard through numerous public meetings. Hundreds of people came out to testify and speak on behalf of those and give their input. What we're here to do today is to determine whether or not this Council will listen to that Special Committee and those people who spent the time and gave their input and allow this to go forth to the general public to vote on. Here and at those public meetings, over 90 percent of the testimony has been in favor of letting this go forth so I honestly feel like I'm kind of wasting my breath right now. I hope that's not anybody left on the Council that's not planning on sending this forward, given that so many people have spoken in favor of letting the people decide. A previous testifier mentioned that she had some questions and concerns about it; however, I didn't recognize seeing her at any of those public meetings that we had and I feel like that would have been a more appropriate time. And as pointed out, this just simply allows it to go to vote. Should it be passed on that vote, there's two years that the rest of those details can be hammered out at that time. Moving on to 10(11). I'm also in favor of 10(11). While sitting and waiting to testify at the Planning Commission on behalf of an environmental nonprofit that I serve on, I Googled the Planning Commission members to see who it was that I was testifying in front of. They were engineers, developers, union reps, and realtors, all relevant trades for people serving on the Planning Commission; however, it seemed that it was lacking balance. Seemingly these trades would all be pro-development, there was no one on the Commission to consider the environmental and cultural impacts of the proposed projects. I believe having cultural and environmental representatives on the Commission would actually make for a smoother planning process as the proposed projects could hear about cultural and environmental concerns early in the process and be able to make relevant changes. When I went through the Ka Ipu Kukui Fellowship in 2012, the premise of the program was that we could hear both sides of numerous issues, that we would then have a balanced understanding of the issues and could make informed decisions. Having one member with backgrounds from environmental and cultural does not create full balance on the Planning Commission but at least allows for a contrasting view to be heard. Furthermore, I think it's vitally important that our decision makers should have at the very least a broad overview of Hawaiian law. I strongly agree with the proposal, it should go forward to the ballot for the people to decide. Thank you.

CHAIR VICTORINO: Thank you, Mr. Lara. Any questions for the testifier? Seeing none, thank you, sir. Next testifier, please.

MS. WILLENBRINK: Yes, our next testifier is Kai Nishiki, and she will be followed by David DeLeon.

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MS. NISHIKI: Good morning, everyone. My name is Kai Nishiki and I am testifying on PIA-(10) and (11). I fully support the proposal to have Hawaiian cultural and environmental preservation representation on the Maui Planning Commissions. Since our Planning Commissions are charged with making important and precedent setting decisions regarding land use and shoreline management, it seems the prudent and wise decision is to have some members on the Commission who are well educated in these areas and may offer logical, scientific, and intimate historical and cultural knowledge. With the sobering facts of climate change and sea level rise, well documented and presented by Chip Fletcher, it would be prudent to have a commissioner who is an expert in coastal zone management and environmental concerns. I thank the Council for considering the safety and wellbeing of our residents into the future. This seems like a wise and proactive step, and I congratulate the County for considering such a practical and forward-thinking proposal. I applaud the County for taking a proactive step to give a voice on our Planning Commission to the ocean and the aina. I congratulate the County for realizing the value of having individuals on the Planning Commission who have intimate, historical, and cultural knowledge. That becomes invaluable when making a decision about what is in the best interest of our public trust resources. These decisions will have long lasting impacts, and we should fully support the ability of the Planning Commission to examine each proposal so that the best practicable alternative clearly in the public interest will become known. Our public trust resources are the priceless inheritance we care-take for the future generations. Imua, and thank you very much.

CHAIR VICTORINO: Thank you. Any questions for the testifier? Seeing none, thank you very much. Next testifier, please.

MS. WILLENBRINK: Yes, Chair. Our next testifier is David DeLeon and he is speaking to two items.

MR. DeLEON: It's still morning. Good morning and aloha. My name's Dave DeLeon, speaking as an individual, and I wish to speak on 2 items, No. 16 and No. 11. And before I start, I'd like to take a moment of personal privilege to point out that I would prefer not to be contradicted on my testimony before I give it. My testimony was leaked off to the floor and I do not appreciate it. I wish, I have...be treated with respect in the future. Thank you. As mentioned in previous occasions, this proposal...and this is the government, County Manager. 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 Cost of Government Commission and the minority members of the Special Committee in their review of this proposal, that it was a rush to judgment...that this was a rush to the judgment leading to unintended consequences. One of those consequences luckily came to light before the Council acted on this proposal. On June 6<sup>th</sup>, the State Attorney General ruled that the County Manager proposal position itself as envisioned by this proposal is not exempt from State civil service law, Chapters 76 and 77. While the AG's opinion was directed at a similar Kauai proposal, in a June 22<sup>nd</sup> opinion, the Maui Corporation Counsel said that the AG's opinion applies equally to the Maui proposal. So if you were to

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succeed, to actually propose the thing to go out and it goes out to the ballot, Maui County seems to have two options: to proceed with the proposal and if it succeeds in the polls, hire the County Manager via the civil service system, or ask the State Legislature in 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. It's interesting, and an interesting exercise would be to try to imagine what HGEA, a bargaining unit the County Manager and his staff would fall under. Perhaps you would have to create a whole new one for County CEOs. Left unanswered at this point is whether the department heads hired by the County Manager would also come under the civil service rules; the role of the Salary Commission in setting salaries; how the County Manager CEO would interact with his corporate board, the County Council given Chapter 92, the Sunshine Law, and whether the Corporation Counsel would be conflicted by the current...by the...whether the Corporation Counsel would be conflicted by the current proposal that puts him in, inappropriately in the line of succession to the County Manager. And then there are all the points raised by Sheri Morrison and Jacob Verkerke. One more line on this please.

CHAIR VICTORINO: Go ahead. Please complete your testimony.

MR. DeLEON: Who knows what other legal pitfalls await us on this matter as it passes...if it passes to the voters and they approve it. This rush job is sort of like a tap dance recital in a mine field. Who knows what other elements of local law --

CHAIR VICTORINO: Mr. DeLeon, can you please --

MR. DeLEON: --will be triggered next.

CHAIR VICTORINO: --complete.

MR. DeLEON: All right. Pau, that one.

CHAIR VICTORINO: Thank you.

MR. DeLEON: That one pau. On the question of requiring the appointment of cultural, Hawaiian cultural practitioners and environmentalists on the three Planning Commissions, I wish to make a clearer statement than I did previously. I believe that both groups have a right to seek and win nomination to the Planning Commissions just as anybody else does. The nominations to boards and commissions are among the powers of the Mayor. The Maui County has an open process that allows anyone to apply for appointment. Of course those individuals must also win the confirmation of this Council. So this is a political process and those groups who want to gain appointments, they need...like, say like the realtors do, like the Chamber of Commerce, like the unions, like the Hotel Association and other groups, they need to work the system. This is...it is proper that persons focused on Hawaiian cultural heritage and environment are on these important bodies. It is also proper that persons of Filipino and Japanese ancestry are on these bodies, and young folks, and a good mix of sexes, and persons with each, in each area that the Commissions cover,

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and if possible unique skills and knowledge like historians, architects, engineers, and economists. As someone who has dealt with the appointment process for 12 years, I can tell you finding someone to serve on the Molokai and Lanai Planning Commissions can be difficult. The more criteria you place in the process making those, makes filling those positions all the more difficult. Regarding Hawaiian cultural practices, we have a whole commission, the Cultural Resources Commission dedicated to that function. The new Public Works Commission also has a Hawaiian language specialist on it, because it deals with naming streets and facilities among other duties. Both of these 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's nothing overtly cultural about that process. If the Commissions need help with a cultural matter, they can request it from the Cultural Resources Commission or Mr. Kapu's organization he was speaking of. Requiring a cultural, a Hawaiian cultural bias or any racial, cultural, or religious bias of any sort and is likely, is a bias and is likely to be a violation of Federal law. The Planning Commissions are not advisory bodies, they have real power affecting property rights and they must be fair in their operation. And I would suggest if this body wants to proceed with this proposal, that they get a ruling from Corporation Counsel on whether this proposal violates any of the recent Federal decisions on this matter. Mahalo.

CHAIR VICTORINO: Thank you, Mr. DeLeon. Questions for the testifier? Seeing none, thank you, Mr. DeLeon --

MR. DeLEON: Mahalo.

CHAIR VICTORINO: --for your testimony. Next testifier, please.

MS. WILLENBRINK: Yes, our next testifier is Lawrence Carnicelli, to be followed by J. Alohalani Smith.

MR. CARNICELLI: Good morning, Mr. Chair, Councilmembers. I'm going to testify on 10(16). And it's kind of interesting because I feel like you guys are boxed. You know it's, is basically what this has been painted as is are you going to let the voters vote or not. You know what I mean, that's what this has kind of been. As politicians how can you say no to that? How can you say no to it, 'cause tomorrow morning in the paper it's going to be like so and so voted against letting the, you know, the people have their voice. So you guys are kind of boxed. So in a way as I speak to this I just want to acknowledge that, that that's kind of, you know, sort of where you have to come from. For the record, I've read the entire committee's report. I've read the Cost of Government's report, all 351 pages of it, 35...went all the way up to II, the exhibits, everything like that. I didn't read it verbatim verbatim, but I basically went through the entire thing. I read the minority report. I've been to Mr. Hyde's website. The...anyway, I've done my research on this and the thing that's really interesting is most people are talking about whether or not, you know, do you want to have a County Manager or do you want to have a mayor. And there's conflicting, you know, testimony, but basically it says that one's apples and one's oranges and which one do

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you prefer? Do you prefer apples or do you prefer oranges? And really there's no, nothing that says it's going to be more efficient, there's nothing that says it's going to cost less, it's just a matter of whether you prefer apples or you prefer oranges. So in that though I wanted to kind of go to the actual mechanism of how we got here. So we created this commission right, or this committee, Special Committee on Governance and to me it's kind of like saying okay, I'm going to go to a trauma therapist. If you go to a trauma therapist, what do you think that therapist is going to find? They're going to find trauma. If you create a committee to look into whether or not we should have a County Manager, what are they going to find? We should have a County Manager, of course. But it was split, five-six, very contentious. Minority report was very, very explicit in how they deferred, you know, they just didn't agree. So this isn't like some big consensus. So I said okay, what are you guys really voting on right now? You guys are voting on a very specific piece of language that's going to go to the vote. Right, this is what's going to go to the voters. How did we get to that? How did we come up with this specific language? So what they did, they created a temporary investigative group. And I felt like okay, these are the guys that are going to come up with the language as to what should go on the ballot. Really super, super important. It's probably going to be super detailed. It's probably going to be well thought-out. It's going to be professional because that's what they want, they want professionalism. It's three pages. It's three pages? That's what you guys did? And here's what the resources, here's their resources --

CHAIR VICTORINO: Mr. Carnicelli --

MR. CARNICELLI: --to come up with the language.

CHAIR VICTORINO: --I hate to ask you but your three minutes are up. Could you sum it up in one sentence?

MR. CARNICELLI: I will sum it up right here.

CHAIR VICTORINO: Please.

MR. CARNICELLI: The resources that came up with this specific language --

CHAIR VICTORINO: Yes.

MR. CARNICELLI: --a former County executive for Santa Clara, a blog post, a website, and a master's thesis. Not even a doctorate thesis. That's how they came up with this language. I'd say we need to vet this a lot more. Thank you very much.

CHAIR VICTORINO: Thank you. Questions for the testifier? Seeing none, thank you. Next testifier, please.

MS. WILLENBRINK: Yes, Chair. Our next testifier is J. Alohalani Smith, and she will be followed by Ben Wilson.

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MS. SMITH: Good morning, Chair Victorino and Councilmembers. Good morning.

CHAIR VICTORINO: Good morning.

MS. SMITH: I'm Aloha Smith and I just wanted to say that I support the proposed Charter amendment to Item PIA-10(11). I'm a Aha Moku O Kaupo representative of the Aha Moku Maui Island Council and I've been there for six years already. But I do believe in smart development. So by having a Hawaiian cultural, environmental seat is needed, because it would help to protect Maui's history and rich culture, along with ensuring these things are left for our children to enjoy. Now as a Aha Moku representative, I've seen firsthand how a partnership with government on the County, State, and Federal level and the Aha Moku Council is viable. Also, I love that there will be Native Hawaiian law training for the boards, commissions, Council, and lawmakers. So I support this. Thank you for your time.

CHAIR VICTORINO: Thank you, Ms. Smith. Any questions for the testifier? Seeing none, thank you.

MS. SMITH: Thank you.

CHAIR VICTORINO: Mahalo for being here. Next testifier, please.

MS. WILLENBRINK: Our next testifier is Ben Wilson, and Ben will be followed by Randy Wagner.

MR. WILSON: Aloha, Mr. Chair and Council.

CHAIR VICTORINO: Mr. Wilson, go ahead.

MR. WILSON: I'm Ben Wilson. I'm with ILWU Local 142. In the United States of America and most countries, there's separation of powers: Legislative, Judicial, and Executive. What we have now is a system wherein we elect the Mayor, the people have the right to directly vote for that person, and that person is accountable to the public. What we're talking about doing is taking away the people's right to vote for this executive and turn that position into a purely appointed position which is basically accountable only to the Council. And a lot of people have brought up the fact that it would be a professional manager. Well I don't think that the office of chief executive of the Maui County should be limited to professional managers. There are people with a variety of skill sets that can do an excellent job as chief executive, not only people with management degrees and corporate backgrounds. Furthermore, the picture that is being painted of the Council-manager government is very rosy, I would even say idealized. But in reality, it really isn't quite as idyllic as was being presented. Council-manager systems tend to lack accountability, because there's no real way to make the buck stop, it just gets passed and passed and passed, and that is what has happened throughout the mainland. Medium-sized municipalities have approximately 60 percent council-manager form of governments, but large municipalities which this is, municipalities over 100,000 have only 38 percent council-manager form of

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governments, and that is actually declining, some notable cases being Dallas, Texas and San Diego, California. These cities have done away with the council-manager system and brought back the strong mayor system, because there was just more accountability, there was just more democratic input. And that is all I would like to say. Thank you.

CHAIR VICTORINO: Thank you, Mr. Wilson. Questions for the testifier? Seeing none, mahalo.

MR. WILSON: Thank you.

CHAIR VICTORINO: Next testifier, please.

MS. WILLENBRINK: Our next testifier is Randy Wagner, and he will be followed by Dan Grantham.

MS. WAGNER: Aloha. I'm Randy Wagner, and I've lived on Maui for 28 years. My children have been raised here. I have grandchildren or a grandchild. And I care really deeply about Maui. I'm a community activist and also professionally I'm an architect and I've worked doing architecture for 24 years here. I find that the system is completely broken as far as dealing with my profession. Right now when I leave here, I'm going to have to go over to Main Plaza and try to find somebody to answer a question that I've been trying to have answered for four months. I don't get phone calls returned, I don't get e-mails returned, and it's just complete dysfunction. So the reason that I support a County Manager is...and I'm not saying we shouldn't have a Mayor, I think we should still have a Mayor, but I believe that we need someone who is professionally trained to manage a system and who will choose professional leaders for the subdivisions of that system so that we can have teamwork, so we can have communication, so that it isn't just like trying to find something in a rabbit warren. Because the people that I work with in my profession are business people who are trying to actually accomplish things that are good for the community. And the community doesn't get tax revenue and better towns to live in and to have more options of services when decisions can't be made. So for that reason I just really, really would like to see function restored to our government. Thank you.

CHAIR VICTORINO: Thank you, Ms. Wagner. Any questions? Yes, Ms. Baisa?

COUNCILMEMBER BAISA: Thank you very much, Chair. And thank you very much, Ms. Wagner, for being here this morning. Just a quick question. You mentioned that you thought having a City Manager was a good idea, and you also mentioned that you thought we should still have a mayor. What is your position, do you want the ceremonial mayor or just a regular mayor like we have now?

MS. WAGNER: I think I would like a ceremonial mayor; however, I do believe that, that mayor should possibly have a role to play in the decisions that are made and just not the only role. Like right now, there's such dysfunction between the Mayor and the Council that proposals that the Mayor has are not received and are not...like the

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initiatives for the homeless situation. Those are dead even though he's bringing them. I feel like if the...somehow...I mean I see this in our Federal government too that the divisiveness makes deadlock, and so my vision that the manager who could organize and be neutral and could help expedite the Council agendas and proposals from the Mayor too. I just don't want to see the absolute blanket separation that there is now where nothing can be coordinated.

COUNCILMEMBER BAISA: Okay.

MS. WAGNER: I mean I'm not at all a professional in terms of government, but that's just my...being an end user, I need a better system.

COUNCILMEMBER BAISA: Well thank you.

MS. WAGNER: And this system is clearly...

COUNCILMEMBER BAISA: Thank you for being here. That's what we're doing today, we're listening. Thank you.

MS. WAGNER: And one other thing, I do also support 10(11).

CHAIR VICTORINO: Thank you, ma'am.

MS. WAGNER: I testify often before the Planning Commission, and I see the need for the cultural and environmental expertise.

CHAIR VICTORINO: Thank you, Ms. Wagner. Next testifier, please.

MS. WILLENBRINK: Yes, our next testifier is Dan Grantham. He would like to speak to all items, and he is followed by Tom Blackburn-Rodriguez.

MR. GRANTHAM: Good morning, Councilmembers. My name is Dan Grantham and I'm going to try to keep this quick because my car is overdue downstairs. Regarding the 10(16), I think that we want to...let's keep this simple. And look, this is about two things, it's about running a large corporation and it's about politics. And those two should not be totally dependent on each other. We might be doing a mayor, a future Mayor a favor where, you know, he runs for or she runs for election and all her friends that helped come, hey you know, what about that job? Oh well, you know, I'm not the person responsible for that now, you know, you will have to send your qualifications in and your work history, and, you know, maybe you should give some ideas about what you want to do. And yeah and that works. We've heard a number of people say oh, this is going to cost a bunch of money. Well you would be surprised how much money it costs you when you have lawsuits over misdirection. And I think this is a good way to try addressing that factor is to have professional people here with a lot of experience, with a lot of access to help. Anyway, if you went to the dentist, would you want to see the, somebody's cousin or would you want to see somebody who had been trained, you know, and knew how to do this stuff? I mean maybe they're a wonderful

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person, but you need the training, you need the skills. This is about doing a job properly. This is about troubleshooting. This is about fixing things. This is about making things work. This is not about, you know, this is how, what I have to do to be elected again. Another factor involved here is the, you know, every time there is an election and a new person comes in, oh, we gotta change everybody. So all of the plans, all of the continuity, it's gone, you know, we start over again. Now is that a good way to run a business? I mean face it, this is a business. You know you get paid taxes and you deliver services, and you want to have happy customers. Happy customers keep the business going. Okay. I'm going to go on to the other one. One of the other ones I wanted to talk about is 10(11), the Planning Commission. I don't know, some of you may remember I used to videotape meetings here. I used to specifically videotape a lot of Planning Commission meetings because they were not covered by *Akaku*. Some of those meetings went on for eight hours. That's not counting the lunch break. Some of them...I mean you have your own late-night meetings too. But one of the things that struck me was that the lack of expertise, empathy, and just ability to cope with questions around the environment and cultural questions. It was just not there. You know sometimes you would have a Planning Commission member who had some skills, some knowledge. Sometimes there was a testifier that, you know, they could ask questions of. But it's not a present factor, it's not, and it's really important. I mean what is Hawaii without the environment and the culture? I mean geeze, we could be something out of a package. You know I'm sure that there are people with that package, they'd be happy to sell it to us but it's not Hawaii. Yes, I'm in support of that cultural amendment or that Charter amendment. And these Charter amendments, you know, it's not like you're passing this. What you're doing is just putting it up to the vote, letting the people explore it. And it's a, you know, provides an arena for discussion, for everybody to come out and bring their arguments before the election. It's a great time to do that. So you are not passing this, you are just putting it out to the people which is where all these questions really belong anyway, and your job is to facilitate that I think. You know you guys spend a lot of time listening to people trying to find out what people really want, and that's facilitating the implementation of public opinion. Okay. Well let's see, there was one other thing that I'm going to talk to just for a minute. There's been a...there's a couple of things in here involving the Board of Ethics, code of ethics. Let me just make a suggestion. There is a position at the PUC called the consumer advocate. I would like to suggest that you have...there's also stuff about the Corp. Counsel in here, but one thing I've noticed is there is not a people's advocate. There is not somebody...there is not an ombudsman here to speak up from, you know, a neutral position of is this good for the people, you know. We have all kinds of issues that pertain to all kinds of things, but there is nobody in a position of authority and knowledge to address, to anyway, to be a lawyer for the people, and I think that's something that's really, really, really important. I don't want to pick on the ethics commission but I have seen some mistakes there, and I have seen very sad mistakes happen there. And they just really are not at that level of training to take on those kind of jobs. But I think they do serve a useful advisory position and pointing out hey, you know, our rules say this and you should follow the rules. I think that's really important. All you have to do is to be able to read the rules and understand them. So with that I'm going to go try to move my car.

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CHAIR VICTORINO: Thank you, Mr. Grantham. Questions for the testifier? Seeing none, mahalo.

MR. GRANTHAM: Good luck.

CHAIR VICTORINO: Next testifier, please.

MS. WILLENBRINK: Our next testifier is Tom Blackburn-Rodriguez. He's speaking to two matters, and he will be followed by Nick Drance.

MR. BLACKBURN-RODRIGUEZ: Good morning, Mr. Chairman, Members of the Committee. I will be speaking on two items but also to, for brevity I will try and combine them into one three-minute presentation if I might.

CHAIR VICTORINO: If you can. Thank you, Mr. --

MR. BLACKBURN-RODRIGUEZ: Thank you.

CHAIR VICTORINO: --Blackburn-Rodriguez.

MR. BLACKBURN-RODRIGUEZ: Mr. Chairman and Members of the Committee, my name is Tom Blackburn-Rodriguez and I'm speaking on behalf of Go Maui. Thank you for your work on the Charter amendments. I'll be commenting on two proposed Charter amendments in my overall testimony, County governance and the department director selection and approval process. The Cost of Government Commission has said the change will not save any money. Governance Committee members who did not accept the majority report are being characterized in letters to the editor as those who were defeated. In one move, we are asked to increase the cost and size of government while placing an additional bureaucratic barrier unaccountable to the public between our government and the governed. In fact, the proposed Charter changes on department director selection, qualifications, and Council approval do more to reform our government than the experiment placed before you today. In previous meetings on the proposed Charter amendment to alter our form of government, some have testified let the people decide and noted that this was the basis of our right to self-government. Let me add a different view, not mine but that of one of our founding fathers. James Madison writing in the Federalist Papers, No. 10 who said, "If a faction consists of less than a majority, relief is supplied by the republican principle which enables the majority to defeat its views by regular vote. It may clog administration. It may convulse society, but it will be unable to execute and mask its violence under the forms of the Constitution" or I would add, under a rushed, contrived election on a tight timeframe such as the recent election in Great Britain. The proposed Charter amendment to change our form of government in Maui County is a serious proposal which may have unintended political and financial consequences. A decent respect for the opinions of our citizens requires more discussion and more thorough investigation and public meetings to be held in every councilmanic district. Let the people decide. Yes, letting the people discuss and debate and learn more from each other is a

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necessary first step that is lacking in this process. A small impassioned minority no matter how well intentioned and virtuous, speaking in a small meeting room is not full participation by our citizens in this critical governance decision. To put it simply, this cake is not baked. We respect the request that...we respectfully request that the Council --

MS. WILLENBRINK: Three minutes.

MR. BLACKBURN-RODRIGUEZ: --not support the Charter amendment on County governance--I'll conclude in ten seconds --

CHAIR VICTORINO: Go ahead.

MR. BLACKBURN-RODRIGUEZ: --and will not support the Charter amendment on County governance. We ask that you do not support it. And avoid what could be viewed later as a historic and unnecessary mistake. Thank you again for the opportunity to testify and for all the time you put in on this issue.

CHAIR VICTORINO: Thank you. Questions for the testifier? Yes, Mr. Couch?

VICE-CHAIR COUCH: Thank you, Mr. Chair. You mentioned you were going to testify on another subject?

MR. BLACKBURN-RODRIGUEZ: I tried to incorporate that into my testimony in supporting the...

CHAIR VICTORINO: You will be allowed another three minutes on another subject matter.

MR. BLACKBURN-RODRIGUEZ: No, I appreciate that but I also respect how hard you're working.

VICE-CHAIR COUCH: Okay.

MR. BLACKBURN-RODRIGUEZ: So thank you, Mr. Couch, but I was trying to incorporate it within the three minutes.

CHAIR VICTORINO: Okay, thank you. Any other questions for the testifier? Seeing none, thank you.

MR. BLACKBURN-RODRIGUEZ: Mahalo.

CHAIR VICTORINO: Next testifier, please.

MS. WILLENBRINK: Our next testifier is Nick Drance, followed by Susan Vickery.

MR. DRANCE: Aloha. Thank you all for the hard work that you do. So much time and patience required, I can't imagine. Let me begin my comments...

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CHAIR VICTORINO: Your name, please.

MR. DRANCE: Oh I'm sorry. Nick Drance.

CHAIR VICTORINO: Thank you, sir.

MR. DRANCE: Let me begin my comments by quoting a very wise and famous person who said great truths are simpler than you think. I'm commenting on PIA-10(14) [sic]. My comments here encourage you to put this issue to vote and these are my reasons why. A lot of people want this position established to manage the County resources, the long-term stewardship and accountability in that position. My sense is that that position should be established according to standard corporate protocol whereby the residents of Maui as voiced by the County Council functioning as a board of directors. The establishment of standard performance evaluations should be agreed upon and formalized for this position. Quickly, I see the position primarily...the job description being primarily defined as ensuring that the combined interests and long-term wellbeing of the residents of Maui are maximized based on the input of residents and expertise in the Council. I think that position should also include accountability and transparency, that they are maximized. The position of course should be appropriately compensated and serve at the pleasure of a majority vote by the City Council. My motivation for my point of view here is that at this point, Maui's unable to sustain itself with regard to food and water within a relatively, outside a relatively narrow scope of circumstances. And in the event of a disruption of that delicate balance that we now enjoy, the wellbeing of our residents are potentially in jeopardy, not to mention the many hundreds of millions of dollars that we send off the island for food. So I'm also commenting on the urgency of this position to address this need as I see it. The island now as far as land use goes, I see it as potentially the most significant scenario that we are facing after the annexation of the islands by the United States and the implementation of the colonial-style plantation system. There are about 90,000 acres or so, my understanding is, of land that's controlled by A&B and other financial interests, and my understanding is that just 27,000 of those acres are designated as agricultural. So in summary, I wish to just simply say that the importance of ensuring that the combined interest and long-term wellbeing of the residents of the County of Maui are maximized. I see this as the central function of the job position, and by viewing it in that way, I think that it might circumvent some of the byzantine interests, financial, cultural, economic, and political. So...

CHAIR VICTORINO: Mr. Drance, can you conclude, please?

MR. DRANCE: Just simply to begin with the end in mind and recognize our overall goal for the citizens of Maui. Thank you very much.

CHAIR VICTORINO: Now mister...I want to clarify something and I may have missed it. When you started off, you spoke of 10(14).

COUNCILMEMBER BAISA: Yes.

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CHAIR VICTORINO: You mean 10(16).

MR. DRANCE: Oh, excuse me. County Manager, absolutely.

CHAIR VICTORINO: Yeah, 10(16). Okay, I just wanted to be clear.

MR. DRANCE: Oh, thank you so much.

CHAIR VICTORINO: I got confused and I figured I'd let you go until I get to the end.

MR. DRANCE: Thank you.

CHAIR VICTORINO: You meant 10(16), am I correct?

MR. DRANCE: Yes, sir. Yes, sir.

CHAIR VICTORINO: Okay. Thank you for that clarification. Questions for the testifier?  
Seeing none, thank you, sir.

MR. DRANCE: Thank you very much.

CHAIR VICTORINO: Next testifier, please.

MS. WILLENBRINK: Chair, our next testifier is Susan Vickery, she will be speaking on two matters, and the final person signed up to testify in the Chamber is Tom Croly.

MS. VICKERY: Good morning, Chair and --

CHAIR VICTORINO: Can you please put the microphone...thank you.

MS. VICKERY: --Councilmembers. Thank you for allowing me to be here this morning. I'm going to talk about two issues, the PIA...

CHAIR VICTORINO: Your name, please.

MS. VICKERY: Oh I'm sorry. Susan Vickery.

CHAIR VICTORINO: Okay, thank you, dear. Go ahead.

MS. VICKERY: My first time ever testifying so don't...

CHAIR VICTORINO: Thank you. Welcome. No worry. No, no, no. Go right ahead.

MS. VICKERY: Don't hurt me.

CHAIR VICTORINO: No, no, go right ahead.

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MS. VICKERY: All right. I'm talking regarding PIA-10(11). Always need to protect the environment here and we need people on the Planning Commission that seriously care about the natural environment of Maui County, Molokai included, Lanai, Kahoolawe. Without our forests and our coral reefs that are being destroyed daily, we really are in trouble so we need to address that every time we plan any building of anything. It's not a development industry at the Planning Commission, it's about the aina, to me, in my opinion. We need to preserve the local culture and traditions of Maui County's people and make a lifestyle which makes the island unique and special. And since these key strategies are...we should have people in the Planning Commission who are knowledgeable about and sensitive to these things. Every board and commission should reflect diversity and thought knowledge that will give rise to good decision making. I don't think we have that on the Planning Commission as of now so, or in the past, and the development of more and more on the islands is just, needs to be addressed before they just start building. We need infrastructure, blah, blah, blah. Okay. The other item I'd like to speak to is PIA-10(16). I believe we need to keep the Mayor with his power, but we also need a Managing Director with expertise in that area of directing and managing in the County position to support the Mayor as best as possible. But he needs to or she needs to have some experience. The length of service of Managing Director and his and her hired directors should be based on job performance. And that would always create more career opportunities where everyone's always talking about we don't have enough jobs so we need another job or two or three. And it's not about jobs, but I'll add that. So that's all I have to share. I thank you very much for allowing me to testify today. Thank you.

CHAIR VICTORINO: Thank you. Any questions for the testifier? Seeing none, thank you. You did very well for your first time.

MS. VICKERY: Thank you very much.

CHAIR VICTORINO: Very well. Next testifier, please.

MS. WILLENBRINK: Chair, I have confirmed with the District Offices that there is no testifiers.

CHAIR VICTORINO: Thank you. I was going to ask you that next question, but fine, go ahead.

MS. WILLENBRINK: Our final testifier in the Chamber is Tom Croly.

CHAIR VICTORINO: I don't think so.

MS. WILLENBRINK: Oh.

CHAIR VICTORINO: I don't think so, but anyhow.

MS. WILLENBRINK: He is speaking on three items.

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CHAIR VICTORINO: Okay, go ahead.

MR. CROLY: Aloha, Chair. Aloha, Councilmembers. Tom Croly speaking on my own behalf today. First just in general, I would urge you as you go through these deliberations to pare things down and not put more than say five things on the ballot for people to consider. I'm confused and I know what we're talking about here with all these different items to be considered, but they all deserve your consideration but I don't think they all deserve to necessarily be on the ballot. I do think the Office of Council Services should be able to provide you folks with legal advice. I think that's kind of simple. I don't think that the Charter should contain special qualifications for Planning Commissioners. The commissioners themselves should not be appointed based on special qualifications or affiliations. I believe the Commission should function something like a jury. They should not be coming into their roles with a predisposed agenda. But the commissioners are there to very carefully consider the public's input on all issues and apply the law fairly as established by this body. This is where policy is made, this is where law is made. The Planning Commission's role is to make sure they implement that correctly and fairly but not to be making it up there. But if you were to say we want to have certain things considered on the Commission then I would say one Planning Commissioner should be an economist. One Planning Commissioner should be a housing specialist. One Planning Commissioner should be a traffic expert. Another Planning Commissioner should be a hydrologist. Another Planning Commissioner should be a vacation rental expert. Another Planning Commissioner should represent the hotels. Another Planning Commissioner should represent Maui's farmers. I could go on and on. I'm not really saying that each of the Planning Commissioners should represent that because they are a proxy for us as, in general. But they are there to listen to all the people with those various expertise and to consider those things in their deliberations. So again, I've stated this before, I don't think that we should have those criteria in the Charter. But what I do think is that it's appropriate to train the Planning Commission in these concerns. We should have Planning Commissioners who understand Hawaiian culture, who understand the environmental concerns, who understand hydrology, who understand economics, and so forth. Those training should take place and I think you can do that in Code and not in the Charter. Chair, moving on to the second item, the form of governance. Brexit, it's a word I never heard before two weeks ago, but now because of Brexit we have a country in turmoil. We have a stock market in freefall. We have the future of many people uncertain. A change in the form of government is an important and complicated issue with broad reaching implications just as it was saying we're going to leave the EU. You know it was quite disturbing to find out that after the vote, after the vote, the number one thing that was on, that was searched on Google was what is the EU and what are the implications of leaving the EU? Boy, and I saw many people interviewed and they were regretting their vote. It's a little scary to me to think that if we put something on the ballot for people to vote on the form of governance and they don't consider all of the ramifications, whether they might regret their vote in the future. I won't repeat what former County Manager Sheri Morrison said, but I have to agree that she raised many questions that need to be answered. And I have to say I have the greatest respect for Ed Kushi sitting over there, but I'm not ready to accept

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all the changes that Ed authored in the County Charter that he felt were necessary to effectuate a County Manager as requested by the commission on governance. I think that each of those changes needs to be considered and fully discussed before you would move forward with the broader issue. I don't think that we should be considering those after we have made that decision. I've watched all the meetings of the Cost of Government Commission and they, what they took up, I was very impressed with their academic approach that they took to this issue. I found their report to be very thorough, well researched, and quite frankly I agreed with their conclusion. I'm not sure that I necessarily agree that we have the best form of governance now, but the conclusion that was drawn by the Cost of Government Commission raised the questions that I want answered before we make changes. The bottom line is changing the Charter as significantly as would be necessary to facilitate the change in governance is something that needs much more vetting before we would be ready to put this out to the vote. Please let us avoid the regret that those in the UK are feeling regarding their Brexit. Thank you.

CHAIR VICTORINO: Thank you. And before I open questions up to you, Mr. Croly, let me state that these drafts were based from Council, not from Mr. Kushi. They just look over it toward legality and forms of legality for us. Okay, so just so that you understand that it's not coming from Corporation Counsel, it is we the Council and various Members who brought forth these.

MR. CROLY: Oh just to clarify, the changes that I was referring to were the changes that Mr. Kushi gave to the Governance Committee.

CHAIR VICTORINO: Okay, so yeah, so I wanted...yeah.

MR. CROLY: Yeah, not these other ones that we're considering today --

CHAIR VICTORINO: Thank you. Thank you.

MR. CROLY: --but the ones that were given to them that really didn't get discussed in their Committee.

CHAIR VICTORINO: Okay. So I just wanted that clarification so the public's not confused --

MR. CROLY: Right.

CHAIR VICTORINO: --and some Councilmembers are not going to go whoa, what does that mean? Okay, thank you for that clarification. And I just wanted to make sure that everyone understood. Questions for the testifier? Seeing none, thank you. How many more...we thought we were at the end but we're not yet.

MS. WILLENBRINK: That's correct. We do have four more people signed up to testify.

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CHAIR VICTORINO: Okay. So let's clear up that four and if we can get it done by no later than 12:30, then we'll go for lunch from 12:30 to 1:30 or whenever time we get through to 1:30. Okay, go ahead, please.

MS. WILLENBRINK: The next person signed up to testify is Joseph Aquino. Joseph Aquino.

CHAIR VICTORINO: Okay, he's coming. Okay.

MR. AQUINO: Good morning, everyone. My name is Joseph Aquino, and I'll be talking on PIA-10(16). I am opposing this because it is obvious that there are too many questions that need to be answered. Born and raised here in Maui County, I find no fault in the system that we have now. There are issues that we can address instead of changing the governance system. And I'd really like to bring this back to the community and try to get those unanswered questions answered before we put this on the ballot and ask the question later what is this all about? Thank you.

CHAIR VICTORINO: Thank you. Questions for the testifier? Seeing none, thank you. Next testifier, please.

MS. WILLENBRINK: Our next testifier is Emmanuel A. Baltazar, to be followed by Lei Sato.

MR. BALTAZAR: Good morning, Mr. Chair and the respected Members of the Council. I'm Emmanuel Baltazar. I am a union representative. I'm here to testify to strongly oppose PIA-10(16). I strongly suggest that the Members of the Council to have further study, analyze objectively, and discuss thoroughly. We need to disseminate further to our people and educate them what's going on and what are future plans. I've been an educator in the past, I know how to teach these people. We cannot make this in a single click. We need ample time for this, not to put in our ballot this coming November. We all need to take into consideration to the report of the Cost of Government Commission and this would be our rebuttal for our further discussion. Thank you so much.

CHAIR VICTORINO: Thank you, Mr. Baltazar. Questions for the testifier? Seeing none, mahalo.

MR. BALTAZAR: Thank you, Mr. Chair. And thank you to the Members of the Council.

CHAIR VICTORINO: Next testifier, please.

MS. WILLENBRINK: The next testifier is Lei Sato, followed by the final testifier Madge Schaefer.

MS. SATO: Good morning, everyone. Good morning, Council Victorino or Chairman --

CHAIR VICTORINO: Good morning.

MS. SATO: --and all the Councilmembers.

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CHAIR VICTORINO: Actually we've gone over to the afternoon already if you guys haven't noticed.

MS. SATO: Okay, yeah, it's after 12:00.

CHAIR VICTORINO: Yeah.

MS. SATO: Well I just wanted to testify against the 10(16) and...

CHAIR VICTORINO: Your name, please.

MS. SATO: I am Lei Sato.

CHAIR VICTORINO: Okay, thank you.

MS. SATO: And I'm also a union representative for ILWU. And I oppose against this as well only because I feel that the public needs more education on this and to me I feel like it's being rushed at this moment. I do respect everyone's input on everything that's going on that I've heard this morning, but I do oppose against this. And we need more education for our public people out there, 'cause from what I understand nobody knows that I know of of what's going on, so I have to educate them as well. So that's why I'm here today and that's all I have to say at the moment. Thank you.

CHAIR VICTORINO: Thank you, Ms. Sato. Questions for the testifier? Seeing none, thank you. Next testifier, please.

MS. WILLENBRINK: Yes, thank you, Chair. The final person signed up to testify today is Madge Schaefer, and she will be testifying on four items.

MS. SCHAEFER: Mr. Chair, I'd like to ask that you give me some, three minutes to address as vice-chair of the committee to study governance, because there's been a lot of information that's been stated by the public today that isn't accurate. It doesn't reflect what actually happened in the committee. Just a few things, but I think they're glaring and need to be corrected.

CHAIR VICTORINO: Well, no you can go ahead and testify. I mean we all know who you were and what you did on the Committee so go right ahead, please.

MS. SCHAEFER: Well, the rest of my testimony though would be my individual testimony and I don't want to, that to be confused, one with the other. Because the Committee still is in effect and I don't want there to be a misrepresentation.

CHAIR VICTORINO: Members, I leave it to you to make that decision with me. Do you...I don't have a matter which way or the other, I just...if...your testimony is your testimony, Madge, and we all know you're the Vice-Chair. Everybody in this room plus I think everybody in public knows that but go right ahead.

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COUNCILMEMBER BAISA: Chair? Chair?

CHAIR VICTORINO: Yes, you have something, Ms. Baisa, you wanted to add?

COUNCILMEMBER BAISA: Yes.

CHAIR VICTORINO: Go ahead, please.

COUNCILMEMBER BAISA: I understand...

CHAIR VICTORINO: Can you speak to your microphone please.

COUNCILMEMBER BAISA: I understand the request, but is it possible that to be fair --

CHAIR VICTORINO: Yes.

COUNCILMEMBER BAISA: --that we ask Madge to stay as a resource in case something comes up that we need help with?

CHAIR VICTORINO: And that's exactly what I was going...my suggestion but I wanted to see what you had to say. So I would ask that of you, Ms. Schaefer, if you could stay as a resource person when we get into deliberations. Is that possible?

MS. SCHAEFER: Of course.

CHAIR VICTORINO: Thank you. Go ahead.

MS. SCHAEFER: All right. So now I'm speaking on behalf of myself.

CHAIR VICTORINO: Thank you, dear.

MS. SCHAEFER: Let me...wait, don't start the clock yet 'cause until I get to where I'm at. First of all, I will say my briefest comments first and that is that I support 10(13) and 10(9), the ethics questions. While I understand there may be some question about whether this is legal and lawful, I ask you this, if your job depends on the Mayor's approval and he asks you for a campaign contribution, does that create a dilemma for an employee? And if a policy was in place that simply said employees are encouraged not to participate in campaigns or make campaign contributions...that's just my take on that. On the issue of the Planning Commission, I think that that's a good idea. It provides another resource and opportunity and I would support that. Regarding...Mr. Chair, regarding 10(16), you opened the meeting and I was a little startled by the warning that you gave the audience about maintaining decorum, and what it brought to mind was something that happened when the Mayor appeared at our Committee meeting. And we had sent some specific questions, four very specific questions about the operation of the Mayor's Office, and he came downstairs and spoke with us. And at the end, he simply said this Council is too stupid to be able to

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select a County Manager. And that went on for probably five minutes and along those lines. The Chair did not gavel him down, did not ask him to stop. I asked him to stop because I think it's insulting to every single one of you to be, have the Mayor say that you are too stupid to make a selection of a County Manager. I was offended. I was offended by every voter who cast their ballot not only for the Mayor but for you too, so they were stupid when they voted for this Council, but they were brilliant when they elected the Mayor. Okay. On the second thing is...

CHAIR VICTORINO: I don't see your correlation but again but that's okay. I...

MS. SCHAEFER: You don't see the correlation?

CHAIR VICTORINO: I don't see the correlation but go right ahead, please. And forgive me but I don't. But go ahead, please. We needed a good laugh. It's almost lunchtime. So thank you very much. Moving on with the next subject matter please.

MS. SCHAEFER: Okay. Next subject, this, the minority report. You already know I filed an Office of Information Practices. What this report is is if you wanted to go fishing for red herring, you could catch choke herring with this report. Full of distortions, full of half-truths, it's really unfortunate. And it's really rich that the author of this who didn't sign it but now we know who the author is got up here today and talked about all the legalities but ignored the basic law, Sunshine Law, the open meeting law, the right for the public to see what's going on. I will tell you that the stockholder, the community are the stockholders of this corporation. This corporation, they are entitled to have a say, and the question before you is simply shall the stockholders choose to have professional management or take their chances every four years. And I think the community can figure that out. I hear the union people say we don't know anything about this. Where have you been? We have been in the paper, we have been live on television, you can see our videos of our meetings, they're running on demand. What more can we do? I think really the issue about the time, a rush to judgment, a cake not baked is simply that we arrived in the majority and their opinion of the minority, we arrived at the decision that they didn't like. And if we study it until they want us to study it until we reach a different conclusion, but I don't think that's going to happen. So I urge you to put this on the ballot. Last thing, Cost of Government Committee [*sic*] report, how do you study something and compare it if you don't know what it costs to operate this government now? How do you compare it? So you're out there selecting from countries...from cities across the country, but you aren't looking at what the cost of government is now and the cost for Maui's administrative Mayor and administrative is higher than it is for Honolulu or any of the other islands. In fact, the staff in Honolulu is smaller than the Mayor's staff here. Just saying. Thank you.

CHAIR VICTORINO: Oh okay. Are you done?

MS. SCHAEFER: Yeah.

CHAIR VICTORINO: I didn't want to stop you until you were done.

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MS. SCHAEFER: No, I'm done.

CHAIR VICTORINO: Okay.

MS. SCHAEFER: Except the committee things which I do want to speak on behalf of the committee, and I don't know whether that's going to happen in resources. Is someone going to ask me what was misrepresented?

CHAIR VICTORINO: Yes, we will ask you that question. We'll bring it up.

MS. SCHAEFER: I thank you.

CHAIR VICTORINO: You will. Okay. We'll use you.

MS SCHAEFER: I thank you. I think that's the least you could do because I defended every single one of you.

CHAIR VICTORINO: Yes, thank you. And I thank you for it. Any questions for Ms. Schaefer? Yes, Mr. White?

COUNCILMEMBER WHITE: I'd like to hear what the, her top three misrepresentations are that she was, that she wanted to speak on.

CHAIR VICTORINO: Since you asked the question, I'll ask her three top and no elaboration but just the three top.

MS. SCHAEFER: Oh come on. You know that's not going...that's like asking you not to elaborate.

CHAIR VICTORINO: Well, I just thought I'd try.

MS. SCHAEFER: Okay. I think the gentleman who spoke after Dave DeLeon, I missed his name. Everybody else's name I got. But he held up the document that came from the TIG back to the committee. The staff was responsible for elaborating. The staff was responsible for writing the language. It then came back to us in a very lengthy memo which was discussed at length. So that was not an accurate representation of the work that was done. The second thing was this was a rush to judgment. In February one of the members of the, who voted in the minority called for the question, wanted to vote on it right then. Well I have enough information, I want to vote on it. That was in February. We had been meeting, I guess we had met three or, maybe three or maybe four times. So there was no rush to judgment. If anything, the minority wanted to rush to judgment. And I think the third thing is we came into this with open minds, we had a lot of material to study and we studied it well. And there comes a point where you have to fish or cut bait and it was obvious, it was a natural progression and we were ready to decide. And quite frankly, Chair, to the bitter end, I did not know how the vote was going to go. So it wasn't open and shut.

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CHAIR VICTORINO: All right, thank you. Does that answer your questions, Mr. White?

COUNCILMEMBER WHITE: Yes, thank you, Chair.

CHAIR VICTORINO: You're welcome.

MS. SCHAEFER: Thank you for the opportunity.

CHAIR VICTORINO: Not a problem, my dear. And you'll still hang around as a resource person right?

MS. SCHAEFER: Yes.

CHAIR VICTORINO: Okay, thank you. Any other questions for Ms. Schaefer? If not, thank you very much. Any more testifiers? I knew that was coming. Okay, go ahead.

MS. WILLENBRINK: Yes, Chair. The next person signed up to testify is Stephen West.

MR. WEST: Good morning, Chair, Councilmembers. Thank you for the opportunity to speak. I'll try to be brief.

CHAIR VICTORINO: Your name, please.

MR. WEST: Stephen West.

CHAIR VICTORINO: Thank you. And you're representing?

MR. WEST: I'm representing International Longshore and Warehouse Union.

CHAIR VICTORINO: Thank you, sir.

MR. WEST: We have actually taken a position both on the division level and a Statewide level that we are against this...well the County Manager form of government on the agenda item 10(16). There are a number, for Maui County there's a number of Charter...this may conflict obviously with the Salary Commission and their role, Civil Service Commission and their role. There are a number of legal questions that we have and really what we're, you know, we're obviously against this but if you're going to move forward with it, my recommendation to this Council would be that you need to vet it more because we could end up in court and spending more of the taxpayers' dollars. So I'll keep it short. We're opposed to it. Thank you very much for your time.

CHAIR VICTORINO: Thank you, Mr. West. Questions for the testifier? Seeing none, thank you. Next testifier, please.

MS. WILLENBRINK: Yes, Chair. The final person signed up to testify is Clyde Hayashi.

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MR. HAYASHI: Good morning, Chair Victorino, Committee Vice-Chair Couch, Members of the Maui County Council. My name is Clyde Hayashi. I'm testifying for the Hawaii Laborers Union on behalf of our 330-plus members and their families who live in Maui County. I'm testifying on PIA-10(16). Very concerned, it's not clear to us how the proposal would actually work in terms of the role laid out for the Mayor as well as the role of the County Manager or Managing Director. I know there's a lot...you know democracy is imperfect. I know that there's challenges probably with any government that has human beings, individuals involved. I believe that some of the problems that people are concerned about would merely be shifted to another area. We believe that the top person in this County should be elected by all of the people, and there's no, to me there's no higher form of democracy than that and especially Maui County where the constituents of Maui have more than any other county made their opinions about their Mayor known. In 1994 Mayor Lingle was in her last term. In '98 Mayor Apana was elected. In 2002 the people in Maui County decided they wanted a change and elected Mayor Arakawa. In 2006 again they decided they wanted a change and elected Mayor Tavares. And in 2010 they elected, they decided wanted a change again and elected Mayor Arakawa. Maui more than any other county has exhibited this view that if they are not satisfied with their Mayor, they will then turn around and have that person be a one-term Mayor. Very concerned that what this potentially, what could potentially happen if you move this forward is that in 2014 there were 46,005 people who voted in Maui County. Right. So if...and in 2012 there were 48,895. So potentially right, 25, 24,000 to 25,000 people in Maui County could decide to take away every resident's ability to vote on their top elected official from now until, till forever, right, until maybe it would change back. I think...I know it's imperfect, I think there's challenges, but for me I would like there to be the highest form of democracy possible. If that Mayor is not the person that the people in Maui want, they can vote the person out as they've done on many occasions. Right. I think that to move away from that, to have the top official in the County to be select, appointed to me is going in the wrong direction. Thank you for this opportunity to testify.

CHAIR VICTORINO: Thank you, Mr. Hashida [*sic*]. Any questions for the testifier? Seeing none, are there any more testifiers?

MS. WILLENBRINK: There's no one further signed up to testify, Mr. Chair.

CHAIR VICTORINO: Is there anyone from our District Offices? Have they e-mailed us and said if there's anyone wishing to testify?

MS. WILLENBRINK: They have not.

CHAIR VICTORINO: Okay. Then I'll give one more chance to anyone who's in the gallery who has not spoken, an opportunity to speak their mind. I see one hand went up. I gotta do this, gang, I'm sorry. I have to be fair. That's what Madge Schaefer told me to do. That's right. And Marge Bonar too, she shook her head. Thank you, Marge. Okay, so we have one more testifier, and please and as soon as you're done, please sign a form so that we can put it on record. But if you would come to the podium and identify yourself and any organization you represent.

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MR. MEDEIROS: Aloha. My name is Jason Medeiros and I'm here as an individual. I was sitting in the gallery and hearing a lot about how the Planning Commission is...I was taking offense, you know what I mean? I know them, some more than others but I know them, they're all nice people, you know, and I'm sitting there and I'm going, I'm not a bad person and that's what testimonies that I have heard is making me out to be, you know. And as far as this change in governance, since I was a little kid, there has been a mantra on Maui, you know, to not make Maui another Honolulu. Guess what, this movement is succeeding. We're skipping Honolulu and we're going straight to California. That's all I got.

CHAIR VICTORINO: Thank you. Questions for the testifier? Seeing none, again, one more time, is there anyone who hasn't testified wish to testify? Seeing no one rushing to the podium, with your permission --

VICE-CHAIR COUCH: No objections.

CHAIR VICTORINO: --Members, can I--can I finish please, Mr. Couch--close public testimony?

COUNCILMEMBERS: No objections.

CHAIR VICTORINO: Thank you very much.

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

CHAIR VICTORINO: In light of how late we are, I'm going to ask that everyone be back by 1:45. I'm going to give you an hour and 15 minutes to get refreshed and be back at 1:45. So this meeting will stand in recess till 1:45 p.m. . . .*(gavel)*. . .

**RECESS: 12:27 p.m.**

**RECONVENE: 1:49 p.m.**

CHAIR VICTORINO: . . .*(gavel)*. . . The meeting of the Policy and Intergovernmental Affairs Committee will reconvene. Thank you for that lunch break. You know today we, we're going to start on two items and one of 'em the person that I need to ask the question is not here which is Chair White so that kind of already putting my schedule off-track again right off the bat, but that's the way life is in this game, isn't it. So and I really hate discussing the next item because...

VICE-CHAIR COUCH: Mr. Chair? Real quick. On 10(13), didn't we...

CHAIR VICTORINO: But we didn't file it and I want to make sure that he's okay to file it.

VICE-CHAIR COUCH: Okay. Okay.

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CHAIR VICTORINO: Okay. We did not file it, we deferred --

VICE-CHAIR COUCH: Gotcha.

CHAIR VICTORINO: --it and I was instructed that we should file it so I want to make sure he's comfortable with that aspect.

VICE-CHAIR COUCH: Okay.

CHAIR VICTORINO: So that's why we still have this question out there and that's why I wanted that to be the first thing on the agenda so we could get that and move on. But he's not here right now. And the second one which is 10(16) I do not want just few Members discussing it. I want all Members discussing it. Okay. So I don't know and no one told me they were going to be late back from lunch or not coming back from lunch. So this kind of puts a crimp on what we'd like to do. And the rest really to be honest with you, I don't want to start discussing items that if this governance, County management form of governance goes forward, some of those become moot points. You're pointing your finger at me or you're saying...

VICE-CHAIR COUCH: No, no, no.

CHAIR VICTORINO: Oh okay, Mr. Couch.

VICE-CHAIR COUCH: I heard the elevator.

CHAIR VICTORINO: You heard the elevator, okay. So...and so this makes it difficult because the way I had this scheduled out, I hoped to move along but now I don't know. But I will do it this way then. Since Mr. White is not here...

VICE-CHAIR COUCH: There he is.

COUNCILMEMBER BAISA: There he is.

CHAIR VICTORINO: Talking about the man himself. Where?

VICE-CHAIR COUCH: Lingerin...

COUNCILMEMBER BAISA: He's coming.

CHAIR VICTORINO: Mr. White, you're the man of the hour. So I was just going to defer the first item, but now that you're here, I'm going to bring it up. Okay.

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**ITEM PIA-10(13): PROPOSED CHARTER AMENDMENTS (PROHIBIT COUNTY EMPLOYEES FROM MAKING CAMPAIGN CONTRIBUTIONS TO SUPPORT OR OPPOSE ANY CANDIDATE FOR MAYOR OR COUNTY COUNCIL) (CC 09 229)**

CHAIR VICTORINO: First agenda item today will be PIA-10(13), a proposed Charter amendment to prohibit County employees from making campaign contributions to support or oppose any candidate for the Mayor or County Council. Now, Mr. White, you had informed us that you wanted this to be taken off the docket, but when we deferred it, I was informed that we need to file it. So I wanted to get your permission that we may file this 10(13).

MS. WILLENBRINK: Chair?

CHAIR VICTORINO: Yes?

MS. WILLENBRINK: Point of clarification.

CHAIR VICTORINO: Yes?

MS. WILLENBRINK: At the beginning of the meeting in your notes, you stated that County communications need to be filed --

CHAIR VICTORINO: Yeah.

MS. WILLENBRINK: --and so do Committee reports. But correspondence directly to the Committee does not need to be filed, it can just go away unless a specific request is made. So as we go through, if you don't want to move on a matter and you want it to completely go away, it can, or it can be deferred and then roll over to the next Council term or just go away at the end of the term.

CHAIR VICTORINO: Let me direct the Council, the Committee, okay? I appreciate what you're trying to say, but that's not exactly where I want to go with some of this. And I will make the motions or I will ask for deferrals and/or filing of various communications based upon its merit and based upon its necessity to move forward or not.

MS. WILLENBRINK: Very well.

CHAIR VICTORINO: Thank you. All right. So now can I finish up 10(13)?

MS. WILLENBRINK: Sure.

CHAIR VICTORINO: Can I ask Mr. White the million-dollar question? Mr. White, I apologize. Go ahead.

COUNCILMEMBER WHITE: Thank you, Chair. At the last meeting, I made the recommendation to file and we were told --

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CHAIR VICTORINO: To defer.

COUNCILMEMBER WHITE: --we don't need to file, but then it shows up on the agenda again today.

CHAIR VICTORINO: Yes.

COUNCILMEMBER WHITE: So I move to file PIA-10(13) and County communication, and the attached County communication. I can't find the number.

VICE-CHAIR COUCH: Mr. Chair? Just a point of clarification. We don't want to file County Communication 09-229, because that's throughout this whole agenda today. We just want to file correspondence dated April 29, 2016, so if Mr. White is okay with that.

CHAIR VICTORINO: Well somebody figure it out and then I'll be more than happy to move on that.

VICE-CHAIR COUCH: I move to file correspondence dated April 29, 2016 and item PIA-10(13).

COUNCILMEMBER WHITE: Whichever works, Chair.

CHAIR VICTORINO: Thank you. Is there a second?

COUNCILMEMBER BAISA: Second.

COUNCILMEMBER WHITE: Second.

CHAIR VICTORINO: Okay. Okay, it's been moved and seconded to file County communication--hold on, now that I'm lost--correspondence dated April twenty --

VICE-CHAIR COUCH: Ninth.

CHAIR VICTORINO: --29, 2016. Any further discussion? Yes, Mr. Hokama?

COUNCILMEMBER HOKAMA: Chairman, I'm in general support of the motion before the Committee. And while I appreciate Mr. Couch's comments, you know, I prefer that in the future, we start with County communications that is more timely and more up to date. You know still going back to 2009 I don't think is fair to either, since we used Mr. Molina's name a lot for the transmittal, it was at a different time, at a different Council regarding different situations. I would ask this Committee to look at a brand new item for receiving future amendment considerations that is more timely and appropriate to the current Council or future Councils, Chairman. Thank you.

CHAIR VICTORINO: Thank you. And again, that was my instructions and that's the way we've done it and you're well aware of that. So maybe something that we need to work

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on in future, a future agenda item and how we present these items, and still keep them active if you want and roll it over to the next group, but yet have it identified as a new item if that is the way you wanted to propose it, Mr. Hokama. So I'm in concurrence in what you're saying. All right. So any more --

COUNCILMEMBER WHITE: Chair?

CHAIR VICTORINO: --discussion? All those in favor --

COUNCILMEMBER WHITE: Chair?

CHAIR VICTORINO: --signify by...oh yes, Mr. White?

COUNCILMEMBER WHITE: I'm sorry. Just for clarification, the reason I'm interested in filing this is that my main intent is to have folks that are appointed, in appointed positions feeling as though they have to participate in funding, you know, funding elections of those for whom they work. And I know Mr. Hokama has the item coming up regarding the Corp. Counsel and their deputies and the prosecutors and their deputies not participating. And so my hope in filing this is that we can possibly look at adding other appointed positions to Mr. Hokama's reso or his Charter amendment. Thank you.

CHAIR VICTORINO: All right. Thank you, Mr. White. Any other discussion? Seeing none, all those in favor, signify by saying "aye."

COUNCILMEMBERS: Aye.

CHAIR VICTORINO: Opposed? Let the record show nine "ayes," no "noes," no excused.

<b>VOTE:</b>	<b>AYES:</b>	<b>Chair Victorino, Vice-Chair Couch, and Councilmembers Baisa, Carroll, Cochran, Crivello, Guzman, Hokama, and White.</b>
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<b>NOES:</b>	<b>None.</b>
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<b>EXC.:</b>	<b>None.</b>
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<b>ABSENT:</b>	<b>None.</b>
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<b>ABSTAIN:</b>	<b>None.</b>
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**MOTION CARRIED**

**ACTION:     Recommending FILING of correspondence.**

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**ITEM PIA-10(16): PROPOSED CHARTER AMENDMENTS (COUNTY MANAGER FORM OF GOVERNANCE) (CC 09-229, CR 16-95)**

CHAIR VICTORINO: Okay, moving along to the next item on the agenda today is item 10(16), proposed Charter amendments, County managing [sic] form of governance. You all recall this body voted to form a Special Committee on County Governance to discuss changes of our current form of government to the County management form of government. The Committee is...the Committee report again, excuse me, Committee report is in your binder along with Charter amendments and ballot questions as requested in Resolution 15-155. I would like to thank the members of the Special Committee for their commitment and their hard work. So what I'd like to do is start off right now, we've had the actual proposal, there has been some other information disseminated amongst all of you. And I would like at this time to call on Corporation Counsel Kushi to discuss a few of these questions that have been brought up about this issue. We do have an Attorney General's opinion from the, for the island of Kauai or the County of Kauai which I believe is not as relevant to our situation as to their situation. And so and Mr. Kushi did forward his opinion also on this matter, but he's also brought forth some other information which I think will be disseminated amongst you now. Can you pass that out please, miss...

MS. WILLENBRINK: We don't have it.

CHAIR VICTORINO: Oh you don't? Oh excuse me. I thought we...oh, excuse me. Will be disseminated out to you right now. Yeah, I have my copy here. Yeah. So, but I would like every Member to have it before we start, before Mr. Kushi starts discussing it so that at least they have an overview on what he will be speaking to. And we do have in the audience as--what do you call those --

VICE-CHAIR COUCH: Resource.

CHAIR VICTORINO: --resource. Yeah, I was going say reference and I knew I was wrong there. It's been a long morning and now I'm trying to get after lunch and I had a nice lunch and I shouldn't have eaten lunch I think. Resource people in the audience that I can call upon to discuss different issues if needed. Okay. So but I will pass this out to all the Members and allow you a couple of minutes to go over 'em. So I'm going to take about a five-minute recess, allow everyone to review these items. This Committee is in recess. . . .(gavel). . .

**RECESS: 2:01 p.m.**

**RECONVENE: 2:06 p.m.**

CHAIR VICTORINO: . . .(gavel). . . PIA will reconvene. Members, you have been disseminated some information from Mr. Kushi, and I will allow Mr. Kushi to elaborate a little bit more so that we're all on the same page in regards to this issue. Mr. Kushi?

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MR. KUSHI: Yes. Mr. Chair and Members, what was passed out to you are three pages, Corp. Counsel Exhibits "1," "2" and "3." These are my recommendations to amend the proposed resolution Charter changes. Again, background is that we just recently became aware of an Attorney General's opinion, dated June 6, 2016, which was after the Committee report was submitted. And I believe you all have a copy of that. Okay. In that opinion, it basically commented on the island of Kauai's proposed charter amendments which in essence in my mind mirrors what the, what we're here for today. In that, in the Kauai's case, they kept the mayor but the mayor then becomes a member of the council. They appointed a managing, a County Manager, and the appointment is appointed by the council as I understand their resolution. So the chair of the Kauai Council asked the AG opinion to look at it, AG's Office to look at it. They came back, the AG came back and said basically the method of appointment as proposed by Kauai's Charter wherein the mayor would be replaced by a County Manager chosen by the county council, such a method of selection is permissible only if the position is exempt from civil service. In our view, the existing statutory exemptions do not contemplate an exemption for a County Manager. They cite HRS 76-77, Sections 1 and 2, HRS. Those sections say that everybody's covered by civil service except for the following: positions in the office of the mayor and also positions of officers elected by public vote, positions of department heads, and positions of one first deputy or first assistant of heads of departments. That being said, that being referenced, the AG's Office basically said that since this position, Kauai's proposed position is not a department head, is not elected, they can't be appointed in that manner and they're not exempt. So basically their conclusion is that unless you change the State law, this would not fly. It would be subject to being attacked as a violation of a HRS dealing with personnel matters, and personnel matters using the State preemption theory doctrine, the HGEA case, the Ariyoshi case. In matters of personnel, the State takes over. So that's their conclusion. We looked at it, I looked at Kauai's proposed resolution, and I looked at the Special Committee's resolution. What I handed out to you today is an attempt if you adopt it to try to conform to the AG's opinion. If they're saying that they need to be a department head, make 'em a department head. Right now, the Special Committee's recommendation is that there, they'll be, it'll be lodged in an office of the Managing Director. It doesn't say that they'll be a department head. It's not in the section of the Charter that lists all the departments. What I've done is amend the existing chapter for the Managing Director to make it the Managing Director and include the powers that the Special Committee has designated. But it would be a department head. I also, Exhibit "2," this would deal with the Salary Commission. I put in a phrase basically saying that except for provided otherwise in the Charter, the Commission shall designate or determine all salaries of department heads. This case the Charter does accept the Managing Director to be appointed by contract by the Council. I also amended the, excuse me, not amended, created a new department of information management. Again that's neither here or there but the proposal was to amend the existing Department of Management to be department of information management. So if you still want that in, I added a new chapter. Okay. I believe that in reading the AG's opinion...and again, we have not discussed this with the Attorney General's Office at all. I believe Mr. White has requested that they look at the Maui provisions and the

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AG's Office declined. That's surprising. But so I believe that if you make these changes...

CHAIR VICTORINO: Hang on, hang on, guys. Can we just keep one and I see a lot of side conversation. Just listen to what has happened and then after if you have specific questions, we can ask 'em okay, please. Go ahead, Mr. Kushi.

MR. KUSHI: Yeah. So I believe reading the AG's opinion literally and as a practical matter, if this is what they're really saying, they're saying that it needs to be a department head, make 'em a department head. It's unusual but because usually department heads are usually are on the same standing, in this case the Managing Director being a department head would also control all other department heads as well as appoint the other department heads. But I don't see a problem with that. Anyway, that's the proposal as I stated that perhaps we can discuss alternatives. If you don't amend it as I propose or as you come out and figure out, the proposed Charter amendments may be challenged under State law preemption on personnel matters.

CHAIR VICTORINO: That's it, Mr. Kushi?

MR. KUSHI: That's it for now.

CHAIR VICTORINO: Yeah. Well, thank you. And again I appreciate your response, because these were some of the concerns that upon reading that various, the AG's opinion and then your opinion, I knew that it would...and we had an opinion from our side, so we had all these different opinions. Like I said many times, if you get three lawyers in the same room, you never get the same opinion. So I glad that we could have a meeting of the minds and really make it functional so that all of us can at least have something to work with. And I thank you, Mr. Kushi, for the help, this helpfulness, the clarification in what steps we would have to take or we should be taking. And again some of this can be done later, it doesn't all have to be done now. But again the clarification on what we need to do to make this office functional. Mr. Kushi, you have something you want to add?

MR. KUSHI: Yeah.

CHAIR VICTORINO: Go ahead.

MR. KUSHI: Mr. Chair, for the record I have not discussed this proposal at all with your Council Services Office.

CHAIR VICTORINO: No, I know you never, yeah, I realize that.

MR. KUSHI: And I'm not sure I'll listen to them anyway so, you know.

CHAIR VICTORINO: We're the first to get this, it's hot off the presses in other words? I guess that's a yes. That's a yes. Okay. Mr. White, you were raising your hand so I guess you had a question or...go ahead.

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COUNCILMEMBER WHITE: No, I appreciate Mr. Kushi's input on this, because it does I think make this more easily defensible with respect to the AG's opinion of the Kauai matter. In their opinion to Kauai, they did mention that I guess somebody brought up the county auditor's position on Kauai. And the county auditor position must be exempt under existing civil service laws for the same reason explained above. Because this is described in the Charter in a way that it makes it a department head. So I appreciate what Mr. Kushi has done because I think that solves the issue. And I'm not sure that we had an issue, but I think with Mr. Kushi's amendments it's much clearer. So thank you.

CHAIR VICTORINO: Thank you. And I appreciate that and this helps us to move along. And now we can make rational decisions based upon what we need here versus what other opinions. And again there will be a point where I will also be requesting the AG to look at our entire package also and see what they say about it, Mr. White. So I will let you know that I, that's my intent once we get done. If this moves forward, then I will definitely pass this on to the AG for his opinion on this whole matter. Defensible or not, I'd still like to make sure that we've done what is right at least in everyone's mind. If not, at least we know what we might be facing in the future, yeah.

COUNCILMEMBER WHITE: Right.

CHAIR VICTORINO: Okay, thank you. Other questions for Mr. Kushi in this matter? Yes, Mr. Couch?

VICE-CHAIR COUCH: Thank you, Mr. Chair. Mr. Kushi, there's a couple on the stuff that you handed out, but my first one is underneath right now currently the Office of the Mayor, we have the Budget Director which is not really a department, it's actually underneath the Office of the Mayor. And then we have OED and that is not a specific department as well. Would those folks then now be under the Managing Director? I couldn't quite find it in the 49 pages of changes to the Charter. But and also would that also make them exempt from civil service if they stay under the Mayor's Office.

MR. KUSHI: Mr. Chair, a two-part question.

CHAIR VICTORINO: Go ahead.

MR. KUSHI: I'm not sure what happens to these division heads, but if they're located in the Office of the Mayor which they currently are, by 76-77, first subsection, they are exempt because they're in the Office of the Mayor. Okay. I don't see any changes in this Charter unless I'm wrong . . . *(inaudible)* . . . so I would think they would still be in the Office of the Mayor. Okay. If they were to be in the Office of the Managing Director, department of Managing Director again, they may not be exempt but I'm sure they'll be excluded from civil service. There's a little difference on that, you know, between exempt and exclude.

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VICE-CHAIR COUCH: Sure, sure. Well along those lines then you have here on Exhibit "1" No. 4, employees in the Department of Management shall be exempt from civil service. I know currently there are three--oh, I don't know, it depends what happens with the budget, what we did with the budget--three or four civil service employees directly under the Department of the Mayor. Do those employees lose their civil service status or can they, do they have to go under a different department? Because it says here employees of the Department of Management shall be exempt from civil service.

CHAIR VICTORINO: Mr. Kushi?

MR. KUSHI: Mr. Chair, Mr. Couch, good question. I just took the language underlined in Exhibit "1" from the Office of the Managing Director. But to respond to your question, if it's the will of the body I don't see a problem.

VICE-CHAIR COUCH: So we can remove civil service status from those four employees or they just have to move to a different department?

MR. KUSHI: Depending what department they move to. I mean this again, you're gonna understand it's a whole new ballgame for me.

VICE-CHAIR COUCH: Sure, sure.

MR. KUSHI: And again, you know, maybe somebody from DPS should be here too.

VICE-CHAIR COUCH: Potentially. And lastly, on Exhibit "3" about department of information management, Section 18-1.3, Power, Duties and Functions. The Chief Technology Officer shall operate and maintain all information technology and telecommunication systems for the County. So I'm assuming that means the Council stuff too. 'Cause right now they're two completely separate systems, and currently Mr. Verkerke doesn't touch our stuff. Under this Charter he would be in charge of all of it then. Is that correct?

MR. KUSHI: Okay...

VICE-CHAIR COUCH: The way it's presented now.

MR. KUSHI: Right. I added in the "all," yeah. I was remiss in...and I don't know about your, Ross' department, division or whatever you call it, yeah. So the way it was stated would be operate and maintain information technology systems. It doesn't say all or just Executive Branch. But --

VICE-CHAIR COUCH: Okay.

MR. KUSHI: --and again, this whole concept as Mr. Verkerke testified was new to him, and I checked with staff and apparently the subcommittee, TIG committee or whoever, they did discuss this. But and I wasn't aware that, you know, they would create a new

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department. I'm not sure how it relates to a County Manager system, you know, so I'm not sure it's really needed.

VICE-CHAIR COUCH: Right. Maybe it shouldn't be a department, I'm not sure, especially since it needs to be above all...like you mentioned, department heads are pretty much on the same --

MR. KUSHI: Right.

VICE-CHAIR COUCH: --level except for maybe the Managing Director since that's what the changes are going to be. But IT needs to be above either as a division of the Department of Management or...

MR. KUSHI: Right now I believe IT is in the Managing Director's --

VICE-CHAIR COUCH: Yes.

MR. KUSHI: --Department, right.

VICE-CHAIR COUCH: Yes. That's because they need to be above all the departments. They need to make, be able to make decisions for those departments. Okay. Thank you, Chair.

CHAIR VICTORINO: Thank you. Other questions for Mr. Kushi as far as these suggestions? And I'll use that as a suggestion at this time. We're not getting into amendments at this point but what he's brought forward. Any questions? Okay. Seeing none, let's move on to the recommendations of the Committee. And I'll open up the floor for questions in regards to this issue. And I'll start with you, Mr. White, since you were the, you brought it forward.

COUNCILMEMBER WHITE: Yeah actually I think, I have another question for Mr. Kushi. On the...would there be any problem as you see it if the department of information or information management was left as a part of the Managing Director's Office?

CHAIR VICTORINO: Mr. Kushi?

COUNCILMEMBER WHITE: Because we're essentially establishing the Office of the Managing Director. Is there any reason why that responsibility couldn't be handled the same way it is now?

MR. KUSHI: Unless I missed stuff from the Special Committee's concerns, I don't believe so.

COUNCILMEMBER WHITE: Okay. It may be appropriate to have DPS come up here at some point. Mr. Chair, I think we may have questions for them. But as I made it pretty clear in the past, I'm supportive of us providing this option for further discussion. And there's been a lot of chat about the fact that it's too quick and we need to have more time to evaluate this. But the, my perspective is that we have between now and

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the General Election for the people who were part of the Special Committee on Governance to assist us in continuing to communicate the pros and cons to the public and inform the public in a significant way prior to anyone having to actually take a vote on it. I do feel that it will remove a lot of the politics involved in selecting department heads and deputies and other appointed positions. I certainly agree that the turnover can be very costly, because it's putting in place people who may not be totally up to speed on the job that they are assuming. And so the turnover does have a very significant cost to us in lost effectiveness and timing. I also feel that if we move this forward, we're at least giving the people an opportunity to learn more about the options. And it's critical for us to continue to be as transparent as we have, as we possibly can be. And so this is an item that I feel is a very good discussion item. I think it's responsible for us to put the possibility out there. And I think it's time for us to have a robust discussion about it. And so I think this is not the final decision by any means, it's the beginning of a decision, beginning of a discussion, and the final decision would be made in November at election day. So thank you, Chair.

CHAIR VICTORINO: Thank you. I'll move right down the line to make this expedient. I'll go to Mr. Carroll. Do you have any comments or questions, Mr. Carroll?

COUNCILMEMBER CARROLL: Comments.

CHAIR VICTORINO: Make 'em brief but go ahead, you know.

COUNCILMEMBER CARROLL: No, if you'd like for, if you'd like me to wait on the comments...

CHAIR VICTORINO: Okay. Yeah, yeah. Let's go with questions then. You have any questions?

COUNCILMEMBER CARROLL: I have no questions.

CHAIR VICTORINO: Okay.

COUNCILMEMBER CARROLL: I'll come back with my comments.

CHAIR VICTORINO: Okay, thank you. Ms. Baisa?

COUNCILMEMBER BAISA: Thank you very much, Chair. I do have a question.

CHAIR VICTORINO: Sure, go ahead.

COUNCILMEMBER BAISA: During the earlier discussion today or the testimony today, the subject of turnover costs was mentioned, and one of the testifiers said that that was not taken into consideration in the report that was given to us by the Cost of Government. I'd like to clear that up because in the report that I have from Cost of Government I see it. So I'd like to clear that up.

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CHAIR VICTORINO: Well we do have the chair of the Cost of Government if you want to have him called up. With no objections, I can call him up and you can get that matter clarified if there's no objections from the Council. No objections?

COUNCILMEMBERS: No objections.

CHAIR VICTORINO: Okay. Mr. Kailiponi, will you come up to the podium, and Ms. Baisa has a specific question that she needs to ask you. No, you have to go around.

MR. KAILIPONI: Oh, I'm sorry.

CHAIR VICTORINO: Yeah, you can...I'm sorry. Rules of the Council, sorry.

COUNCILMEMBER BAISA: Thank you, Dr. Kailiponi. On Page 23 of the Cost of Government report, Item 3, it talks about turnover costs. Can you elaborate?

MR. KAILIPONI: Turnover costs was one of the things that was mentioned in a lot of the testimony.

CHAIR VICTORINO: Could you before you...identify yourself for the record, please.

MR. KAILIPONI: My name is Dr. Paul Kailiponi. I'm the chair of the Cost of Government Commission.

CHAIR VICTORINO: Thank you. Go ahead, I'm sorry.

MR. KAILIPONI: The issue of turnover costs between a strong mayor form of government and a council-manager form of government was something that was mentioned in a lot of the testimony that we received both within our Commission as well as in the Special Committee. We decided to look at would there be demonstrable differences in the amount of turnover that would occur between a Council-Manager form of government and a strong mayor form of government. We were able to separate that into two different things: first, of the chief administrative officer which is either the council-manager itself or the equivalent mayor or managing director, depending on what the municipality called it, and those of department heads. We were able to find evidence that shows that the amount of turnover that would occur and the associated costs with it would be no different between a council-manager form of government and a strong mayor form of government at least in the chief administrative officer. Having that, that led to our recommendation that there was no demonstrable cost at least in that office. When it comes down to department heads, there was insufficient information for us to look at. So for the chief administrative officers, we were able to find information on tenure for chief administrative officers between strong mayor forms of government and council-manager forms of government in hundreds of different municipalities, and that's where we gathered that information from. And that information is included in tables within our report itself. We were unable to find the same level of information at the department head level. Because of that we made no distinction, we were able to make no conclusion as to whether those turnover costs

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would be greater or lesser than what we currently have here. And the assertion by the Special Committee I would hope looked at whatever available information was there, and if they had additional information that would allow them to say that, I would love to see it. We looked and were unable to find the same systematic amount of information regarding department head turnover as we did for chief administrative officer turnover.

COUNCILMEMBER BAISA: Thank you very much. Thank you, Chair.

CHAIR VICTORINO: Any other questions for Mr. Kailiponi, Dr. Kailiponi while he's up here right now? Mr. Couch? Oh I'm sorry, you had something else you wanted to...

COUNCILMEMBER BAISA: No, no, go on. For now I'm okay.

MR. KAILIPONI: I did have one thing to add if that's all right.

CHAIR VICTORINO: I would prefer if they ask you the question. Okay, please.

MR. KAILIPONI: That's fair. Yeah.

CHAIR VICTORINO: Mr. Couch, go ahead.

VICE-CHAIR COUCH: Thank you. The question I have is I think it was brought up that it wasn't looked at, at what the salary is in all the jobs that are under the current Mayor's Office versus what would move to Managing Director or stay with the Mayor, whatever, versus other counties too.

MR. KAILIPONI: I see...

VICE-CHAIR COUCH: Can you --

MR. KAILIPONI: Oh.

VICE-CHAIR COUCH: --address that, please?

MR. KAILIPONI: Absolutely. I see that as being slightly different than turnover costs, because we're looking at the actual executive salary costs and administrative costs for those departments. I'll give you two answers for that. The first reason why we did not look at Maui County's budget for say the Department of the Mayor's Office versus those of other counties is because we were looking at what would be the possible difference of changing from a strong mayor to a council-manager form of government. Any difference in cost that we found that could have existed, sure we can find them, I mean every department...and we're not just talking about the Mayor's Office. Every department can find ways in which their costs could be lowered. The question that's key is rather if changing to a council-manager form of government would lead to lower costs in those departments. Any kind of analysis looking at Maui County would be insufficient for us to make any assertions that a change to a council-manager form of

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government would lead to those decreases. It's not possible. It's not something that we had the research nor the time to do. Because of that we refer back to literature that looks at these different departments and found overall that there was no difference in cost savings between a strong mayor and a council-manager form of government. In a similar manner, if the Special Committee has any evidence indicating that a switch to a council-manager form of government would lead to cost savings in the Mayor's Office, we would love to see that evidence.

CHAIR VICTORINO: Are you done, Mr. Couch?

VICE-CHAIR COUCH: Thank you.

CHAIR VICTORINO: Ms. Baisa?

COUNCILMEMBER BAISA: The other thing that I was interested in is we're talking about needing to do something because we have communication problems or whatever they are. I didn't...I want to ask you, do you really feel that it is necessary that...how else can we achieve what we want to do without changing our form of government is what I want to know.

MR. KAILIPONI: I think the answer to that is less...if there was a reason for the change, we would be advocating for change.

COUNCILMEMBER BAISA: Right.

MR. KAILIPONI: The reason why we gave the recommendations that we gave was because the change specific, the question that we're looking at which is a change to a council-manager form of government would not result in a lot of the changes, the benefits that many people believe that there will be based on the evidence that we looked at. Now appropriate changes are the ones that are proposed in our recommendation, essentially allowing the County Council the ability to have a vetting process with the Mayor's Office by clarifying to a very large degree the qualifications for those department heads and improving the communication and transparency in making those department selections. We see those as being the recommendations that will achieve to a large degree what we saw as being the values of individuals, mostly that we want to be sure that we get the right department heads and the right people to run our government.

COUNCILMEMBER BAISA: So some of these other Charter amendments that we're considering might accomplish some of these things that we're trying to do with a new City Manager form or County Manager form of government. But we could do 'em by some of the Charter amendments or others at some other time because we don't have them before us.

MR. KAILIPONI: We agree with that. Most certainly some of the other ones are ones that would achieve those things, especially since cost savings, limiting political influence,

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and those kinds of things are things that we found would not be achieved by moving to a council-manager form of government.

COUNCILMEMBER BAISA: You just mentioned one more thing. Chair, if you don't mind, one more thing. And we keep hearing that this is going to reduce political influence. I haven't, I have a hard time dealing with that. What's your take on it?

MR. KAILIPONI: We found it very interesting that a lot of the evidence that was cited by the Special Committee on Governance actually have information concerning whether a council-manager form of government really does limit politics in local government. In particular is the council-manager survey that's produced by the ICMA every several years, and in that survey, there's a question that indicates, that's asked to these council-managers what are some of the issues that lead to pressure in your office or leads to you resigning or leaving office? And within that survey question, 30 percent of those council-managers that respond to that survey mention politics as a reason, as a pressure that they have. We see this as being a strong indication that a council-manager form of government does not completely insulate council-managers from politics. Similarly, within the Special Committee of Governance report there is an article by Jared Carr that was referenced, that also indicates that the assertion that politics is limited by adopting a council-manager form of government is largely not backed by academic research. That report and that article is included in both our report as well as the Special Committee's report.

COUNCILMEMBER BAISA: Thank you very much. I think that's a very important matter. I have a hard time trying to believe that politics is going to get out of government. Thank you. Thank you. Thank you, Chair.

CHAIR VICTORINO: Thank you. Other questions for mister, Dr. Kailiponi? Seeing none, thank you.

MR. KAILIPONI: Thank you.

CHAIR VICTORINO: And, you know, please hang around if we need you for any further discussion. Okay, moving right along. Other questions? Next would be Ms. Cochran.

COUNCILMEMBER COCHRAN: No, Chair, no questions at this time.

CHAIR VICTORINO: Okay. How about you...oh, I gave you a chance, Mr. Couch, I'm going to skip you. You had your chance. Excuse me. No, no and then we can come back, but we want to make sure that everyone has a chance. Ms. Crivello?

COUNCILMEMBER CRIVELLO: Thank you, Chair. Who is the question to?

CHAIR VICTORINO: Well actually to Mr. Kushi or if you have anything else you'd like, if any other resource person you want me to bring up, I can bring them up.

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COUNCILMEMBER CRIVELLO: My question I guess is to the gentleman that we just...doctor...

CHAIR VICTORINO: Kailiponi.

COUNCILMEMBER CRIVELLO: Yes. Did he actually come up with dollars on all costs?

CHAIR VICTORINO: I'm sorry. You know what, I'm going to ask you to take a seat close by just like Ms. Schaefer, 'cause then I hate to see you guys keep walking around the room. You're going to have all your 10,000 steps in no time flat around here. But if you would, you know, kind of keep close to the microphone or to the podium there and that way...okay, you can go ahead and address your question, please.

COUNCILMEMBER CRIVELLO: I'd like to know if you actually, came out with actual dollars to compare one or the other?

MR. KAILIPONI: Yeah, yeah. In certain instances, yes, we were, and it depends a lot on the amount of information that we're able to receive, the data that we could get to make those kinds of assertions. The only instance in which we make dollar, a dollar and cents statement concerning a change to a council-manager form of government is in regards to the salary of the council-manager versus the current salaries of those same positions here in Maui County. So there's a table inside of our report that looks at information from the League of City Managers of California which is an organization that represents City Managers in all municipalities in the state. Coverage for that report is over 90 percent, meaning that they have almost every single municipality in the state included in that report, as well as the size of the municipality and the salary for the council-manager in each of those municipalities. The average salary for a council-manager in California for a size that's comparable to Maui is somewhere in the neighborhood of \$260,000 a year. We then looked at, this is then compared to what we currently pay for our Managing Director here which is approximately \$130,000 a year. We assumed that there would be a deputy County Manager. Currently our Salary Commission and this is in discussion with the Salary Commission, we talked to Joe Talon who's the chair of the Salary Commission and got his input on this, because they're ultimately the people who make these salaries. And he stated that in a lot of their previous deliberations that the deputy managers or deputy department heads make approximately 10 percent less than those department heads, indicating that the council-manager or deputy would make in the neighborhood of 200,000 to \$230,000 a year. Just for those 2 positions and eliminating the Office of the Mayor completely, that indicates an increase of 83 percent in our chief administrative officer salaries just for those 2 positions. In further consultation with the Salary Commission, we asked them would you even make this kind of change, essentially doubling the salary of the Managing Director. They said that they couldn't say one way or the other, but that in the deliberations that they look at and the reasoning that they have in making those salary changes--which is also in our report, the process that they look through--they could not see increasing that salary substantively when there's no substantive increase in the duties of the office. Essentially we're not asking them to do any more, we're essentially just giving them a 100 percent pay increase. We then asked them if

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that would then lead to knock-on effects to the other department heads. Because the last time that there was a salary increase at the department head level, all department heads received a salary increase. Once again, they said that they were unsure as to whether that would occur but that's what happened last time.

CHAIR VICTORINO: Ms. Crivello?

COUNCILMEMBER CRIVELLO: In talking dollar and cents, so supposing we go through and there is this change, how about the actual conversion, the cost? You know you talk about the, we have a lot of reference, the Mayor shall, the Mayor will, and et cetera. How much, what kind of costs does that involve?

MR. KAILIPONI: The transition you mean between --

COUNCILMEMBER CRIVELLO: Yeah.

MR. KAILIPONI: --from a strong mayor --

COUNCILMEMBER CRIVELLO: The actual transition --

MR. KAILIPONI: --form of...

COUNCILMEMBER CRIVELLO: --to direct implementation.

MR. KAILIPONI: We have no clear dollar and cents.

COUNCILMEMBER CRIVELLO: Okay, thank you.

MR. KAILIPONI: The only thing that we have is indicated from that academic literature that savings do not occur when that transition does occur.

COUNCILMEMBER CRIVELLO: Thank you.

CHAIR VICTORINO: Okay, thank you. Mr. Hokama?

COUNCILMEMBER HOKAMA: Chairman, thank you. My few questions for Mr. Kushi at this point in time is...well one, I find it interesting on the Attorney General.

CHAIR VICTORINO: Before you move on, excuse me.

COUNCILMEMBER HOKAMA: Yes.

CHAIR VICTORINO: Do I still need to keep Mr. Kailiponi here or can he sit down and then...

COUNCILMEMBER HOKAMA: I don't need the doctor.

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CHAIR VICTORINO: You need him? Okay, that's fine. Go ahead. Mr. Kushi and Mr. Hokama.

COUNCILMEMBER HOKAMA: Thank you. I find it interesting on the AG's comments regarding a County Manager, 'cause I had always found it, my position, my understanding of our Constitution as we revised it in '78, that the structure of governance was a County jurisdiction and County authority. And if...and I'm not advocating for a County Manager, but I thought that would still be under the County's purview of governance and if we chose, if our people chose to go that route, why would it need to follow State law regarding civil service since it is a position created by Charter and not by statute?

CHAIR VICTORINO: Mr. Kushi?

MR. KUSHI: Yeah. If I understand the question, you're correct. The two cases cited, it's about State preemption regarding personnel matters. The form of governance or operations is within the home rule situations. But they did cite those two cases saying when it comes to personnel matters, the State has the HRS 76-77, 76 and 78, so this is why they came up with that. In...not in the Kauai proposal and not in the Maui proposal does it say that the County Manager shall be exempt. I mean I looked all over. But the AG has used the selection process saying that they must be exempt. Therefore looking at HRS, they say to be exempt you gotta be in one of these categories, so it's a convoluted kind of references if you ask me. But again that's the State.

COUNCILMEMBER HOKAMA: Is that supported through court rulings, Mr. Kushi?

MR. KUSHI: It's the HGEA case. It's, it was involving our Liquor Department, Police Department and the commission's authority versus the civil service rules, if I recall. It's an old case.

COUNCILMEMBER HOKAMA: Right.

MR. KUSHI: And to my knowledge that's still good law.

COUNCILMEMBER HOKAMA: Okay. One point I would ask you since I find it intriguing, if we move toward this optional form of governance, is the current restrictions on the Council under 38-2, the Council is not allowed or is prohibited by Charter to directly give orders--is the word the Charter uses--to County employees other than those appointed pursuant to the article or a section. Since potentially this new person is an appointed position, is the Council allowed to give him direct orders in the performance of his, the position's duties?

MR. KUSHI: Member Hokama, very good point. Maybe that needs to be revised too. Because right now you can tell the Clerk, Council Services, anybody in your Legislative Branch what to do. You can't say anything...

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COUNCILMEMBER HOKAMA: Except the Auditor.

VICE-CHAIR COUCH: Mr. Chair? We can't hear him.

MR. KUSHI: Yeah, yeah.

CHAIR VICTORINO: Can you get to your mic, please, Mr. Kushi?

MR. KUSHI: Right. Okay. Right now the way it stands, the section you cited, you can give orders or get involved with the County Clerk's Department, the Council Services Department. That may need to be changed in this case, because we're making a department head, they're part of technically the Executive Branch. Since they're appointed by this body, I would think the same rationale should be used. So it's a good point. I've never...and I didn't look at it.

COUNCILMEMBER HOKAMA: Well I would say, you know, for me I find it disturbing when we're trying to merge two separate branches of government that was intended to be specifically separated for various principal purposes by our founding fathers and by our County forefathers, that I find this movement toward trying to consolidate the two branches into one disturbing. So I bring up this point about then are we doing away with the Executive Branch? Because basically all you have is the Legislative Branch or five Members controlling this one position which is then under direct supervision of the Council. And the Legislative Branch then is, runs the County. There is no Executive Branch anymore.

MR. KUSHI: I can see where some people will agree with you.

COUNCILMEMBER HOKAMA: So is that part of, was that something that was brought forth --

MR. KUSHI: But again, you know --

COUNCILMEMBER HOKAMA: --as a legal concern?

MR. KUSHI: --I look at the State Constitution and the powers allotted to the Council. The form of government management is left to the counties except for personnel matters.

COUNCILMEMBER HOKAMA: Chairman, thank you for this opportunity at this time.

CHAIR VICTORINO: Okay, thank you. Mr. Guzman?

COUNCILMEMBER GUZMAN: I don't have any real specific questions. I do have a comment for Corp. Counsel that I thought the adjustments made for the various provisions in the Department of Management in hopes to comply with the AG's opinion, I thought that was really creative and well done. The other questions that I would probably pose is I realize that there are various jurisdictions in the United States have, that do have that form of government type of management, managing director type form of

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government. And my question would be there is more of a percentage of other jurisdictions in the United States using that type of form of government as opposed to the mayors, strong mayor form of government. Is there statistics that show that one is more efficient than the other? And why were the other jurisdictions switching over to that type of form of government? And is there a, some type of historical tracking to show that there was a, that municipality became better, more efficient? What are the stats on those? So I'm just comparing, compare and contrast. The other question, you know, I have in my mind are personal questions because the only form of government I've ever known so far is the strong mayor government and being in office for three terms not so happy. But I'm sure there are things that need to be tweaked and this issue has been ongoing for several, several Councils. And maybe that's just the way the system is, but the way I see County government should react to...

CHAIR VICTORINO: You know, Mr. Guzman, I'm going to ask you, remember I wanted questions. If you have specific questions...

COUNCILMEMBER GUZMAN: Yeah, I have several questions there. I don't know if it's going to be answered.

CHAIR VICTORINO: But ask them the question and then I don't want to go into --

COUNCILMEMBER GUZMAN: But I don't think Mr. Kushi can answer --

CHAIR VICTORINO: --commentary yet, if you don't mind.

COUNCILMEMBER GUZMAN: --those questions. I don't know, is there a panel that I could ask these questions, 'cause these are various multiple levels of questions that I would like answered.

CHAIR VICTORINO: Do you want me to bring down Madge Schaefer and...

COUNCILMEMBER GUZMAN: Well yeah, maybe Ms. Schaefer could answer --

CHAIR VICTORINO: Madge, would you like to come down --

COUNCILMEMBER GUZMAN: --some of those questions. If she could --

CHAIR VICTORINO: --and he has some specific questions.

COUNCILMEMBER GUZMAN: --recall some of my compound questions there, I had multiple and, you know, three or four questions all in one just to be more efficient in your Committee, Chair.

CHAIR VICTORINO: Thank you, Mr. Guzman. Exactly what I've been trying to do today. You're good. Okay, go ahead and ask --

COUNCILMEMBER GUZMAN: Okay. So I wasn't sure --

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CHAIR VICTORINO: --Ms. Schaefer.

COUNCILMEMBER GUZMAN: --if, Ms. Schaefer, if you caught all those questions 'cause I kind of threw them all, I just shotgunned it and see --

MS. SCHAEFER: Well let's see if we can...

COUNCILMEMBER GUZMAN: --if whatever one would stick. But if you could maybe elaborate on a little bit of that.

MS. SCHAEFER: Okay. So the first --

COUNCILMEMBER GUZMAN: I could get a better understanding.

MS. SCHAEFER: --question that you asked I think was in reference to since there's such a majority of governments that are operating with the manager...

VICE-CHAIR COUCH: Closer to the microphone.

MS. SCHAEFER: Sorry. You mean my voice...

CHAIR VICTORINO: And did you identify yourself? Please?

MS. SCHAEFER: I'm Madge Schaefer.

CHAIR VICTORINO: Thank you.

MS. SCHAEFER: I'm the bane of the Chair's existence, but I'm here.

CHAIR VICTORINO: Thank you very much. Go ahead.

MS. SCHAEFER: So the question was since this is a common practice, a common manner of government for I think it's about 66 percent of the city governments of our size, you said why did some change back and that was something that was brought to us. We had examples of cities that had converted from County Manager to, back to strong mayor and vice versa. And I looked into those examples and most of them were related to scandal. I mean there's no other way to put that. They were related to scandal. The mayor philandering, getting caught. The whole government getting the dirty laundry water thrown on them, and they changed back. In one instance it was an issue the community felt strongly about, about a shopping center and they threw everybody out--new council all over a shopping center--and reverted back. So sometimes what happens is the manager...the council passes, makes a decision that is perhaps not popular with the populace, and when the manager carries it out, he gets a lot of, or she gets a lot of the slings and arrows. And sometimes that results in just him doing his job and the population not happy with it and they go after him. Now that was one of your questions. I think the other one was you said that you have only

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seen one form of government and that's this strong mayor-council. My experience with County Manager and City Manager is what happens is they attend every meeting. They're sitting here listening to what you all have to say and you can say it in public and he or she can count and knows that when the policy is determined, the policy is determined by the majority and no matter what the minority goes and tries to leverage, the answer is this is the majority decision and this is what I'm obligated to carry out. Does that clarify?

COUNCILMEMBER GUZMAN: Yeah. Thank you, Chair. Yeah, it does somewhat. Yeah, sometimes in my mind I think, you know, any type of form of government whether it's going to be a strong mayor or a manager type government, we're always going to have these types of conflicts or difficult situations. And so where I sit is what is the path of least resistance? What will accomplish the most, the bigger bang for the buck when we try to move this County into the next generation or to the next future? And so that's what I'm thinking, you know, do we stay with a form of government that we know has somewhat been in existence ever since the creation of this government and, or do we move forward and see what happens and see if there are changes that we need that it can be addressed through this type of management form of government? That's what weighs heavy in my mind, which is the better form. Because we, I haven't had the experience of the latter which is the management government. I would like to, you know, actually sit down or at least visit a jurisdiction that is very successful in what they do, and so I would probably feel more comfortable. We can do pie in the sky all we want, analyze this, analyze that. Just like in law school the professor thought he knew everything, but when we started practicing law, you realized what the heck, the guy didn't know nothin', he's just pie in the sky. You know it's the real getting down into the field, getting into the court room, getting on the council floor of another jurisdiction and really tasting, eating, living, and breathing what difficulties they have and what successes they have endured and applying that to our County. Will it work or will it not, that's what's weighing heavy in my mind.

MS. SCHAEFER: Well, I can tell you that the politics will not go away. The politics will not go away. You all will bicker, the Mayor will bicker with you all, but the Administration will just keep filling those potholes and seeing that that garbage is picked up every week up on time and that's what you want is to leave you to bicker and do your political posturing and whatever. That is never going away.

COUNCILMEMBER GUZMAN: Right. Thank you, Chair.

MS. SCHAEFER: And...

COUNCILMEMBER GUZMAN: Thank you.

CHAIR VICTORINO: Okay, thank you, Ms. Schaefer.

COUNCILMEMBER GUZMAN: Appreciate it.

CHAIR VICTORINO: I think you've answered the question.

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COUNCILMEMBER GUZMAN: Thank you.

CHAIR VICTORINO: But before you go, Mr. White...

COUNCILMEMBER WHITE: Oh yeah, you should have your turn.

CHAIR VICTORINO: No, no, no, I don't need my turn. I'm letting you guys talk because my turn comes at the end after everything has been compulated [sic]. But no wait, I didn't say you leave now. Ms. Schaefer, please. But I wanted to let you know that we do have our Personnel Director and his Deputy here for the questions that will be brought up a little bit later. I'll call them up to the floor, with no objections.

COUNCILMEMBERS: No objections.

CHAIR VICTORINO: Okay, thank you. Now you may go ahead and ask Ms. Schaefer your questions and then we'll go on.

COUNCILMEMBER WHITE: Thank you, Chair. When I look at the County Manager form, my interest is not...or my expectation was not to take the politics out of what we do, because that's just a part of what happens around here. My interest was to remove the politics from the selection process for department heads, deputies, and all the other appointed positions within the County which is pure politics in many cases. In some cases, we have people that have stepped into positions that are highly qualified and ready to go. But the question I have for you is because you're the only one I believe in this room who has actually worked under this form of government, does it take the politics out of the department head and deputy selection process?

MS. SCHAEFER: Yes, because they are professionals, they are evaluated every year. They have a, the manager has a responsibility and is held responsible for the failure and shortcomings of a director, and so there is ying and yang to keep them doing their very best. It's a collaborative effort very often. It's just...is there sometimes politics? Well if you say well the Department of Public Works gets more money than the Department of Water and there's some ne-ne-ne back and forth at budget time, you know, why are they getting a little more? Yeah there's some of that politics but basically what you're talking about is professionals. You're talking about professionals who are trained to do the job and their focus is on the job, getting those streets paved, getting the roof fixed on the Hana Dialysis House. You know it's that. That wouldn't take eight months if there was a County Manager.

COUNCILMEMBER WHITE: The next question I had, Mr. Hokama as usual brought up a very salient point. As the Charter outlines it, we cannot give directives to department heads or the Mayor or anything else. I'm assuming that in a County Manager setup that the same probably exists, because if I'm not mistaken the Council would still be the ones to effectuate policy but it's up to the Managing Director to direct the department heads to carry out the policy, not specific directives. But in your experience, were the, would you characterize what the Managing Director or the

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County Manager was receiving was policy requests as opposed to directives, or were you able to provide a directive to the County Manager to go specifically do that task?

MS. SCHAEFER: No, you would, this would be how it would work. First of all when I, my first experience on the council, we had a very controversial issue. We had the first growth control ordinance in the state of California. Millions of dollars spent to stop the ordinance. It was an initiative. And the development community in California rose up mightily, and so the council was split before the vote, three to two. And there were directions, there were discussions about by the majority of how we can slow this down or stop it or keep it from getting on the ballot or whatever, that kind of thing. But those had to be done in open session with the manager there, and so the openness of the government prevented individuals from going and directing. Now would I on occasion say I've got a constituent who's furious with the Department of Public Works, because the director she says was rude to her? Yeah, I'd say can you take care of this. If that's a directive, yes.

COUNCILMEMBER WHITE: That's a question.

MS. SCHAEFER: But you understand what I'm saying that on the small things, can you take care of this, yes, but on the big things, I think you all are so, I mean I'm so astounded that you are able to do as much as you do with the way that your hands are tied administratively. And I know poor Don, he's had me to say to him you what? He'll say the Charter doesn't allow that, you know, that we can't do that. We can't talk to a department head. And to me that just didn't make any sense. Could department heads...did we meet with department heads on issues? For instance, if there was a subcommittee on affordable housing, yes, those department heads came, the planning department came, director of finance came. They participated in those meetings, in those committee meetings, it wasn't a big deal. I'm astounded when the Mayor says my department heads are expected at budget time to come to the budget hearings, well yeah, they are. It shouldn't be a problem.

COUNCILMEMBER WHITE: My...

MS. SCHAEFER: Sorry, I digressed.

COUNCILMEMBER WHITE: My next question is there was a point made that the administrative salaries might go up if we go to the California averages, but I was, I think I was a little surprised that they didn't take into consideration other changes that might take place in the Mayor's Office. But in your experience what was the size of the mayor's office for what was needed to be carried out?

MS. SCHAEFER: Okay. Well I would say from here, my concern with the Cost of Government report and we did not see it, we never got a final copy, we got a two-page draft I think or a two-page overview.

MS. WILLENBRINK: Executive summary.

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MS. SCHAEFER: And we...so I said, when Paul came to our Committee and gave us this report I said so did you look at the cost of government of administration, we're talking about the Mayor's Office strictly Administration with, directly related to the Mayor and the Managing Director, strictly related. 'Cause, you know, there's EOC and there's some other things in the Mayor's Office, and he said no, we didn't think it was relevant. Well how do you compare costs if you don't, if costs are, what the actual costs are here now aren't relevant to the report? That doesn't make sense to me. So I called every county and asked. I told them exactly, this is exactly what I need, talk to personnel, said I need to know exactly how many people are mayor support. And we turned out to be the winner. We have more than anybody. And I think that's relevant because a Mayor with veto power, the Mayor would use the staff, this whole staff and the Managing Director so would use, would not have nearly the kind of staff because they would depend on their department heads. So the staff, the volume of staff that's here, the administrative assistants that are in the Mayor's Office now would be dramatically reduced.

COUNCILMEMBER WHITE: So would you agree that the reductions there can easily fund whatever other changes would be required?

MS. SCHAEFER: Yes, I think so.

COUNCILMEMBER WHITE: Yeah.

MS. SCHAEFER: I took a little offense at the Cost of Government. We left the, that money issue to them. We studied all the other issues. And yet Paul gets up here and becomes an expert on what we should be doing here. At the...it's kind of disrespectful to this Committee that worked so hard, 11 members.

CHAIR VICTORINO: Can you just keep on to the question please, Ms. Schaefer?

MS. SCHAEFER: Yeah.

CHAIR VICTORINO: I don't want to get into to who's what and...

MS. SCHAEFER: Okay.

CHAIR VICTORINO: Yeah, please. You know and that's what I'd prefer today to be, informational and that's what it needs to be.

MS. SCHAEFER: Well...

CHAIR VICTORINO: So you're saying, if I heard your answer correctly, that you would see no substantial differentiation in salaries based upon the changes of putting a Managing Director and taking those various positions that would be not necessarily...

MS. SCHAEFER: Well you're taking so many out, you're putting...

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CHAIR VICTORINO: And putting back in so you see no --

MS. SCHAEFER: Yeah.

CHAIR VICTORINO: --major change?

MS. SCHAEFER: No.

CHAIR VICTORINO: Okay. So then...

MS. SCHAEFER: I don't see any major changes.

CHAIR VICTORINO: Thank you.

MS. SCHAEFER: And, Mr. Chair, I apologize.

CHAIR VICTORINO: No, no, no. I just, you know, I'm just trying to keep on track because we start getting off track. Go ahead, Mr. White.

COUNCILMEMBER WHITE: I appreciate that, Chair. Thank you. The other question I had, it was, the comment was made that in a survey of managers that 30 percent of them listed politics as still a concern. I'm guessing that if you asked mayors, probably 100 percent of them would say it was still a concern. Do you have any perspective on that?

MS. SCHAEFER: Well, yeah, because if you think back, I think back to when we had a very split council and we had an initiative on, underway and yeah, there was a lot of backstabbing I mean among the councilmembers, and the manager just tried to I think keep us from killing each other, you know. But it was that he played referee. No, don't do that, think about what you, you know, think about if you do that, what the consequences were, would be. So he was a guidance counselor, a priest, a little of everything. So yes, that was politics he had to deal with.

COUNCILMEMBER WHITE: And my last question--thank you, Chair--was in your experience...well, let me give you a little background. Here we often hear the comment made by the civil service people, well this deputy or this director is going to be gone in no time so, you know, we just have to, you know, we run it, we just have to wait till they move on. In your experience when you're hiring people for their experience, does it or does it not provide a career path for those civil service folks to move into as they rise in the ranks and gain experience and have the capacity to do what some of these appointees are hired to do but are not readily able to do?

MS. SCHAEFER: We absolutely in both governments believed in promoting from within. We wanted to give opportunities. I can think on the 12 years I think we had 2 retirements of department heads and 2 people, department heads that left to take positions in larger cities. And we promoted deputies. I think there was a requirement on one of them to have open recruitment and we did an open recruitment. But it makes sense

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to keep your institutional history, your institutional knowledge, to retain that and let it carry on in the organization. It's good for everybody.

COUNCILMEMBER WHITE: So one challenge that we have with the current system is that there's not a clear view of being able to move up in the ranks.

MS. SCHAEFER: So that's got to be disheartening for employees who are capable and qualified.

COUNCILMEMBER WHITE: Thank you. Thank you, Chair.

MS. SCHAEFER: Just...

CHAIR VICTORINO: Unless a question is asked, no, you know, I gotta be fair to everybody.

MS. SCHAEFER: Okay.

CHAIR VICTORINO: Yeah. All right. Come on, Madge.

MS. SCHAEFER: Well, you know, I always push the envelope.

CHAIR VICTORINO: I know you push the envelope and I will push back, right?

MS. SCHAEFER: Thank you.

CHAIR VICTORINO: All right, thank you, Madge. Okay. Before we go on, I would like to now bring up our Personnel Director and his Deputy. You guys haven't changed over yet, have you? No, not yet, okay, just so that I get this. Lance and Mr. Underwood, both of you would come up. Mr. Hiromoto and Mr. Underwood I should say. And there was some specific questions asked earlier that we felt we needed your assistance. So thank you for responding to my call. And now if I can, who had the question? Was it you, Mr. Hokama? Mr. Couch? Ms. Baisa? Ay carambas. I forgot who...can you check who asked the question? Do you remember?

VICE-CHAIR COUCH: Which question?

CHAIR VICTORINO: About personnel and the AG's opinion.

VICE-CHAIR COUCH: Oh, I know I had some.

CHAIR VICTORINO: Well, that's what I said, somebody asked to get them here and I think it was you. All right, Mr. Couch, go ahead.

VICE-CHAIR COUCH: Thank you, Mr. Chair.

CHAIR VICTORINO: I'll let you start.

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VICE-CHAIR COUCH: Thank you guys for being here. According to civil service...I think one of my questions was if we went to the County Manager and put the language in there that says that all of the staff of the Managing Director shall be exempt from civil service. There are currently I believe four staff members of the current Managing Director that are civil service. Would they lose their civil service status or would they be moved, would they have to go to a different department in the County where they would retain their civil service status?

CHAIR VICTORINO: Mr. Hiromoto, I guess you got the first divvy. Go ahead.

MR. HIROMOTO: Thank you, Chair. I have to admit that I'm not real familiar with the language of the, of this proposal, but you are...the Managing Director currently has other personnel in his Department including the IT Services, so that whole Division is under, you know, the Managing Director. So not only the, for the, I guess, executive assistants that you're talking about. So his entire Department actually is civil service except for the Managing Director and the Deputy Managing Director. But I don't think I'm qualified to make a comment with regard to whether the, if you change an ordinance if that would change everything in...

VICE-CHAIR COUCH: This would be a Charter change and one of --

MR. HIROMOTO: Oh, a Charter change, excuse me.

VICE-CHAIR COUCH: --the things, it says employees in the Department of Management shall be exempt from civil service.

MR. HIROMOTO: I think there's a great portion of Hawaii Revised Statutes that probably needs to be modified, amended, including that section in 76, HRS 76-77 that lists all exempt, you know, categories of exempt positions. But it, I know it currently doesn't exempt staff of the Managing Director's Office, so that would probably have to be changed.

VICE-CHAIR COUCH: Okay. So essentially the Charter if it were amended to that would be in conflict with HRS, and I think that's Mr. Hokama's question was like wait a minute, don't we get a chance, we get to say how our, we're being governed and we feel that anybody under the Department of Management shall be exempt from civil service. You're saying State law or Mr. Kushi's saying State law trumps that?

MR. HIROMOTO: I believe we have AG's opinion that, yeah, would support that the State law would trump the local Charter.

VICE-CHAIR COUCH: Okay. Yeah, and it's also my understanding that the complete IT Department including Mr. Verkerke is civil service. So --

CHAIR VICTORINO: He did mention that, yes.

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VICE-CHAIR COUCH: --if we were to make that a new department and make Mr. Verkerke or whomever the department head, would it...should it be Mr. Verkerke, does that mean he would have to lose his civil service status?

MR. HIROMOTO: I would think under 76-77, that same statute chapter or section in HRS, department heads are exempt from civil service. So if you make Mr. Verkerke's Division a department, then Mr. Verkerke's position would be exempt from civil service. So we would need to, you know, find a way to get Mr. Verkerke accommodated I guess.

VICE-CHAIR COUCH: Okay, thank you. Thank you, Chair.

CHAIR VICTORINO: Mr. Hokama?

COUNCILMEMBER HOKAMA: You know what's intriguing is for me our history of amendments tends not to give us the full due diligence, including the financial impacts to the tax base. That is what I feel is lacking here. I'm a bean counter; I count the pennies. But also I do know that we need to be told requirements of law, ordinances of what and how many steps would it take if we move toward this option of governance. How long is it going to take for the County as an employer to send forth to the appropriate collective bargaining unions revised structures of departments? How long will consultation require as current collective bargaining agreements require? And what is...now how do you approach collective bargaining on the 14, 18 contracts that is currently before us as an employer?

CHAIR VICTORINO: Mr. Hiromoto?

MR. HIROMOTO: Chair, Councilmember Hokama, similar to I think Councilmember Couch's question with regard to exemption under civil service law, for collective bargaining there's also many sections in HRS 89 and 89-C that would need to be amended in order to make a County Manager the representative of the County in terms of negotiations and collective bargaining. And I say that because currently the definition at least, section of 89, 89-C, you know, points out that the mayor of each respective county is the employer. So that would need to be amended. So State law in terms of collective bargaining would need to be amended.

COUNCILMEMBER HOKAMA: So we have yet to find out or be informed of how many other required steps will we take before implementation can really occur then regarding this consideration?

MR. HIROMOTO: Yeah.

COUNCILMEMBER HOKAMA: You cannot give me one timeframe, you cannot tell me...you cannot give me one cost estimate, you cannot give pretty much nothing definitive to base decisions on then?

MR. HIROMOTO: No, not at this time.

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COUNCILMEMBER HOKAMA: Okay. I thank you for your responses.

CHAIR VICTORINO: Thank you. Any other questions for Personnel? And we have them here. And so if you have any specific questions in this regards...yes, Ms. Cochran?

COUNCILMEMBER COCHRAN: Thank you, Chair. Actually I was just glancing through Ms. Sheri Morrison's testimony and her number one question is towards Personnel Services, Chair. So if I may ask that question, it's on our written...

CHAIR VICTORINO: Well, I was going to ask it, but go ahead. Go ahead.

COUNCILMEMBER COCHRAN: Oh, okay. She asked if the Department of Personnel Services and a recruiting firm draft the position description for this new County Manager and will the public have any input? So do you have any comments as to if you know how that would go about, if you folks would be drafting I guess the description of this position?

CHAIR VICTORINO: Mr. Hiromoto?

MR. HIROMOTO: Chair, again I'm not really familiar on the specific assignments with regard to this proposal. I guess if we were tasked with developing position descriptions, we could do that. However, even in the current scheme of things, we rely on departments to give us position descriptions, because they are the most familiar, they're the subject matter experts with regard to that particular task work I guess. So we would rely on, you know, someone familiar with engineering to tell us what an engineer, Civil Engineer III or a Civil Engineer VI should do and what the difference between a Civil Engineer VI and a Civil Engineer III, you know, is. We're not normally the subject matter experts. We can ask good questions and we can do a lot of research, but ultimately it's the department who is the experts in the work and they normally are the ones that are tasked to develop position descriptions.

COUNCILMEMBER COCHRAN: Okay. But I guess because this isn't really a department, this is like the new government, who's in charge of the government so and we have the, Council would have the final decision. But again I guess you're just not familiar. So, Chair, I just wondering if it'd be a combination of some type of outside firm that drafts --

CHAIR VICTORINO: Well, let me put it --

COUNCILMEMBER COCHRAN: --qualifications...

CHAIR VICTORINO: --in this manner. You're putting the cart before the cart 'cause we haven't gotten there yet --

COUNCILMEMBER COCHRAN: Right.

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CHAIR VICTORINO: --at this point. And I gotta be honest, I don't think there is a definitive answer. That's what the two years is all going to be about. If we do pass this, then we have time to go work go on all these variables that we're referring to. All these questions Ms. Morrison brought up was very, very, very well thought out. And I think Ms. Tavares also brought up very similar questions when something like this would be brought forward, if passed how this would be implemented. This is more of a implementation situation than the actual decision making we are at this point. But these are questions that are, you know, fine to be asked right now, but I don't think anybody has definitive answers at this point in time. So that would be my response to you, Ms. Cochran, at this point.

COUNCILMEMBER COCHRAN: Yeah, that's fine.

CHAIR VICTORINO: And I think the Department's saying the same thing at this point.

COUNCILMEMBER COCHRAN: Right. Okay.

CHAIR VICTORINO: And, you know, do we get the public involved, how do we get the public involved? I'm not sure yet either. So I mean interesting and I think, you know, I want to stay on the subject matter at hand, the actual proposal. And I thank Ms. Morrison for her questions.

COUNCILMEMBER COCHRAN: Yeah.

CHAIR VICTORINO: Okay.

COUNCILMEMBER COCHRAN: Yeah. Well thank you, Department, for being here.

CHAIR VICTORINO: Thank you, Ms. Cochran. Mr. Couch?

VICE-CHAIR COUCH: Thank you, Mr. Chair. You made a comment just now that may mesh in with what Mr. Hiromoto is here for. You said, you know, we got two years to implement it, but a lot of these implementations may be Charter changes and so including what we gotta do for civil service. So we can't just say hey, that we think...oh we missed this one so we need to add that in. We actually have to do a Charter change and if it doesn't get adopted in the next election, the following election then where are we? So I think we need to be clear on the stuff that's, you know, Personnel, DPS is not so clear on. We need to know so we can get it into the resolution so that we can get it asked.

CHAIR VICTORINO: And it's not only Charter changes, he also mentions HRS changes too.

VICE-CHAIR COUCH: Yeah.

CHAIR VICTORINO: So now how do you do that one?

VICE-CHAIR COUCH: Right.

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CHAIR VICTORINO: I mean that's even another step that we are not even capable.

VICE-CHAIR COUCH: And we're not even guaranteed of --

CHAIR VICTORINO: Exactly.

VICE-CHAIR COUCH: --those changes.

CHAIR VICTORINO: But, you know, there's so many facets right now and I'm not trying to go too far off track because then we'll never get anything done today. So with all of this being said, do you have any more specific questions for our Personnel Director or his Deputy before I release them? Seeing none, Mr. Underwood and Mr. Hiromoto, thank you so much for your quick response to my request.

MR. HIROMOTO: Thank you, Chair.

CHAIR VICTORINO: Have a pleasant day. And if there's anything else that comes up, we'll call. Thank you, gentlemen. And, Mr. Hiromoto, do you really want to retire? You look at all these exciting times that are ahead of us? No? Yes? Thank you. You have a good one. Thank you, sir. Okay. Okay. You know I have a sense we're getting closer to what we want to do, but let's continue on this track. Any further questions? I think we've beaten this horse to death. Really it comes down to my mind, in my mind I should say is what do you want to do? Do you think you're ready to bring this out to the public and let them vote on it, or is there more that needs to be done? It's really the question that I have to put on the table, and that's the question. I have no personal feeling one way or the other. You know I'm not afraid to let people decide because I agree with you, my people are smart, they know what they need to do. And let me tell you, I've been talking to them and they know exactly where they want to go. I'm not afraid of that point. But again, do we have enough there or would we have like we were talking about HRS regulations that have to be changed and would they be changed in time or would there be resistance? I don't know. I'm not in charge of that division, I'm not in charge of State, and we know how the State moves, especially the way they love us. I won't say anything more. So I will start with you, Mr. Carroll, because I promised you I'd let you give your comments when it's commentary time and it's commentary time. Go ahead, Mr. Carroll.

COUNCILMEMBER CARROLL: It's nice not to be forgotten.

CHAIR VICTORINO: Yeah, no --

COUNCILMEMBER CARROLL: Thank you.

CHAIR VICTORINO: --I never forget you, sir. Never. And I'm just trying to keep this light because it's getting heavy right now. Go ahead.

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COUNCILMEMBER CARROLL: You know as you said, our people are smart. It really bothers me sometime when a lot, I hear if we put it on the ballot, it's automatically in. Before days when we were younger, the County was different and I think that would have been true. Nowadays, we're on television ten days a week, ten days a month, excuse me. Yeah, a week would be pretty good. Ten days a month. It's a very, very open government. Despite what some naysayers say, we are a very, very open government. People are aware and I'm leading somewhere with this. So people are aware, we've had at least six Councilmembers I can think that were serving that lost the elections because people were watching. Three times mayors never made it to their second term. We have before us a proposal that's probably right now split. It was said that a lot of people haven't had a chance to really look at the nitty-gritty stuff. I don't think the cost, the potential cost of the switchover was really explored out there in the public. We have people saying there shouldn't be an increase, we have people saying that there's a potential for a really large increase if we're going to have the type of manager and we're going to follow California with the pay scales that they have. There are a lot of questions. Ms. Morrison, she wrote a lot down there. And I think they can be answered. We have 134 days until the General Election. That's over 4 months. If we should pass this out, that's 4 months that people have a chance, organizations, the people that came before us that don't want this, the people who came forward that do want it have 4 months to go over there and tackle the things that we have gone over today. Now I cannot believe that the organizations that think this is a wrong call, the manager, will not be out there and doing their due course with the public and informing them why they think it's not good. And I cannot believe that the people that support having a manager aren't going to be looking at what transpired just here today and going out and trying to inform the public what happened and why we should have a manager. I do not see any downside right at this time of passing this out. I think they have the time. You have four months that the public can work, the people can work with the general public that are...because we have certain people that are motivated in organizations. We've had the union people over here; we've had other people over here. We have people that are motivated and organizations that if we pass this out, they're going to be very active out there lobbying for their point of view. Four months is a long time, a very long time. So I don't see any downside with passing this out. I do see the upside that if we don't pass this out, it's going to be the same thing we're going to hear for the next two years. Yeah, they don't trust us. They are making the decisions over there, they are not listening. We need to have the public's trust. I think it's split right about probably half-half outside there. But do we trust the electorate? Do we trust the voter? I'll tell you honestly I do trust the voter. If I wasn't elected to office, I would say eh, I'm not supposed to be elected because the voters decided that somebody else would serve better. I trust the voter and I think we all need to. Thank you, Chair.

CHAIR VICTORINO: Thank you, Mr. Carroll. You most eloquently say a number of what I call highlighted points. The only thing I'll disagree with you right off the bat is saying four months is a long time because ten years have gone like that. So don't tell me it's a long time. Because I've lived this life too long and it's gone by like that. Watch my granddaughter graduate college and I'm only 63 and I saw her graduate college. So time flies.

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COUNCILMEMBER CARROLL: Chair, when I was referring to four months being a long time, I meant the time that they would have to go over there and present their points of view.

CHAIR VICTORINO: I still tend to disagree with you but that's between me and you. 'Cause I love you, I will say that to your face. Ms. Baisa?

COUNCILMEMBER BAISA: Thank you much, Chair. I listened carefully to my colleague over to my right here and I agree with some of what the things that he has mentioned, but I have my own opinion. I would have liked and I wish we had had more time to do what we've done today prior to making a decision. It was some crazy idea I had in my mind and I must have gotten it somewhere that these reports that we got from the Special Committee as well as the Cost of Government were going to be brought to us and we could sit here with a bunch of them and discuss the nuances and the recommendations in depth which we had not had the opportunity to do. Today is the first time that we're actually really digging into this. I've been watching the meetings and reading, and reading reports and trying to educate myself, and I still feel that I think we should have had more open discussion. The benefit of that also is about this public education that we're talking about. It's when you have these debates and when people hear both sides of the issue that they become empowered to make their own decisions and I don't think enough of that has happened. What we've watched is a lot of the Committee work, but the actual interaction between us and testifiers hasn't happened on the floor until today. Politics in my opinion will not go out of County government, I don't care what kind of form of government we have, and I was very happy to hear somebody agree with me. Because for me it's a fairy tale. Government is about politics, and I don't think you can run away from that. I've been in it for ten years as a Councilmember and many years prior to that working very closely with government, and I'm sorry but it's very much about politics. We have conflicts and I agree, and I don't think those conflicts are the result of the system that we have. I think the conflicts are because of the personalities that we happen to have, they just don't mesh. They're strong people, intelligent, articulate people, and they get in there and put their viewpoints out and go head to head. And I think it's healthy basically. I'm sorry that we do get into gridlock, but it's just the way democracy works. Democracy is messy. I think that if we go to this new system of government that I'm more concerned about the balance of power, and I think that the Council in my opinion will have too much power, too much vested power in just a few people and that makes me uncomfortable. Not...they say well, everybody knows. Everybody doesn't know. I'm sorry but I must live in a world with regular people, and I spent a lot of time away from my house this past weekend, went to several events, and everywhere I went, people are totally confused about what all this means. They do not know the details of it, do not understand it, have some really strange impressions about what's going to happen. They don't read the paper; many people do not take the daily paper. They don't watch *Akaku*, because they might have DirecTV and don't even see it. Don't go to forums and don't pay much attention because politics turns them off. So what they know is what they've heard or what their friends told them, but complete information I think is not common out there. I'm sorry. Those of us that

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are in this world and live this life of politics and government, we're imbued in it and we think everybody else is, but they're not. People are doing other things, they're trying to earn a living. I'm very sure that if people understood what we were doing here today, that this Chamber would have been packed and we would have had a lot more than 46 testifiers, because this is changing the way we have done government for over 100 years. For example, people made it clear that they want to elect their Mayor, and we're told yeah, we're going to elect the Mayor, but it's very hard to make sure that they get the other part of it, that the Mayor will be largely ceremonial and that his customary duties or her customary duties will change dramatically. We heard today that there were a lot of questions and somebody said well, chicken or egg, why bother to answer those questions? I'm afraid that we put it on the ballot and we'll have a lot of unintended consequences, because we didn't sit here and really vet them out and check out all the legalities which we're talking about today. One of the testifiers today asked me to leave a legacy, and that legacy that they wanted of course was for me to approve this being on the ballot today. I'm sorry, but I am not comfortable doing that. The legacy I wish to live is one of people making careful, detailed studies prior to making draconian decisions. I was taught act in haste, repent in leisure. Thank you.

CHAIR VICTORINO: Are you done, Ms. Baisa?

COUNCILMEMBER BAISA: I'm done.

CHAIR VICTORINO: Okay.

COUNCILMEMBER BAISA: You mean you missed that?

CHAIR VICTORINO: I missed that. Not because I was \_\_\_\_ but I was, my attention was drawn to some more documents that are being thrown at me every moment of the day. Ms. Cochran?

COUNCILMEMBER COCHRAN: Thank you very much, Chair. And thanks, everyone, for the discussion and of course all the work that got us here today. And I'm of the mind that this is to be put up as a vote to the community, and I stand behind that and would like to see that happen. So I'll keep it short and sweet and that's my thoughts. Thank you, Chair.

CHAIR VICTORINO: Mr. Couch?

VICE-CHAIR COUCH: Thank you, Mr. Chair. And I have a lot of questions. But since we're on comment time, we'll talk comments. You know I would love for this to go out for the people to vote on. Let me just read the statement that will be on the ballot. Shall the Charter be amended to establish a revised structure of governance for the County of Maui wherein a Managing Director appointed by the County Council shall be responsible for the County's daily operations, the implementation of County policy, and an elected Mayor shall be responsible for representing the County in intergovernmental affairs with the authority to approve or veto bills and nominate board and commission members? That's a mouthful. It's, but it's, you know, a decent

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paragraph. That question is answered by 39 pages of Charter changes. My first question is, to Mr. Kushi is, don't Charter changes have to be grouped together so that people know what's, I mean don't these have to be all individual Charter, especially the different sections, don't they have to be individual questions?

CHAIR VICTORINO: Mr. Kushi?

VICE-CHAIR COUCH: Or can they be all be grouped into this one?

MR. KUSHI: No. The answer is no. This is one question --

VICE-CHAIR COUCH: Well, I asked two questions.

MR. KUSHI: --on the ballot. And to implement the changes if the ballot passes, then you have these provisions.

VICE-CHAIR COUCH: Okay.

MR. KUSHI: And these provisions need to be posted, published before the election.

VICE-CHAIR COUCH: Right. So as we all know, when Charter amendments come out, all we see on the ballot is that one paragraph and not the 39 pages of changes that are in there. Yeah, we have got four months which I don't think is a very long time either to tell everybody what each of these changes have meant. Plus we haven't gone through them. This Committee has not gone through these changes. We gotta do that before I could be satisfied with it going out to the folks, because I, the voters...we have to know what we're sending out to them. We can't implement stuff after the fact, because a lot of it is going to be more Charter changes. So we have to be very clear what we're going to propose to the people to vote on. And just want to remind Members that the strong mayor was new in the '60s. Before that from way earlier times, it was a Board of Supervisors where this body ran the whole government without an Administration, and they decided to go to the strong mayor because apparently it wasn't working out well back then. So we have to remember that. There was concern about, there was talk about, you know, the Mayor's budget's too big, they've got too many people. This body has the authority to cut that budget. I still have questions on giving orders to the department heads. Can we, can't we? If we make the Managing Director a department head which is what this new amendment is, then is he the CEO or can he be a department head and a CEO? I'm not sure, I'm just...I got a lot of questions. So I think we still need to go through this a little bit more or a lot more before we can get it clean to the point where it goes on the ballot in my opinion.

CHAIR VICTORINO: Well thank you, Mr. Couch. And again I tend to agree with you a little. And again, I'm here to facilitate, to let the public see and hear what is going on. I have been fair and objective with all parties concerned, and I want to continue being that way. And if it is the will of this body to bring it forward, then bring it forward. If it is not, then it's not. But you're going to make that decision. It's not something that I

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will relish doing something that I think all of you should bring forward or say no and we need more work on it, it's your call. Ms. Crivello?

COUNCILMEMBER CRIVELLO: Thank you. I cannot help but reference to or the Hawaii Revised Statutes, the HRS that is more or less sometime, it's most time preempts what we're trying to put forth.

CHAIR VICTORINO: Before you move forward, I did just so that everybody knows--and you can give couple copies to the audience too so that they have copies--I've put out what would have to be changed in the HRS if we make this Charter change and there is a whole list of 'em, and I've given it to all of you too for your perusal and for your review. Okay. So go ahead, Ms. Crivello. I'm sorry I interrupted.

COUNCILMEMBER CRIVELLO: Thank you for that. Because one of, like what you just passed out is granting the Mayor the authority in regards to disaster. So who would make that call, the token Mayor or the Managing Director? That's just one example. The other...and I want to commend the Committee for the hard work, and even those members that came from Maui as well as Lanai in their participation and from the outlying districts. Also in my opinion, you know, when it's ripe and ready to go out, then we'll take it out there. I don't think...I think it still needs to be ripened. I recall when we did the Charter, the position that we had put into the Charter for the new environmental, I forget what we called them but the, I think it was the environmental department that was strictly for protect the natural resources, sustainability, conservation, and restoration. We went around and around and then we tucked it under the environmental and management director. Till today, I don't see it as fully implemented, because all what people were looking for was to have that so-called department, division, or what have you, and we haven't figured it out yet or the department haven't either. So it's, there was much in my opinion, a lot of not understanding how we were going to place this particular Charter amendment. So based on some of that...but what is more important for me is going out to the outlying districts and having the opportunity to hear them out. So when I go home, like this past weekend went to many parties, and the conversation comes up is what is this they're talking about, you know. So you spend time to explain it and then you have the dialogue that continues. For me the outlying districts never had the true opportunity that we've had, representation who the individual tried its best to represent the district according what feedback or inquiry she was getting like from my island. But even here on Maui you have the chatter of those asking the questions. And so do we have...did we have interaction except for testimony time during the day when they could come out here? I think the intent is all meaningful. I personally I will say this, I like the balance of the Executive and the legislation or Legislative Branch. And they say we don't get along or we have our conflicts, so does the United States President and Congress, they have their conflicts. But are we going to overthrow what's been in place since the establishment of our Constitution? This does not mean that we can't get it out. But it has to have to have more vetting. Do I underestimate our voters? No, I don't, but it's our kuleana, our responsibility to get out there and truly give them what we have before them. And I do not, as a former member of the Charter of 2012, I do not...it was not something that you just threw out

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there. It was constant, constant listening to people or the same people, even if it's the same people who showed up. They had their reasoning. It's just a matter for us to please allow everyone to...or at least 60 to 80 percent if that is allowed to come in and say now we understand, put it on the ballot for us, we're ready, you know. And not to underestimate the intelligence of our voters, it's information, communication is the key to our responsibility. And at this time, I'm sorry, I cannot agree with Mr. Carroll to just get it out there in four months, and that's just me. And but whatever is the consensus of our body right here, I can go along and support whatever we come out with. But I think, you know, when you talk about all the different functions that come under right now the Administration, and we up for election every two years, so what's the timeframe for the managing or the County Manager? What's that timeframe for us as a Council or the new Council, whomever, is it every two years you face it instead of every four years? So is the Mayor just a token? If people on Molokai is not satisfied with some of the situations...is the Council Chair from Wailuku, is it important for that person to listen or is it more important for a Mayor to listen? I'm sorry, I come from the little island of Molokai, but we do take pride of being involved and keeping on on what's happening. Thank you.

CHAIR VICTORINO: Thank you, Ms. Crivello. Mr. Hokama?

COUNCILMEMBER HOKAMA: Chairman, thank you. I think it's one of our strengths as a County to have the districts weigh in. I personally don't feel this proposal is ready for the ballot and I'm going to be just straight up forward with it. I find it interesting that we have not had the discussion about Council's responsibility in making governance work in our share of positions we've taken or decisions we've made or haven't made. It is not always about the Executive Branch. I think there was testimony about what have we done to show our part in making governance work. I think that was a very fair question and I would say I've had my disappointments being a Member of Council. At times I thought we should be bolder, we chose not to. At times I thought we should have gone to the right, we went to the left. So even among ourselves we have our differences. But I would say this approach I don't think is the silver bullet in what people think. I would say I prefer to tweak our current system before I even look at changing the system and that's why for me I prefer 10(7). Yes, it's my proposal, but I think it's an improvement of the current structure without making such drastic changes that the community is more willing to be open and seeing if that adjustment to the current structure makes a difference. We haven't even tried to make those tweakings of the current system to see if it can be improved. So are we just going to throw it out? I believe we should find island solutions for island issues. Okay. I don't find this to be so island in our solutions. Whether you look historically, you know, the old chiefs never had to get ratification, they made the call on what they thought was best. Okay. I mean let's look at our history, what we talk about as culture. Okay. They found and did what worked for islands, and I would say because our County is made up of islands and island communities unique to its own areas, we should be finding things that make sense and would try and bring us together as island communities. You know for whatever reason in this current time, there seems to be the priority of rather putting up things that split people in half than finding issues that bring people more together. Okay. That's not our island way. That is not who we

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are as a people especially for the families that have been here long enough to have said we've lived through the Board of Supervisors and now we live through the Charter form of government. Okay. Those of us that have lived through those things have seen the good and bad of both systems and we will say that nothing is perfect. Do not get personalities screwed up with structure. Okay. Yes, the current Mayor and I, we have our differences, everybody knows that, but I will tell you there are areas that the Mayor and I will agree and support each other on. We have in the past and I'm sure we can in the future. Okay. It is not a structural issue; it's an issue of different opinions on priorities. I would prefer our community especially for Lanai and I believe our representative from this Governance Committee served our island and our community well, prefers to vote for their top executive person. To make a change you vote for one person. I see in this proposal you need to change five people to make a change eventually in the new structure, 'cause that is what it takes to make a difference in the manager, five votes.

VICE-CHAIR COUCH: Six.

COUNCILMEMBER HOKAMA: Well, six if you're terminating and you gotta deal with all of what those potential personnel issues. Again, I think we should have a spec sheet and put it out and not say we're going to wait two years to work things out. I've gone down that path and you know what, it's more screwed up, 'cause people need to know before they make the decision what they're committing to than finding out what they have to find pay for after a decision was made that they never were told in advance. Who the hell buys a house not knowing what their mortgage rate is? Oh, we'll work it out after you sign the papers and you commit to 30 years of paying, then we'll work out those rates. You know I got educated enough to know better than that, Chairman. You know for me I think if this is ready, we should put it out, but I don't think it's ready. This is the first time we've talked about as Committee Members, as Councilmembers. Okay. And at this point in time as an elected representative of Lanai, I don't see the advantages for Lanaians. I think we're going to lose more than we're going to gain. I think our history has shown that when need to, we'll make those changes. So for me, you know, Mr. Chairman, I'm not going to support this. I think 10(7) is the more appropriate vehicle for discussion and presentation to the community. And I say that because go back six-seven years, I presented this, many Members sat on that Council too and what was my response? They voted it down. Okay. I'm bringing it up because I think that's the tweak necessary to bring forth at least a little bit more openness on who becomes directors. I think the community will know in advance of an appointment, the strengths and weaknesses of various individuals wanting to serve. And I prefer that that change be made in four years than wait for a contract of a person that I may not even know serves the best interests of the people or of the Council, the five Councilmembers that appointed him. So for me, Chairman, I'm not ready to support this proposal at this time. I think there's something...others that we should be asking the people for consideration and I thank you for my time.

CHAIR VICTORINO: Thank you very much. And I guess you don't buy a pig in a poke anymore, do you, Mr. Hokama?

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COUNCILMEMBER HOKAMA: No.

CHAIR VICTORINO: You're good. Mr. Guzman? That was supposed to be a joke, but you never caught on. That's okay.

COUNCILMEMBER GUZMAN: No, I don't know what that means.

CHAIR VICTORINO: Okay.

COUNCILMEMBER GUZMAN: Sorry.

CHAIR VICTORINO: Pig in a poke is a statement about buying things without you knowing what you're getting.

COUNCILMEMBER GUZMAN: Oh, okay.

CHAIR VICTORINO: Okay, there you go. Thank you.

VICE-CHAIR COUCH: It's an old-fashioned saying.

CHAIR VICTORINO: Yeah it's really old, you know, really old.

COUNCILMEMBER GUZMAN: Oh, the caveat emptor.

CHAIR VICTORINO: Go ahead.

COUNCILMEMBER GUZMAN: Yeah, I think this is an issue that is so big at this point that I really do believe that we need more time to really look at the issues. I was expecting somewhat what Member Baisa was expecting, more of a let's go through the different Charter amendments, the language, you know, like we've done in the past with ordinances, line by line, paragraph by paragraph, not just let's take action. So I'm a little uncomfortable with the process that we're going through right now and just getting bits and pieces of the information here and there. Although we have had the opportunity to read the reports, we've got the minority report and we also have the Cost of Government report which both contradict each other. So you're left with a middle ground with saying okay, if I can't get a full recommendation by either entities, then at this point I'm left mostly to say let it be done by the people, the decision by the people if we're going to take action on it. That's where I would stay right now, my position would be at this point. But if the Chair is more willing to take more Committee time which is, that is the more appropriate suggestion is to allow an additional two days of Committee to really go through this and maybe even bring in the different committee members of both sides and have a panel discussion, get more information, I would feel comfortable swinging my full support either way. But at this point if you're going to press me for a vote, I would vote with reservations to pass this forward to the Council because I have no clear direction at this point. There is no...I haven't had the opportunity to fully vet this through. And in spite all of the long hours that the Special Committee has conducted, I have not had the opportunity to

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spend as much time on this big issue as they have and I feel my responsibility to do so. So but like I said if you're pressed for a vote, I will vote in support of moving this forward with reservations. Thank you.

CHAIR VICTORINO: Mr. White?

COUNCILMEMBER WHITE: Thank you, Chair. You know I think I may be a little more comfortable with this issue than the others, because I've been a little bit more involved in it. I'm comfortable with the issue. I'm comfortable voting it forward. And I'm most comfortable with allowing the people to make the decision after a lot of communication goes both ways. When we decided to have the hearing, I believe we had decided to have a full day allotted just to this issue rather than all the other issues that were on the agenda today. You know it's up to you, Chair. I'm ready to vote today. But I understand the concerns of others that would like to have a little more time to consider the various issues. So I'll leave it in your hands. But I'm comfortable because I think it's a reasonable proposal and I think the committee has done a good job. And I'll take us back to when we made the initial decision to form the committee. There was discussion about having Councilmembers on the committee, and there was a very specific request from the public that it be made up of members of the public. So we've placed the responsibility in their hands and like our committees, they came up with a vote that was in favor of but by a margin of one vote. We've had that happen here, but it still ends up in the, you know, in the lap of the Council to make the final decision. I think they've done an outstanding job. There has been, you know, there are two sides to the story. There are those of us who are comfortable with change and this specific change, and I'm not saying that others are not comfortable with change, I'm just referring to this particular change. But I can understand their desire for a little bit more clarity if you choose to do that. I'm okay if you choose to put it to a vote today and move in that direction. Thank you, Chair.

COUNCILMEMBER GUZMAN: Chair? I just wanted to...may I say just a real quickie? I, in conclusion of my previous statement, I was hoping that we would get to PIA-10(7) first which would have been the Council's authority to approve and remove directors. If that would have been voted out, you know, or at least voted down, I would have had a better sense of dealing with the managing form of government. So I was hoping that we would have brought that one up first, but that's up to you, Chair. Thank you.

CHAIR VICTORINO: Well, Mr. Guzman and to all, I have been noticeably quiet, haven't I? Because I learned to listen before I react and say what I really think. First of all, to answer your question, the rationale behind putting all of these others behind this 'cause if this passed many of those would be deferred, they would not be necessary. I'm not saying 10(7), but many of the others. So to have discussion on many of these and to say yes or no and then come back and then have this, whether yes or no, then we have to go back and then defer or file those was not my idea of an efficient day. And, Mr. White, I've given this the whole day, that's why I have Wednesday for the rest of this, because I anticipated a lot of discussion. I anticipated a lot of opinions, facts, and figures being thrown about. One of the things I am disappointed with is there's truly not been a lot of facts and figures thrown in front of me on which more efficiency

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in government and I think you all agree. You know we hear oh maybe this will cost more and maybe this 83 percent here and this and that. Well, I've heard all kinds of numbers. I'm a businessman, unless you show me the facts, I can't make a decision. Okay. So that's, let me start with that first. I will thank the Special Committee and all those involved, minority, majority, and everybody in between, especially our Staff, all their hard work, 'cause this was a punt by the way by this Council to you folks to come back to us to give us some recommendation. Okay. So that was the punt. I've got the punt back now, the ball's in my court so we're going to make decisions. And I don't think another day or two or week because we're running against a clock. Ms. Willenbrink, what's the final day for first reading? Because then we have second reading. If we miss any of those dates, it's null and void. Go ahead.

MS. WILLENBRINK: That's correct, Chair. First reading would need to be July 15<sup>th</sup>, second reading would need to be August 5<sup>th</sup>.

CHAIR VICTORINO: So that really is cutting it close, gang. It's not like we have a lot of time. And many of us have NACo and other conferences coming up in the very near future and that's going to take up some of our time. I mean I can again, if you'll allow me to, have special Committee meetings, I can have special Committee meetings till I'm blue in the face. I have no problem with that. I'm willing to call 'em. And I want to thank Ms. Baisa upfront for giving me Wednesday morning to work on this on a continuum so that I can recess and continue this on. I've heard across the board some saying I'm still confused, I still don't really...I'm really not comfortable, I need more time, but if I don't get more time I'm going to vote this way. And I have others saying I really am confused, I need more time, but I'm going to vote that way. Well, that just tells me if you knowledgeable people have lots of questions, yes, what do you think the general public four months or not is going to have when we get it? Four months or not, how many of them will still have questions? I believe a lot of 'em. Let me tell you, I meet with the people every day in the churches and in the supermarkets and their questions to me are very simple, is this going to be better for us, and I say to them it really depends on how this works. The second question I get, will this take politics out of this whole process? And my answer has been no. And unless anybody in this room can put a Bible right here and swear on it that it'll take politics out of what we do, I have a problem. I don't think politics should be in everything we do, but I get politics in my own house with my own wife. I know when to win and when to lose. I've voted down things and I know I was being overridden right away. That's the way our families work. Okay. That's the way all of our families work, and that's just our families. Let's go around and everything else we do. I believe there is room for change. I wholeheartedly agree with you folks out there, there is room for change, there is things that are necessitated. And I think the real cause or the real challenge we face is how do we get qualified department heads and deputies in place and not being changed over every time there's a new Mayor or a new Council, or both, you know. I think that is the fundamental question in how efficient government can be if we're not changing over every four, six, eight, whatever years it may be. And I'd like to have this opportunity to discuss the matter of advancement, keeping people in the departments knowing that there's a chance for them to advance in these positions because that's the real world we live in. I've worked in management; I started as a

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stock clerk and became a manager at Zales. I worked as a crew member and became a manager at McDonalds. I knew there was a place to go and I had to work hard to get there, but I knew where I wanted to go. And I think people should be afforded that and even in government. I'm a firm believer of that. All this being said, I don't think there is in my mind a definitive answer. It's your heart that has to decide today, ladies and gentlemen, you the Council whether you want to bring it forward or not, you know. I don't know how much more time I can give to this. I don't know how much more time would change your minds or make sure people are comfortable. You got the HRS, I gave you the HRS changes that needed to be made. There's no insurance that all of this will be made anyhow. None of us know if this can be changed, you know, and I mean you can shake all your head, Mr. Starr, I'm just saying no one has ensured that this can be done. Okay. No one. No one.

MR. STARR (from the audience): . . .*(inaudible)*. . .

CHAIR VICTORINO: No, you can't. Okay. But I'm just saying, no one. Because no one in this room has the autonomy to tell me this can all be done in the next two years. Okay. So I'm being very upfront. None of you know, I don't have time to bullkake you guys through. I put the facts on the table whether you like them or not. So I'm at this point where I would rather let, rather take a vote and vote your conscious. Vote your conscious. Okay. And if this moves out, fine. If it doesn't then it's done, because we got all these other ten amendments that we have to work on. And this one really holds back many of the others, should we move on them or not. And many of you said today that if this didn't \_\_\_\_\_ then we agree with this, yes with that. So, you know, there are other opportunities to correct some of these challenges that you face. Ten-seven would be a big part of it, Mr. Hokama, and thank you, that would be a big part of it. So I think that we are ready to make a decision whether we want to move it or not, and I think that's what my recommendation is going to be to the body. Okay. So again, I want to thank everyone. I've listened very intently. Every one of you have made very good points. Every one of you have your passion. Everyone have your understanding of what you think should be done. And for all the Committee Members and all of the public out there who sat here and listened through all of these questions and answers for all the various departments and whatever other experts I could bring up. To you, Marge [sic], thank you for being here, for Mr. Kailiponi for being here. Thank you, I appreciate you guys coming up and sharing your manao. And I really, really, really thank you, that is the community. But maybe this is another issue I'd like to not see this die. I'd like to see this go out to the communities and have more discussion. This is an election year, but that's not the only time we should be doing this. We should have been doing this all the time. And if you really think more changes need to be brought forward, hey, then maybe let's start right away. Let's start in January, get your amendments and whatever you'd like to see brought forward, and get out to the community and ask their manao and let's take the time. Maybe Ms. Baisa and I won't be here, that's okay, we'll be out in the community, let me tell you. We're like bad news, we'll be right around the corner. But I just want to say that I've gotten to this point where I believe every one of you have your mind made up in one way or the other, and I think that's fair. And this way we can move on and I can

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move on to the other 11 or other 10 amendments and/or I could defer a lot of them if this is accepted. So any more questions before I make my recommendation?

COUNCILMEMBERS: Recommendation?

CHAIR VICTORINO: Thank you. 'Cause if you had asked me one more question, I really would have been hurt. All right. If there's no further discussion, the Chair would like to entertain a motion to pass on first reading the proposed resolution entitled Proposing an Amendment to the Revised Charter of the County of Maui (1983), as Amended, to Provide that the Managing Director Shall be Appointed by the County Council to Function as the County's Chief Operating Officer, with the Elected Mayor Retaining the Power to Represent the County in Intergovernmental Relations, Approve or Veto Bills, and Nominate Members of Boards and Commission; and to file County Communication 14-313 [sic].

COUNCILMEMBER WHITE: So moved.

COUNCILMEMBER COCHRAN: Chair, I second the motion.

CHAIR VICTORINO: It's been moved by Mr. White, been seconded by Ms. Cochran. Now, Ms. Cochran, do you have a question? You're just keep your hand...

COUNCILMEMBER COCHRAN: Elevating.

CHAIR VICTORINO: I'm sorry. Gotta ask 'cause I see it. I got it, I know what you need, but I just wanted to...any further discussion? Mr. White?

COUNCILMEMBER WHITE: Chair, your motion mentioned as amended, is your intention to include the amendments that were, are provided by the Corp. Counsel this morning? Are those --

CHAIR VICTORINO: No.

COUNCILMEMBER WHITE: --the amendments?

CHAIR VICTORINO: No. Remember now, you read it, the County of Maui (1983), as amended.

COUNCILMEMBER WHITE: Oh, okay.

CHAIR VICTORINO: Yeah, remember, I gotta read it verbatim. That's the instructions I've gotten from Corporation Counsel. Okay. Not, any amendments, nothing, no amendments were added, this is just as is presented. Okay. Any further discussion?

MS. WILLENBRINK: Yes, Chair.

COUNCILMEMBER BAISA: Chair?

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CHAIR VICTORINO: Okay, whoa, whoa, whoa, whoa, whoa. Slow it down. Wait, before Staff starts going into it, let me get the Councilmembers. Do you have something specific? I would like to hear from the...

MS. WILLENBRINK: Just to --

CHAIR VICTORINO: Yes.

MS. WILLENBRINK: --the, it's not County Communication 14-313, and I take responsibility for that. It's the filing of Committee report...what's the number?

CHAIR VICTORINO: Well, that's what you get here written down for me.

VICE-CHAIR COUCH: Sixteen ninety-five.

MS. WILLENBRINK: So I apologize.

CHAIR VICTORINO: Okay. So I read what I put in front of me.

MS. WILLENBRINK: Sixteen dash ninety-five.

CHAIR VICTORINO: So if there's no objections, I would make it 16-95.

COUNCILMEMBERS: No objections.

**COUNCILMEMBERS VOICED NO OBJECTIONS.**

CHAIR VICTORINO: Okay. Friendly amendment to correct, for correction purposes. Okie dokie. Go ahead, Ms. Baisa.

COUNCILMEMBER BAISA: Thank you very much, Chair. I need a point of personal privilege. Can we take a very short break?

CHAIR VICTORINO: Short break. I will not go more than --

COUNCILMEMBER BAISA: Two minutes is good.

CHAIR VICTORINO: --4:15. Don't leave, don't even leave your chairs. Two minutes. Thank you. ...*(gavel)*...

**RECESS: 4:11 p.m.**

**RECONVENE: 4:13 p.m.**

CHAIR VICTORINO: ...*(gavel)*... This meeting is reconvened. The Chair was also made aware of an amendment that I have to make. And the Chair will now entertain a

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motion to amend the proposed resolution by amending the ballot question to read "Shall the Charter be amended effective January 2, 2019, to establish a revised structure for the County of Maui within" and the rest to be read unchanged. So I need to add that.

COUNCILMEMBER WHITE: No objection.

COUNCILMEMBER COCHRAN: No objections.

COUNCILMEMBER BAISA: Do you need a motion?

CHAIR VICTORINO: Yes, I do need a motion.

COUNCILMEMBER BAISA: So moved.

COUNCILMEMBER WHITE: Second.

CHAIR VICTORINO: Okay. This was just to make sure that there was a definitive date, January 2, 2019, put in. Okay. What's that?

VICE-CHAIR COUCH: Where is that?

MS. WILLENBRINK: It amends the ballot question.

CHAIR VICTORINO: It's the ballot question. It has to be added to the ballot question.

VICE-CHAIR COUCH: Can you read the motion again, please?

CHAIR VICTORINO: I will enter...oh, the proposed resolution by adding to the ballot question to read "Shall the Charter be amended effective January 2, 2019, to establish the revised stature [sic] for the County of Maui within" and the rest to read, well the rest to read is the same. Okay. It's to be inclusive of the 2000...January 2, 2019, the effective date of the revised change. Okay? Yeah, it would be 2019, January. Okay. Well if there's no further discussion, all those in favor of the amendment as stated, signify by saying "aye."

COUNCILMEMBERS: Aye.

CHAIR VICTORINO: Opposed?

COUNCILMEMBER HOKAMA: No.

COUNCILMEMBER CRIVELLO: No.

CHAIR VICTORINO: Let the record show seven "ayes," two "noes."

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**VOTE:**        **AYES:**        **Chair Victorino, Vice-Chair Couch, and Councilmembers Baisa, Carroll, Cochran, Guzman, and White.**

**NOES:**        **None.**

**EXC.:**        **Councilmembers Crivello and Hokama.**

**ABSENT:**    **None.**

**ABSTAIN:**   **None.**

**MOTION CARRIED**

**ACTION:**    **APPROVE amendment.**

CHAIR VICTORINO: And now on the resolution itself, all those in favor, as amended...

VICE-CHAIR COUCH: Whoa, whoa, no, discussion. Tons of discussion.

CHAIR VICTORINO: Really?

VICE-CHAIR COUCH: Yes.

CHAIR VICTORINO: Really? Then I'm going to recess this meeting till Wednesday, because we're going to lose one Member and if you're going to discuss it then I'm going to recess. Because this one Member has stayed, she has to leave by 4:30, and if you're going to discuss it further, then I'm going to have to recess till Wednesday morning.

COUNCILMEMBER BAISA: Chair? Chair?

CHAIR VICTORINO: Yes?

COUNCILMEMBER BAISA: I cancelled my appointment.

CHAIR VICTORINO: Oh, okay. Never mind, forget my...thank you for telling me after I said that.

COUNCILMEMBER BAISA: I can see which way the wind is blowing. Thank you.

CHAIR VICTORINO: Okay, thank you. Thank you. Okay, go ahead. And I'll start from you, Mr. Carroll, and work my way down. Do you have any further questions or discussion on this matter?

COUNCILMEMBER CARROLL: No.

CHAIR VICTORINO: Okay, thank you. Ms. Baisa?

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COUNCILMEMBER BAISA: No.

CHAIR VICTORINO: Ms. Cochran?

COUNCILMEMBER COCHRAN: No.

CHAIR VICTORINO: Okay. Mr. Couch?

VICE-CHAIR COUCH: Sure. You know I want to get something to the people to vote on, but we didn't go through any of these except for the one thing in Department of Management. There are 39 pages of changes to the Charter, we didn't go through any of 'em. I think it's highly irresponsible for us not to. So if we don't go through these changes, I'm going to have to vote no. I would love to go through these changes and take the time and take the, our duty to get this right.

CHAIR VICTORINO: Mr. Couch. Mr. Couch, please.

VICE-CHAIR COUCH: No, I'm saying...

CHAIR VICTORINO: I'm going to stop you right here. I'm going to stop you right here. For once I'm going to take personal privilege and say stop right here. The reason...okay.

VICE-CHAIR COUCH: Are you cancelling discussion?

CHAIR VICTORINO: I'm going to tell you the reason. We only have definitive time to get this done so if you want to defer this and go line by line, Mr. Couch, line by line, I have no qualms with it. But if it doesn't get to the deadline then you take responsibility, and I'll leave it at that.

VICE-CHAIR COUCH: That's fine. It's our job to do the right thing.

CHAIR VICTORINO: I know what our job is. Please don't tell me what my job is.

VICE-CHAIR COUCH: I'm just saying that's our...

CHAIR VICTORINO: Okay, for once I'm going to have to be argumentative. I've been very cool all day, but once in my life I'm going to say I understand, but you also understand we're against a time clock.

VICE-CHAIR COUCH: So it's more important to get to the time clock than do the right thing?

CHAIR VICTORINO: Well the right thing...

VICE-CHAIR COUCH: If that's the case then...

CHAIR VICTORINO: No, no, the right thing is to do it right.

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VICE-CHAIR COUCH: No, I understand.

CHAIR VICTORINO: Okay.

VICE-CHAIR COUCH: I understand.

CHAIR VICTORINO: We've discussed it. Okay.

MS. WILLENBRINK: Chair, if I could just interject. No matter what happens here in the next few moments, if you want to take it up again on Wednesday, do not defer the matter, just move it to end of calendar or something like that.

CHAIR VICTORINO: Okay. Well see again if we move it to end of calendar, then all of the other discussion we will have will then lead us to what? What, you know, we get there and then we've gotten, go rehash everything we've done. So I mean that's the predication that I have bringing this forward. So anyhow, I will...other discussion? Go ahead. It's raining. Go ahead --

COUNCILMEMBER HOKAMA: Chairman, thank you.

CHAIR VICTORINO: --Mr. Hokama.

COUNCILMEMBER HOKAMA: I'll speak against the motion. I think we need more discussion. Second, Chairman, I find it interesting we're talking about qualifications of appointees and some of the concerns of those that potentially lead departments or have been chosen to lead departments and that we need qualified people for those positions. I find it interesting not once have we talked about what should be the qualifications of a Councilor to sit in a seat to make those decisions to appoint.

CHAIR VICTORINO: Good point.

COUNCILMEMBER HOKAMA: There's an assumption that the Councilors are born with a special knowledge? But we're not, we don't talk about what it takes to be a Councilor, the key job as an appropriator, as a legislator. How much do they understand financing and County funding, programs, grants, taxation that we're concerned about the departments and that the Council should make this decision and yet we don't have qualifications? Interesting scenario 'cause I would think that they would be more concerned about how qualified are we to make that key important decision to pick a professional. And why aren't we having more of this type of discussions? For me again, I understand your point about a deadline, Chairman, but deadlines are deadlines. If it's not ready for this election, it's not ready. We have another election in two years and if that's the appropriate time when it's ready for be before the people, then that's when we should present it. I will not work on this type of deadline just to make a decision when I don't think it's ready. Thank you, Chairman.

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CHAIR VICTORINO: Thank you. And since you brought up that and since Ms. Baisa has said her 4:30 has cancelled, I am going to go till 5:30, take a recess for dinner, and we're going to finish this tonight. And, Mr. Couch, we're going to follow every one of those questions you wanted to ask and you'll start from 1 through 30. Okay, Mr. Couch. And that way everybody has a chance to discuss each and every provision in the Charter. I'm sorry, Ms. Baisa, I am making this because that's what they seem to want and I'm going to let everybody have their way. Because for me, you guys wanted it, I'm trying to get it done. Okay. I'm trying to get it done. So if it don't get done, don't come back to me and blame me. Okay. All right. So let's go on to 5:30 to take a dinner break till 6:30, and we'll come back and finish this baby up. And it is raining outside and that's what me, turned me on. Once it starts raining, it's God's way of telling me it's time to keep moving on. All right. So...it is raining, Mr. Couch, I promise you that. I don't have to fib on that. So, Mr. Couch, since you brought that up, I'm going to ask you to start piece by piece, one by one.

COUNCILMEMBER WHITE: Chair?

CHAIR VICTORINO: And I appreciate it. Yes, Mr. White?

COUNCILMEMBER WHITE: If you don't mind, I know at least some of us were not planning on being here this evening and may have other obligations. But I would just like to ask if we can continue this Wednesday morning?

CHAIR VICTORINO: We're not going to have enough time because we're going to have three hours on Wednesday morning and then I gotta look for another meeting period. So my decision is to move as much as I can tonight, and that way we can make a decision, if not, by Wednesday morning. I mean unless you guys all have major, major...I have obligations, I'm going to have to call and cancel.

COUNCILMEMBER WHITE: Yeah.

MS. WILLENBRINK: Chair?

CHAIR VICTORINO: But you guys just said that's my job or our job to get it done so I'm just trying to accommodate the statement.

MS. WILLENBRINK: Chair?

CHAIR VICTORINO: Yes, Ms. Willenbrink?

MS. WILLENBRINK: Brief 30-second recess, please.

CHAIR VICTORINO: We don't have 30 seconds, 1 minute, subject to the Chair of the call...call of the Chair. . . .*(gavel)*. . .

**RECESS: 4:22 p.m.**

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**RECONVENE: 4:23 p.m.**

CHAIR VICTORINO: ...*(gavel)*... Let's reconvene the meeting. I love when I throw a gauntlet down. Boy, do I get some changes real fast. You know it's our duties to do the job of the people right and that's what we've been told and, you know, I had just a heavy discussion with one of your Members on that regard, and yet I have a timetable that if I don't fulfill, it don't get done, and so that's another issue. But with that being said, you know, I'm going to go to 5:30 and I'll stop there. Okay. Five thirty, stop there. Okay. And we're going to come back on Wednesday and try to finish up, because if we don't finish up then I'm going to have to look for other days, and I'm not going to be here after the Council meeting on Friday so I cannot...and I want all eight, I mean all nine of us here. Ms. Cochran cannot come tomorrow because I was going to...Mr. Guzman offered me some of his time slot in EAR. He cannot...she cannot, and I want as much as possible all nine of you here. Yes, Mr. White?

COUNCILMEMBER WHITE: No, never mind.

CHAIR VICTORINO: Yeah, never mind. Thank you. You know so I'm trying to accommodate everybody's needs along with what we want and what we need to accomplish. Okay. So timeframe is important, gang. Timeframe is important. And those people out there in the gallery are shaking their head yeah, so I know it's important. Okay. So but you want to cover it one line by line, then I'm going to allow that to happen and that way you will cover all the bases, and hopefully then everybody will be comfortable in making this decision. Okay. So, Mr. Couch, you wanted to cover line by line so I'll allow you to start.

VICE-CHAIR COUCH: Not quite line by line, change by change maybe.

CHAIR VICTORINO: Line by line, change by change, whichever.

VICE-CHAIR COUCH: But even then --

CHAIR VICTORINO: Let's keep it...

VICE-CHAIR COUCH: --some of those are manini so it's no big deal. Page 2, No. 7 on the reso. Is everybody there? It talks about, you know, evaluation of candidates shall be based on publicly announced criteria of professional qualifications that are based on advice from the Department of Personnel Services, the International City/County Management Association, and other entities as requested by the Council. Can we change that so that it's a reputable city/county management association? Just in case they...whatever. We're specifically naming a specific organization that I think that we gotta be careful with that, if we're going to put that in our Charter. That is something that is going to go in the Charter.

CHAIR VICTORINO: Mr. Kushi, and again the question I have what is reputable. That is a very vague and ambiguous statement --

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VICE-CHAIR COUCH: Right.

CHAIR VICTORINO: --reputable. Okay. So I know this a defined, clearly well-established association. So but, Mr. Kushi?

MR. KUSHI: Yeah, Mr. Chair, I don't know why it's in there. I guess it is what it is. It's a reputable association I guess, but you also have the other entities as requested by Council so you could pick whoever you want. It pretty much gives you leeway, whatever leeway you want.

VICE-CHAIR COUCH: Except for we must use that association's advice?

MR. KUSHI: No you can have other entities, if you had a competing entity, another entity.

VICE-CHAIR COUCH: I'm just curious why that, I mean...

MR. KUSHI: I don't know, don't ask me, ask them.

CHAIR VICTORINO: This came from the...

VICE-CHAIR COUCH: Sure, sure.

CHAIR VICTORINO: Okay.

VICE-CHAIR COUCH: Okay.

CHAIR VICTORINO: Do you want Ms. Schaefer to come up and address your question?

VICE-CHAIR COUCH: Sure.

CHAIR VICTORINO: All right, Madge, front and center. And you know what, best you stand up there --

COUNCILMEMBER HOKAMA: Chairman?

CHAIR VICTORINO: --because you're going to have a lot of questions coming up.

COUNCILMEMBER HOKAMA: Chairman?

CHAIR VICTORINO: Okay. Yes, sir?

COUNCILMEMBER HOKAMA: You know I feel uncomfortable. I would ask you --

CHAIR VICTORINO: Yes, sir.

COUNCILMEMBER HOKAMA: --to either table or have the motion withdrawn.

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VICE-CHAIR COUCH: Oh yeah.

COUNCILMEMBER HOKAMA: Because what is before the body is already a motion as amended --

VICE-CHAIR COUCH: Right.

COUNCILMEMBER HOKAMA: --and we should have only discussion on the motion that is before the Committee. I appreciate what you're doing and I support what you're doing, but I would --

CHAIR VICTORINO: Okay.

COUNCILMEMBER HOKAMA: --prefer that for the record to have this open dialogue --

CHAIR VICTORINO: Could I have this withdrawn --

COUNCILMEMBER HOKAMA: --and discussion...

CHAIR VICTORINO: --the ones who made the motion.

COUNCILMEMBER WHITE: I'll withdraw my motion.

COUNCILMEMBER COCHRAN: Yes.

CHAIR VICTORINO: And with the amendments, withdraw? Okay. Okay, Mr. Hokama, thank you. And I was just thinking because we were discussing the same item as we had proposed that it wouldn't be a problem. But go ahead. Thank you for that clarification, Mr. Hokama. Go ahead, Mr. Couch.

VICE-CHAIR COUCH: Thank you. Because apparently there's American Society of Public Administration and a few other organizations, so I'm just curious why that specific one and is it okay to do a generic...

MS. SCHAEFER: You're just looking for a generic. I think any professional or recognized management organization.

VICE-CHAIR COUCH: And the reason for that was because they have the...

MS. SCHAEFER: Well because we had several presentations and a lot of literature from them and it's long-standing, reputable. And I think if that's your concern then you can just cover it by saying any, not using the name in particular if you want to, just saying any recognized management organization specializing in government.

VICE-CHAIR COUCH: Okay. I'm just curious as to why, because like I said there were a few other organizations, so.

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MS. SCHAEFER: We didn't hear from them.

VICE-CHAIR COUCH: Okay.

CHAIR VICTORINO: So are you proposing a change or would you just allow that to be in?

VICE-CHAIR COUCH: The question, it says shall be based on publicly announced criteria of professional qualifications that are based on advice from the Department of Personnel Services, the International City and County Management Association, and other entities as requested by law...by the Council.

CHAIR VICTORINO: So...

VICE-CHAIR COUCH: The best thing would be and/or. If I can change that to and/or, then we don't have to specifically use that group. The way it reads now we must use that group.

CHAIR VICTORINO: Or any other...I mean go ahead, Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, I think Ms. Schaefer's option was, is more appropriate instead of and/or. I prefer just take it out. This is a group that advocates for this position. They're an advocacy group, Chairman. I know this group.

CHAIR VICTORINO: Yeah.

COUNCILMEMBER HOKAMA: I have to deal with them with the other, rest of the big seven in DC. So of course they're going to advocate what is to their benefit. I prefer someone that is just going to give us what they feel from a structural standpoint should be considered and not coming from an advocacy point for a certain position. Thank you.

CHAIR VICTORINO: Yeah.

MS. SCHAEFER: Well I think with the and/or you include everybody.

COUNCILMEMBER HOKAMA: I prefer that we just leave it up to the Council as requested, Chairman, 'cause it covers everybody.

CHAIR VICTORINO: Any objections to changing that to leaving it up to the Council as requested? That's what you're suggesting, Mr. Hokama.

COUNCILMEMBER HOKAMA: Yes, Chair.

MS. WILLENBRINK: How would that read?

CHAIR VICTORINO: Okay. Hang on. Hang on.

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COUNCILMEMBER HOKAMA: My thing is just delete the whole thing as it regards to the ICMA.

CHAIR VICTORINO: Mr. Couch, are you comfortable with that change?

VICE-CHAIR COUCH: That's fine.

CHAIR VICTORINO: Okay. So you're making that change, Ms. Willenbrink?

MS. WILLENBRINK: So I took out the International City/County Management Association and the word other. So it would be based on publicly announced criteria of professional qualifications that are based on advice from the Department of Personnel Services and entities as requested by the Council.

CHAIR VICTORINO: Is that what you're saying, Mr. Hokama? Any objections to that change?

COUNCILMEMBERS: No objections.

CHAIR VICTORINO: Okay. Moving along, go ahead, next.

VICE-CHAIR COUCH: I did miss one 'cause it's so small. Is the duty, let's see it's the powers of the Council, blah...to require periodic and special reports from all County departments concerning their functions and operations. Such reports shall be requested and submitted by and through the Managing Director. Page 2, No. 5. Sorry. Page 2, No. 5.

CHAIR VICTORINO: Can you direct us to where it is? Okay, thank you.

VICE-CHAIR COUCH: So there are further places down in here where the reports are given to the Council and the Managing Director. I think that they still should be given to the Mayor so that the Mayor is aware of what's going on as well. That's not necessarily this one, that just brought the question up in my head is that there are numerous locations where reports are given to the Council and now the Managing Director. I think it should still include the Mayor in some of these. As we go through the process, I think we want to talk about that.

MS. SCHAEFER: Is it possible for me to get a copy of what you're working from, Don?

VICE-CHAIR COUCH: It's the committee report, the resolution.

MS. SCHAEFER: I just don't have it.

CHAIR VICTORINO: Okay. Can you get a her a copy, please. Okay, go ahead, Mr. Couch, so that, so we can continue on and while she's looking that up.

VICE-CHAIR COUCH: Okay. Page 3 is just a, is a housekeeping so that's not a problem.

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CHAIR VICTORINO: Well, what is the housekeeping just so that we have it...

VICE-CHAIR COUCH: It says on Page 3, Item No. 4, it says the County Auditor shall submit his budget to the County Council and its budget shall include the Cost of Government Commission's budget subject to article...it took out...it was typo.

CHAIR VICTORINO: Okay, give that to Madge.

MS. SCHAEFER: Yeah, that's fine. I mean housekeeping items.

VICE-CHAIR COUCH: Yeah, that was housekeeping, so.

CHAIR VICTORINO: Yeah, yeah, that's no problem. But just so long we get it, you know, put down in the record so we can move on. Okay, hang on. Can you...

VICE-CHAIR COUCH: There's no change, that's...

CHAIR VICTORINO: Oh, no change then.

VICE-CHAIR COUCH: Yeah. That was their housekeeping so I'm fine with that.

CHAIR VICTORINO: Okay. Well now let's go back to the one that we were discussing before she ran off. You got it, Madge? Can you tell Madge what page.

VICE-CHAIR COUCH: Page 2 of the resolution, way in the back.

MS. SCHAEFER: Okay.

CHAIR VICTORINO: Kim, you may want to help her.

MS. SCHAEFER: No, I've got it.

CHAIR VICTORINO: You got it, okay.

VICE-CHAIR COUCH: We ready? Okay. Page 4, No. 3, submit an annual report of its findings and recommendations to the Mayor. I would rather leave the Mayor in, Managing Director, Council, and County Auditor. That's the Cost of Government Commission report.

MS. SCHAEFER: You know I think that's fine and I think that it runs through the whole thing.

VICE-CHAIR COUCH: Right.

MS. SCHAEFER: It may run like that. And certainly including the Mayor would not be a problem.

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VICE-CHAIR COUCH: Right.

MS. SCHAEFER: Yeah.

VICE-CHAIR COUCH: I just, I note that it was removed and I think it should be returned.

MS. SCHAEFER: Yes.

COUNCILMEMBER WHITE: I would agree.

MS. SCHAEFER: I think in any instance where that occurs, it's fine.

CHAIR VICTORINO: Okay, Ms. Willenbrink, so we'll make that change in all the sections that are being brought forward.

MS. WILLENBRINK: Throughout?

CHAIR VICTORINO: Throughout, yeah.

MS. WILLENBRINK: Okay.

CHAIR VICTORINO: That way we don't have to cover each one, one by one.

VICE-CHAIR COUCH: Right.

MS. WILLENBRINK: Okay.

CHAIR VICTORINO: Okay, moving right along.

COUNCILMEMBER COCHRAN: Chair?

CHAIR VICTORINO: Yes, Ms. Cochran?

COUNCILMEMBER COCHRAN: Thank you. But only in reference to annual reporting, you're adding back the word Mayor. Right? Okay.

UNIDENTIFIED SPEAKER: Right, right.

COUNCILMEMBER COCHRAN: 'Cause there's all kinds of decision making by and the Mayor's been taken out, but then you're putting back Mayor.

CHAIR VICTORINO: I thought we're talking just about --

COUNCILMEMBER COCHRAN: It's not going to work.

CHAIR VICTORINO: --reports?

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COUNCILMEMBER COCHRAN: Yeah. So just clarification, thank you.

CHAIR VICTORINO: Okay.

VICE-CHAIR COUCH: And then for some reason Section 3-9.4 in definitions was taken out.  
Any thoughts on that?

CHAIR VICTORINO: What page again?

VICE-CHAIR COUCH: Page 4.

MS. SCHAEFER: Four.

CHAIR VICTORINO: Same Page 4, okay.

VICE-CHAIR COUCH: No. 4.

CHAIR VICTORINO: Okay.

MS. SCHAEFER: So definitions were taken out?

VICE-CHAIR COUCH: Well the Section 3-9.4 was repealed.

MS. SCHAEFER: Oh. I have no idea why that was done. Operation, agency . . .*(inaudible)*. . .  
Council office.

MR. KUSHI: Mr. Chair? Member Couch?

CHAIR VICTORINO: Yes.

MR. KUSHI: It's in, it's put back in later on in a later section.

MS. SCHAEFER: Probably rearranged.

VICE-CHAIR COUCH: Gotcha, okay.

MS. SCHAEFER: Yeah.

CHAIR VICTORINO: Thank you for that clarification, Mr. Kushi. Continuing.

VICE-CHAIR COUCH: And in here somewhere we need to put in the, I think Mr. Kushi's  
amendments, Exhibit "1" for sure, regarding the...but I guess that's Section 8.

CHAIR VICTORINO: Yeah, that's not this section yet.

VICE-CHAIR COUCH: By Department of Management.

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CHAIR VICTORINO: Yeah.

VICE-CHAIR COUCH: So okay.

CHAIR VICTORINO: It's not this section yet so you gotta go further back.

VICE-CHAIR COUCH: So in article...Page 4, Article 6, Section 6-1, basically we're saying that the executive power is now handed to the Managing Director except for as otherwise...that's what essentially this whole thing is all about is that one line right there.

MS. SCHAEFER: Correct.

VICE-CHAIR COUCH: Okay. The big questions I have here, some big questions, are the appointment and removal of officers. We're okay with them not...I mean they...HRS 76 allows them not be civil service, because it says department heads not appointed by the Mayor, but it just says department heads. Is that right, Mr. Kushi? HRS 76 --

MR. KUSHI: What about it?

VICE-CHAIR COUCH: --about department heads. It specifically says department heads can be exempt from civil service?

MR. KUSHI: Yes.

VICE-CHAIR COUCH: Or is it department heads appointed by the Mayor?

MR. KUSHI: No, just department heads.

VICE-CHAIR COUCH: Okay, I just want to make sure we're clear.

CHAIR VICTORINO: I do have a question in that one. We are told that department heads who are asked from various departments or personnel who takes a department head's position have return rights. With this change, would that have an effect on the return rights? Because right now the way it's setup, if your...and we've had a number of them that have gone to a different department as a department head, and then at the end of the term or before the end of the term, they return back to their department. They have what they call return rights. And sometimes that's three, four, sometimes six-seven years down the road and that position stays open. My question, with this fundamental change and a Managing Director, if he now goes to...an applicant comes in and puts in an application from another department who...and then would that person still have, that personnel would have still return rights to their old department? Or once they become appointed by this new Managing Director, they would lose that return rights? Mr. Kushi?

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MR. KUSHI: I'm not sure but I would think it would have to be depending on what the benefits of the position he left. If he was civil service, it's covered by collective bargaining agreement. If it's non-civil service, I still think Civil Service Commission rules have return rights and for how long a period I don't know.

CHAIR VICTORINO: Okay. And that's one of my fundamental questions that as we discussed it...

MR. KUSHI: It can't be forever. I mean, you know, there's a term the return rights last.

CHAIR VICTORINO: Okay. Thank you for that clarification. At least I get a better understanding. Go ahead, Mr. Couch.

VICE-CHAIR COUCH: You know we're going page by page. If any other Member...

CHAIR VICTORINO: Yeah, yeah.

VICE-CHAIR COUCH: Okay.

CHAIR VICTORINO: Unless anybody else wants to, you know, we'll let Mr. Couch go through and if you have anything else you'd like to add, please feel free or to get on a page...yes?

COUNCILMEMBER GUZMAN: What page are we on, Chair?

VICE-CHAIR COUCH: Page 5.

COUNCILMEMBER GUZMAN: Okay.

VICE-CHAIR COUCH: No. 5 is a little...this is where we're discussing in Item 7 and 14 as well, so if we go with Council has approval of all directors, this is where we would do most of that. So I guess you may want to deal with that. This is where the chicken and the egg thing comes.

CHAIR VICTORINO: Right now we're sticking with the chicken. Let's continue. Don't worry about the egg right now, let's continue with the chicken. Okay, please.

VICE-CHAIR COUCH: Mr. Kushi has something.

MR. KUSHI: Yeah.

CHAIR VICTORINO: Oh yeah, go ahead, Mr. Kushi.

MR. KUSHI: Excuse me, Page 5, No. 5 just deals with the Corporation Counsel and the Prosecuting Attorney.

VICE-CHAIR COUCH: Right.

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MR. KUSHI: Further on in these, in the resolution, there are actually references to each department in the appointment of each department head by the Managing Director.

VICE-CHAIR COUCH: Correct. But the removal I think is the...

MR. KUSHI: I think the removal...

VICE-CHAIR COUCH: And the approval by the Council?

MR. KUSHI: Right.

VICE-CHAIR COUCH: That's...

MR. KUSHI: I believe so. I gotta look at it.

VICE-CHAIR COUCH: Right, right. Okay. That's, that one we may need to come back to at...depends on how the rest of the items go. 'Cause no sense in...

CHAIR VICTORINO: Hang on. Mr. Hokama, he had a...excuse me, Mr. Couch. Mr. Hokama, go ahead.

COUNCILMEMBER HOKAMA: Chairman, thank you. On that same component, 6-2.5 regarding that the Council, and again this is regarding the removal of the Corporation Counsel and Prosecuting...that if the Council does not act within the 60-day period, the appointment or proposed removal shall be deemed to be confirmed. Is that sufficient for due process, Mr. Kushi?

CHAIR VICTORINO: Mr. Kushi?

MR. KUSHI: Due process for the removal?

COUNCILMEMBER HOKAMA: Yes.

MR. KUSHI: If the Council doesn't act, then the...well put it this way, there's a 60-day deadline scheme, in 60 days if the Council doesn't act, then the person is, appointment is confirmed.

COUNCILMEMBER HOKAMA: It says or proposed removal.

MR. KUSHI: Right. Okay. On, in removal if the Council doesn't act on the Mayor's removal recommendation, then he's removed. So the Council needs to act within, affirmatively up or down within 60 days. That's my understanding of this proposal. And it's not a Council initiative, initiated removal.

COUNCILMEMBER HOKAMA: Okay. And that would satisfy whatever due process the employee should receive under general law?

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MR. KUSHI: Well department heads ...*(inaudible)*... have any due process if you're appointed.

COUNCILMEMBER HOKAMA: And so saying that --

MR. KUSHI: You're exempt. You're...

COUNCILMEMBER HOKAMA: --regarding also the County Manager, mostly they serve the term of the appointing entity. So for the current system, you agree to serve the current, the Mayor, you have a four-year appointment.

MR. KUSHI: Correct.

COUNCILMEMBER HOKAMA: Okay. Council serves two-year terms so the appointment is only good for two years because that's the term of the appointing authority?

MR. KUSHI: Reference back to section...Page 2 --

COUNCILMEMBER HOKAMA: Okay.

MR. KUSHI: --under Powers of the Council, No. 7.

COUNCILMEMBER HOKAMA: Yes.

MR. KUSHI: Okay. You appointed the Managing Director by contract, the terms of which you have to, you make up yourself. Could be two years, could be six years, whatever.

COUNCILMEMBER HOKAMA: Okay. That's for --

MR. KUSHI: The Managing Director.

COUNCILMEMBER HOKAMA: --County Manager. What about the department heads?

MR. KUSHI: Department heads I guess...this scheme is the Managing Director appoints the department heads.

COUNCILMEMBER HOKAMA: So as long as he serves it within his existing term of contract?

MR. KUSHI: I don't know the answer. I would think it's, if the Managing Director is gone, then the department head is subject to resignation 'cause he got appointed by the Managing Director.

COUNCILMEMBER HOKAMA: Correct.

MR. KUSHI: But it's not clear in here.

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COUNCILMEMBER HOKAMA: And that's part of my question, Chairman. I'm just trying to figure out...

CHAIR VICTORINO: Would you like Ms. Schaefer to give you any insight as a resource person or?

COUNCILMEMBER HOKAMA: I want the legal --

CHAIR VICTORINO: Okay, legal.

COUNCILMEMBER HOKAMA: --responses.

CHAIR VICTORINO: Sorry.

COUNCILMEMBER HOKAMA: I want the legal responses.

MR. KUSHI: Legally, exempt positions are employed and hired and term out at the will of the appointing authority. In this case appointing authority is the Managing Director. If he or she is gone...

COUNCILMEMBER HOKAMA: Then the rest are gone, pretty much.

MR. KUSHI: Well you look at who's the appointing authority, but I'm not sure what the committee's intent was.

MS. SCHAEFER: That was...

CHAIR VICTORINO: Mr. Hokama, can I allow Ms. Schaefer to address that question?

COUNCILMEMBER HOKAMA: Sure.

CHAIR VICTORINO: Okay, Ms. Schaefer.

MS. SCHAEFER: The whole intent of this is to provide stability in government, and to say that if a Managing Director, a County Manager was appointed and that County Manager resigned, that every department head would have to resign is not the intent of the committee. It would be that things would continue until there was a new Managing Director. If that Managing Director had a problem with department heads, to remove them, he'd have to come back to the Council. It's...that wasn't the scenario that we envisioned, it was stability was always the scenario that we were looking for. So I don't know how you do that legally, how you make that clear that they are not tied to the Managing Director.

COUNCILMEMBER HOKAMA: So your intent is to have everyone on one separate contract?

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MS. SCHAEFER: No, our intent is to have stability, and that stability is if there's a contract, it's with the County. But I have to tell you, most department heads don't work under a contract. They don't have contracts.

COUNCILMEMBER HOKAMA: I appreciate your response. Thank you so much, Ms. Schaefer. And that's part of my dilemma, Chairman, this uncertainty of many areas. Thank you, Chairman, for my question.

CHAIR VICTORINO: You're welcome. Go ahead, Mr. Couch. Oh, do you have something you wanted to add, Mr. White? I apologize, sorry.

COUNCILMEMBER WHITE: No, I was just going to say that, you know, in my operation, in hotels, sometimes the general manager is contracted, but seldom are any of the people below them, and as you know in the hotel business, general managers move all the time. When they move, everyone else stays in place unless they're being hired by some other entity. But as Ms. Schaefer said, the purpose of this is to provide stability so that we have people there who have the experience. I think I've shared with you the example of the deputy manager in a county in Maryland whose job is hurricane preparedness. Well that guy doesn't move when the administration changes, he stays there and that body of knowledge stays there as long as he's doing the job.

CHAIR VICTORINO: I agree with you, Mr. White. However, I found that when you have new general managers, a lot of the secondary management is changed. I've seen that happen many times over. But, you know, and I've --

COUNCILMEMBER WHITE: You know general...

CHAIR VICTORINO: --been around a long time just like you --

COUNCILMEMBER WHITE: Yeah, it's generally not much.

CHAIR VICTORINO: --in a different capacity, I was in the lower echelon, you know. And so I, but I see when new general manager comes in, some of those management people are moved, leave, let go, whatever, then--whatever term you want to use--but there are always changes when a new general manager comes in. But again, this is not the question at this point.

COUNCILMEMBER WHITE: Yeah.

CHAIR VICTORINO: We'll see how this all works out. Thank you. Go ahead.

COUNCILMEMBER GUZMAN: Chair?

CHAIR VICTORINO: Oh yes. Mister...

COUNCILMEMBER GUZMAN: Can I just get a clarification?

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CHAIR VICTORINO: Sure.

COUNCILMEMBER GUZMAN: Because --

CHAIR VICTORINO: Mr. Guzman?

COUNCILMEMBER GUZMAN: --now I'm getting lost in the woods because my understanding and correct me if I'm wrong, the Managing Director is appointed by the Council and his term as long as it's contracted for. Now the Managing Director appoints the directors of the departments. How long is the term for the directors? I didn't get that.

CHAIR VICTORINO: I don't think that's been defined yet. Then you will have to have an individual like Mr. Hokama just mentioned, then you have to have individual contracts with each individual.

MS. SCHAEFER: Or no contract.

CHAIR VICTORINO: Huh?

MS. SCHAEFER: Or no contract.

CHAIR VICTORINO: Or no contract and then you're at-will.

COUNCILMEMBER WHITE: Right.

CHAIR VICTORINO: You're at at-will.

COUNCILMEMBER GUZMAN: You're at-will but can be, but the Managing Director is the only person that can terminate that director?

CHAIR VICTORINO: I don't think that was what the intent was. I think the Council --

COUNCILMEMBER GUZMAN: Well according to the --

CHAIR VICTORINO: --had something to do with that.

COUNCILMEMBER GUZMAN: --language here it's only the director, the Managing Director that can terminate the department heads.

CHAIR VICTORINO: Well I think that's going to be discussed a little bit more because of 10(7). Okay, so again, I didn't say it was easy.

COUNCILMEMBER GUZMAN: I'm sorry.

CHAIR VICTORINO: And you're an attorney.

COUNCILMEMBER GUZMAN: I'm sorry, you really just opened --

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CHAIR VICTORINO: Okay.

COUNCILMEMBER GUZMAN: --a can of worms, 'cause I just was like what?

CHAIR VICTORINO: Okay. All right.

COUNCILMEMBER GUZMAN: Okay, okay.

CHAIR VICTORINO: Okay, I got you. I got you.

COUNCILMEMBER GUZMAN: Okay, okay.

CHAIR VICTORINO: I know you're tired, you know, I got you. Okay, moving right along, Mr. Couch, go ahead.

VICE-CHAIR COUCH: Thank you, Mr. Chair. Again on No. 5, we have a really hard time with appointing the, approving the Prosecuting Attorney, Water Director, and Corporation Counsel in 60 days. If we have to do all of them, I think we want to add, make that 90 days. I hate adding time but I think that would be something that needs to change from 60 days to 90 days if we end up approving all the department heads. Just a...

CHAIR VICTORINO: Well that may be something that needs to be looked at. I don't know if you need to change it right now.

VICE-CHAIR COUCH: Well it's in the Charter so if it needs to be changed, it's gotta be voted on. If we just keep it at 60 and we say oh, we need 90 days, that's another election cycle and...

MS. SCHAEFER: So how about if you just add with a 30-day extension possible? It does the same thing.

VICE-CHAIR COUCH: Yeah, either way, 90 or...that and that's only if we decide to approve all of.

MS. SCHAEFER: And you're making an assumption too that if a new County Manager came in here, that they wouldn't retain some of the directors.

COUNCILMEMBER WHITE: Or most.

CHAIR VICTORINO: Yeah, I think...

VICE-CHAIR COUCH: That's true. That's just --

CHAIR VICTORINO: Yeah. I...

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VICE-CHAIR COUCH: --the first time around...

CHAIR VICTORINO: Yeah, yeah. So I think, I don't think that's really a real big issue at this point, maybe the first time around. And but again if you start extending 30 days and then you still can't do it, then what happens?

VICE-CHAIR COUCH: Right.

CHAIR VICTORINO: So it's...you're opening up Pandora's Box, Mr. Couch. So I would prefer leaving the 60 days --

VICE-CHAIR COUCH: Okay.

CHAIR VICTORINO: --and moving right along. Next.

VICE-CHAIR COUCH: Of course Section 6-3.2, Page 6.

CHAIR VICTORINO: Okay.

VICE-CHAIR COUCH: Six three dash two is exactly what we want to, what this reso is intending.

COUNCILMEMBER GUZMAN: But...

VICE-CHAIR COUCH: Go ahead.

CHAIR VICTORINO: Yes, Mr. Guzman?

COUNCILMEMBER GUZMAN: Yeah, I have a...before...are we on 6 dash...oh I'm sorry. You're on 6-2?

VICE-CHAIR COUCH: Six three.

COUNCILMEMBER GUZMAN: 'Cause I...

VICE-CHAIR COUCH: Six three, No. 2.

COUNCILMEMBER GUZMAN: Oh 6-3, okay. I have questions on 6-4. Go ahead.

VICE-CHAIR COUCH: Right.

CHAIR VICTORINO: Okay we're on 6-3 right now. 'Cause can we wait till you...

COUNCILMEMBER GUZMAN: Okay, I'll wait. I'll wait.

CHAIR VICTORINO: Okay, thank you. Okay, all right, so moving right along.

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VICE-CHAIR COUCH: I have a little bit, a slight heartburn on 6-3, No. 3. Basically normally the powers, duties and functions of the administrative head of any department may be assigned to any staff member or members of that department by the administrative head. Now they're adding Managing Director basically then go over the administrative head if he doesn't want to fire him, so I'm not quite sure why that was added there. 'Cause the Mayor didn't have the ability to do that before so why would the Managing Director now have that ability?

MS. SCHAEFER: Are you...Section 2...

CHAIR VICTORINO: Section 2, Section -3.

VICE-CHAIR COUCH: Six dash three.

CHAIR VICTORINO: Page 6.

VICE-CHAIR COUCH: Page 6, 6-3, No. 3.

CHAIR VICTORINO: About halfway down, No. 3.

MS. SCHAEFER: Okay. I was looking at the --

CHAIR VICTORINO: No. 3.

MS. SCHAEFER: --next section.

CHAIR VICTORINO: Yeah.

MS. SCHAEFER: So I think the intent of this was if the Managing Director wanted to assign a person to assist in a special project in a department, he could do that.

VICE-CHAIR COUCH: Well this is administrative head of any department so that typically says, the director says oh...

MS. SCHAEFER: I thought you were questioning "or by the Managing Director."

VICE-CHAIR COUCH: Right, right. Normally the director says the deputy director is the acting director. So the Mayor when it was, the way it is now, the Mayor does not get to go and say so and so is acting director unless that director has left. So I'm just wondering why that was added, because it wasn't, that power wasn't given to the Mayor, now it's given to the Managing Director.

MS. SCHAEFER: I think that the goal was to provide opportunities that are provided in businesses other than government. I think those are normal opportunities and it's not to be a handicap, it's to facilitate management.

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VICE-CHAIR COUCH: Okay. Mr. Chair, I have some concerns about that line. I'd like to have that removed, but that's up to you and the rest of the Members.

CHAIR VICTORINO: So what would you like to remove? The...

VICE-CHAIR COUCH: Or by the Managing Director.

CHAIR VICTORINO: What about...or by the Managing Director.

VICE-CHAIR COUCH: Right.

CHAIR VICTORINO: Is that you want removed?

VICE-CHAIR COUCH: Yeah.

CHAIR VICTORINO: Okay. You want to make a motion to remove it?

VICE-CHAIR COUCH: If need be. There's no real motion on the floor already.

CHAIR VICTORINO: Oh, okay. So do we have consensus then to remove it or you...Members, would you like that removed or left in?

COUNCILMEMBER HOKAMA: Remove.

COUNCILMEMBER WHITE: Leave in.

VICE-CHAIR COUCH: I mean it's one of those...

CHAIR VICTORINO: I'm getting consensus or...

COUNCILMEMBER GUZMAN: Chair? Chair?

CHAIR VICTORINO: Yeah?

COUNCILMEMBER GUZMAN: I'm not sure about the other Members, but I am still confused with that language. I don't read it that way. It needs to be more clarified. I have no ideas what this means. This is the powers, duties and functions of the administrative head of any department may be assigned to any staff member. So basically the Managing Director can just say oh yeah, you're the director...

CHAIR VICTORINO: Acting director.

COUNCILMEMBER GUZMAN: Acting director for the day, period. Or they can switch --

VICE-CHAIR COUCH: Right.

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COUNCILMEMBER GUZMAN: --the department of, the Planning Department head over to the Water Department and vice versa.

CHAIR VICTORINO: I don't think they're going that far.

VICE-CHAIR COUCH: No, no. It's...

CHAIR VICTORINO: No, no, no.

COUNCILMEMBER GUZMAN: Okay. Just that particular department?

CHAIR VICTORINO: Yeah.

COUNCILMEMBER GUZMAN: Okay.

CHAIR VICTORINO: Yeah, okay.

COUNCILMEMBER GUZMAN: Within the department.

CHAIR VICTORINO: Within the department. Yeah.

COUNCILMEMBER GUZMAN: Okay, that's...okay.

CHAIR VICTORINO: You're confusing me now.

COUNCILMEMBER GUZMAN: I got it. I got it.

CHAIR VICTORINO: Got it? Okay. You got it.

VICE-CHAIR COUCH: And, Mr. Chair, I'm just asking because it wasn't a power that the Mayor had before, and now we're adding a power to the Managing Director, so.

CHAIR VICTORINO: Mr. White?

COUNCILMEMBER WHITE: Yeah, I'm not sure that it's not a power that the Mayor had before, because this to me is simply a management tool to make sure that the department keeps doing what it's supposed to be doing so that you can take anyone in the department...if the department head leaves, you can take anyone in the department and assign the powers and duties to that individual.

CHAIR VICTORINO: Got that.

COUNCILMEMBER WHITE: And that's, you know, that's, I have that ability as a hotel manager. Somebody managing the County should certainly have that ability.

VICE-CHAIR COUCH: But that takes away the Council's ability to say wait, wait a minute, because it says powers and duties and functions of the administrative head of any

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department may be assigned to any staff member or members of that department by the administrative head or by the Managing Director. It doesn't say in any absence, the Managing Director can say well now you're doing all the things the director is supposed to do.

MS. SCHAEFER: So suppose you say temporarily?

COUNCILMEMBER WHITE: Yeah 'cause the Mayor has the ability to temporarily assign people to do anything he wants, so I think that's consistent with what the Mayor's --

VICE-CHAIR COUCH: Oh okay.

COUNCILMEMBER WHITE: --capacity is now.

VICE-CHAIR COUCH: I mean...all right, I'll withdraw that.

CHAIR VICTORINO: Okay. All right, moving right along.

VICE-CHAIR COUCH: So now Section 6.4 [sic]...

CHAIR VICTORINO: I think Mr. Guzman had a question. Want to allow him to go first because he...

COUNCILMEMBER GUZMAN: We're probably on the same...

VICE-CHAIR COUCH: Well --

CHAIR VICTORINO: Okay.

VICE-CHAIR COUCH: --that was the suggested change by Corp. Counsel to make it a whole complete department. So if we wanted to do this, then we have to remove some or all of 6.4 [sic]. Is that right?

CHAIR VICTORINO: Mr. Kushi?

MR. KUSHI: Yes. On my Exhibit "1" that I passed out to you --

CHAIR VICTORINO: Yeah.

MR. KUSHI: --it's to amend the existing Department of Management, so Section 6-4 on Page 6 is to be deleted in its entirety.

CHAIR VICTORINO: So you want to delete that whole section and replace it with your, what you brought up?

MR. KUSHI: Exhibit "1."

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CHAIR VICTORINO: Exhibit "1."

MR. KUSHI: There is one problem in my Exhibit "1" --

CHAIR VICTORINO: Yeah.

MR. KUSHI: --and if you notice I left it blank --

VICE-CHAIR COUCH: Right.

MR. KUSHI: --because it's a matter of succession. The bottom of the page on Exhibit "1" says in the event the MD's absence or disability --

COUNCILMEMBER GUZMAN: That's my question.

MR. KUSHI: --they said the Corporation Counsel shall act as Managing Director. In the event that both Managing Director and the Corporation Counsel disability, then the First Deputy Corporation Counsel shall act as second. You know while we appreciate being flattered like that, you know, I don't think it's proper for us to act as an MD.

CHAIR VICTORINO: So you would then definitely...this was some of the discussion was brought up very earlier about a deputy managing director, right? Wasn't that brought up by you, Mr. White, originally about having a deputy managing director?

COUNCILMEMBER WHITE: I think it was one of the testifiers.

CHAIR VICTORINO: Or somebody brought it up earlier. I'm just...it's a long day. You know it's a long day.

MR. HYDE (from the audience): . . .*(inaudible)*. . .

CHAIR VICTORINO: Oh, I'm not talking about the testifiers. I'm talking about people on the floor, Mr. Hyde. And so, just so that I can get that. Oh really? I did ask her to be a resource. Miss...

MS. BROOKS: I'm just pointing out, Chair, that you did designate her as a resource person, but as she has not been designated by the Special Committee to speak for them. So with regard to questions about what is the intent of the committee, I believe that it might be inappropriate for her to speak for them.

CHAIR VICTORINO: Oh, okay. Okay. Oh boy, my stack of yellow notes is really piling up now. All right, moving right along. Okay, so, Mr. Guzman, that was basically your same question.

COUNCILMEMBER GUZMAN: Yeah, that was No. 4.

CHAIR VICTORINO: The succession if the --

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COUNCILMEMBER GUZMAN: Yeah, No. 4.

CHAIR VICTORINO: --Managing Director was to fall ill and/or, you know...

VICE-CHAIR COUCH: Absence.

CHAIR VICTORINO: Yeah, any of the above, yeah.

COUNCILMEMBER GUZMAN: Yeah 6-4(4).

CHAIR VICTORINO: Yeah.

COUNCILMEMBER GUZMAN: Yeah. That's my question is like yeah, Corporation Counsel will be the Managing Director and his deputy would be the next...

CHAIR VICTORINO: That's what the committee brought forward right?

COUNCILMEMBER GUZMAN: Yeah, I don't know if that...

CHAIR VICTORINO: This is what you folks brought forward. Yeah.

COUNCILMEMBER GUZMAN: You know that's difficult. I would be...

MR. KUSHI: Could do some damage.

COUNCILMEMBER GUZMAN: Yeah, I mean 'cause they're supposed to be --

CHAIR VICTORINO: Oh, I know that.

COUNCILMEMBER GUZMAN: --our legal representatives, not the managing, you know...

CHAIR VICTORINO: But again this was the proposal that was brought back to the Committee so I've got to ask the committee, you know, what was their intent.

MS. SCHAEFER: So if I may --

CHAIR VICTORINO: What was your intent?

MS. SCHAEFER: --speak to the best of my knowledge, the committee did discuss various people...positions to take, become acting manager. And it was consensus that it be the attorney. But there were several different positions that were discussed.

CHAIR VICTORINO: Okay. But no formal vote was taken on this or was a formal vote taken on this?

MS. SCHAEFER: You know may I defer to Jonathan Starr who was on the TIG?

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CHAIR VICTORINO: You were on the TIG too weren't you?

MS. SCHAEFER: No.

CHAIR VICTORINO: Okay.

MS. SCHAEFER: I could not be on the TIG because it would have been a majority and that would have been a violation --

MS. BROOKS: Chair?

MS. SCHAEFER: --of the Sunshine.

MS. BROOKS: Chair, sorry to interrupt but --

CHAIR VICTORINO: Yeah.

MS. BROOKS: --nobody has been designated by the Special Committee to speak for them. Their committee report is what they generated and what came out. So the committee report is really all that can be considered at this point in time. I think speculating by a committee member is inappropriate, and it's questionable whether it's actually helpful with regard to what the intention was.

MS. SCHAEFER: How do we have a discussion then?

COUNCILMEMBER WHITE: Yeah.

CHAIR VICTORINO: Well that's our legal people telling me now, Mr. White, and that's what we depend on right? So let me take a quick recess so I can have further discussion. Recess, call of the Chair. . . .*(gavel)*. . .

**RECESS: 5:02 p.m.**

**RECONVENE: 5:07 p.m.**

CHAIR VICTORINO: . . .*(gavel)*. . . This meeting will reconvene. You know we're getting close to what I call the deadline of today, and so I'd like to try as much as possible to finish up. But I see some questions that need to be answered so I'm going to ask both Corporation Counsel and my Committee Staff, we're going to have to try to address...if there are either ideas or what I call suggestions like in this area in the event the Managing Director is absent or disabled the, you know, are we going to put in a deputy director? And if that's the suggestion, I'm going to put that in, you know, to be very clear. Now we know we're going to have a deputy director, and that way it takes the onus off of them. And if the deputy director and the director were out simultaneously then upon, and this is just off the top, I'm not a legal beagle, Council approved temporary head, yeah. With a Council, you would approve a

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temporary head until either one are reappointed or have rehabilitated and/or, you know, has been able to come back or you've hired somebody else. But that way we can...you know, so I gotta go work on the finer languages, gang, you know, so I just want you to know that I am thinking as you move along how we can best solve these problems. But I don't have all the answers to all the questions, but I will find it because I will go to Staff and as well as our Corporation Counsel and try to come up with the best resolve. So not to belabor the point, I would like to move on with this one and let us bring up some language I'm bringing forward Wednesday and then we can go from there. You have something you want to add, Mr. Hokama?

COUNCILMEMBER HOKAMA: Chairman, I would ask that in your review of what you would like to present and share with us on Wednesday morning regarding this subject, if you would also look at since we already have a job description and a civil service position called Deputy Managing Director, what is the future of that position? And I would still like for you to review the requirements, because currently I still feel that there is a importance of us realizing why the Director of Finance is considered in the lineup of succession because of the requirements of State law, the requirements of financing, as well as the Charter's requirement about inventory of County assets. So I would ask that that be part of the consideration in your development of what you would like to share with us. If you would take those concerns into account, I would appreciate those. Thank you.

CHAIR VICTORINO: Thank you. And we've made notes of that, Mr. Hokama, and we will definitely take that into consideration. Got a lot of work ahead of myself. Any more? We'd like to move on. Go ahead, Mr. Couch.

VICE-CHAIR COUCH: Just real quick on number...

CHAIR VICTORINO: Which one?

VICE-CHAIR COUCH: Well depends on if you're going to go with Mr. Kushi's amendment or not. That's the first question. I would assume we're going to go with his amendment. Or otherwise it's not going to work with HRS 76 according to Mr. Kushi. This person will now be a...

CHAIR VICTORINO: So I would probably venture to change, I'll change that language to incorporate this --

VICE-CHAIR COUCH: Right.

CHAIR VICTORINO: --amendment.

VICE-CHAIR COUCH: So there are a couple of differences in there and I think significant potentially. No. 3, employee...on Page 6, No. 3, employees in the office of the Managing Director shall be exempt from civil service and shall serve at the pleasure of the Managing Director. That is not added in Mr. Kushi's amendment. I think that's

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important that people know that, know that they serve at the pleasure of the Managing Director.

MR. KUSHI: That's what exempt employment means.

VICE-CHAIR COUCH: Pardon?

MR. KUSHI: That's what exempt --

CHAIR VICTORINO: Exempted employment.

MR. KUSHI: --employment means.

CHAIR VICTORINO: That's what it means.

MR. KUSHI: You serve at the will of the person who appointed you.

VICE-CHAIR COUCH: I understand that, but you and I know that but somebody coming in may not. I mean it was in there, it was the suggestion of the committee before.

MR. KUSHI: I'll put it back.

VICE-CHAIR COUCH: Yeah, that's all.

CHAIR VICTORINO: That's fine. I mean it's, you know --

VICE-CHAIR COUCH: Yeah.

CHAIR VICTORINO: --it was in there anyhow, but he put it under a legal term which again we could just bracket and then put in so that the public could understand what its intent. Okay. Next, Mr. Couch.

VICE-CHAIR COUCH: Well then that takes us to Page 7, Section 7-5, powers, duties and functions of --

CHAIR VICTORINO: Okay.

VICE-CHAIR COUCH: --the Mayor. And we have No. 1 is appoint the necessary staff for which appropriations have been made by Council. Okay. Then we all...then the rest is all deleted until we get to Page 8 where it says No. 5...did I miss...oh no, No. 2, sorry, up at the top. Present messages or information to the Council which, in the Mayor's opinion, are necessary or expedient. Okay. That's...

UNIDENTIFIED SPEAKER: . . .*(inaudible)*. . .

VICE-CHAIR COUCH: Yeah. That's already in the Charter. They're just making it No. 2. No. 3 is approve or veto bills passed by the Council. No. 4, have a voice but no vote in

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the proceedings of all boards and commissions. That's what's already in there. And then --

CHAIR VICTORINO: No. 5.

VICE-CHAIR COUCH: --No. 5 is have the authority to call state of, a state of emergency in the County as provided by law. And that's required by HRS.

CHAIR VICTORINO: Yes, yeah, okay.

VICE-CHAIR COUCH: So and then preside over the Council's organizational meeting until a Council chair has been chosen. That's what already happens. And perform or oversee the County's conduct of intergovernmental relations. I'm not sure what that means but I can understand that. And then exercise such powers and...powers and perform such other duties as may be prescribed by this Charter or by law. So essentially the Mayor is going to call the state of emergency. Can we...we may want to put something in there in conjunction or after consultation with the County Manager. I don't know, that's a tough one.

CHAIR VICTORINO: That's a tough one because...and I'm going to say it this way, sometimes a state of emergency is almost immediate.

VICE-CHAIR COUCH: Yeah, yeah.

CHAIR VICTORINO: You will not even have time to consult. I mean if it's a tsunami you got time, you know, if you got a hurricane you got time, but if it was all of sudden a brush fire that went out of control and it's going to threaten homes up here in Wailuku Heights like it did a number of years ago, you may not have time. You know I'm not sure, but, Madge, you know, you saw this, your, what the committee had discussed. Am I correct in saying that that's what your intent was to give the Mayor that option of declaring emergencies when necessary?

MS. SCHAEFER: I think it would be better to describe that we didn't want to take it away from him.

CHAIR VICTORINO: Or take it away from him. Okay. All right, that's fine. That's fine. That's fine.

COUNCILMEMBER GUZMAN: Chair?

CHAIR VICTORINO: Okay.

COUNCILMEMBER GUZMAN: Chair?

CHAIR VICTORINO: Yes, Mr. Guzman?

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COUNCILMEMBER GUZMAN: Yeah, I have the same I guess concern as Mr. Couch on No. 7. What does that actually mean, oversee the County's conduct of intergovernmental relations?

MS. SCHAEFER: I think...

COUNCILMEMBER GUZMAN: What is that?

MS. SCHAEFER: It's like he goes to the league of...he goes to the National Conference of Mayors.

CHAIR VICTORINO: And what about sister city...

MS. SCHAEFER: Sister city...

CHAIR VICTORINO: Yeah. Which all falls under him right now.

COUNCILMEMBER GUZMAN: Oh okay, okay, okay.

CHAIR VICTORINO: Yeah. That, so I think that was what they were referring to, sister cities, HCOM, National League of Mayors, various, you know, even visitations to...now and this is the one I would be questioning. Right now the Mayor acts as...wow, I'm tired, acts as our spokesperson when he goes to the Legislature, right? The four mayors, they meet, right, and they go in front of the Legislature and they make their requests. Now would it be the three mayors and the Managing Director from Maui County making the requests or would the Mayor still follow under that guise?

COUNCILMEMBER GUZMAN: Right, under the intergovernmental --

CHAIR VICTORINO: Yeah, yeah.

COUNCILMEMBER GUZMAN: --conduct.

CHAIR VICTORINO: Now that would be my question, does that fall this way or does the Managing Director go down in his place? I guess that would be my question, because now it's a direct request from another agency for monies or other provisions that are provided by the Legislature. So I guess that would be my question. Wait, wait, no, I'm asking the question now. Madge?

MS. SCHAEFER: I think that would be considered intergovernmental relations that he would certainly go or she would certainly go as a representative is the Mayor of Maui.

CHAIR VICTORINO: Mr. Couch?

VICE-CHAIR COUCH: Yeah, that, you bring up a good point there is what about those four groups, you know, when they, they finally got together, finally the four mayors got together and started doing things together. Is it still going to be the four mayors, or

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does the Managing Director get thrown in there, or does the Mayor and the Managing Director consult and the Mayor is the one that because of seven here is perform and oversee the County's conduct of intergovernmental relations, the Mayor goes? But we need to make sure that the Mayor talks to the Managing Director or they might be at different sides of the issues.

CHAIR VICTORINO: Yeah, no.

MS. SCHAEFER: I think the issue is the Council needs to be in there too.

VICE-CHAIR COUCH: We do our own with HSAC.

CHAIR VICTORINO: HSAC and the chairs have their own also.

VICE-CHAIR COUCH: Yeah.

CHAIR VICTORINO: We have various entities now that are involved in our legislative process. You know we've tried to expand and make sure we have a wide spectrum of participation down there. Doesn't mean it changed very much and Mr. Hokama can attest for that. But I think we're making headway in that respect. But anyhow, the question --

MS. WILLENBRINK: Chair?

CHAIR VICTORINO: --that needs to be answered is what does that mean as far as intergovernmental? I can understand the sister cities, that's easy. I can also understand different relationships that come in, dignitaries, that kind of, you know, issues; however, what about the rest?

MS. WILLENBRINK: Chair? May I just clarify that --

CHAIR VICTORINO: Yeah.

MS. WILLENBRINK: --the State Leg was not discussed by the Special Committee at all.

CHAIR VICTORINO: Well they left something that's --

MS. WILLENBRINK: So that --

CHAIR VICTORINO: --very important, I'm sorry to say.

MS. WILLENBRINK: --would be up for this body I guess.

CHAIR VICTORINO: It is. Yeah, this body needs to understand that because to recommend that change would then really change our dynamics at the Legislature. Better or worse, I don't know but it does change it. So again, all right, okay. Mr. Couch, you have any suggestions or shall we...let me work on that --

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VICE-CHAIR COUCH: Yeah.

CHAIR VICTORINO: --and see if I can come back...I've gotta do a lot of work. You know what, I may not be at your meeting tomorrow, excuse me. I'm sorry. I may have to do a lot of work, I may not be able to attend meetings, so if I'm not there please forgive me. Anyhow, anyhow, so let's work on that one.

VICE-CHAIR COUCH: So yeah, on that one --

CHAIR VICTORINO: Yeah.

VICE-CHAIR COUCH: --you also need to consider ceremonial stuff versus the actual managerial stuff.

CHAIR VICTORINO: Yeah, yeah. And I think that's what we're --

VICE-CHAIR COUCH: So...

CHAIR VICTORINO: --trying to define right now --

VICE-CHAIR COUCH: Right.

CHAIR VICTORINO: --what is managerial and what is ceremonial? I think we're clearly...I know where the ceremonial lies but this managerial one now makes it very, makes it different.

MS. SCHAEFER: Well, Mr. Chair, I can tell you from my experience, the City Manager/County Manager always was in the background, always deferred to an elected. If there was a meeting and the elected was there, the elected was deferred to by the manager. The manager's job is to stay in the background.

CHAIR VICTORINO: Well I thank you for that, and I just, my concern is if it's a fiscal or if it's something to do with a department or changes in something a department is doing or needs to do, right now the Mayor can send down something to his director. But the way this would be, now he'd have to--if I'm correct--send it to the Managing Director and then the Managing Director then would send it down to whoever the director in charge. So again, something to look into, and I'll try to come back with something that will be palatable for everyone. And then if you have any ideas please let me know. Okay, moving along, Mr. Couch.

VICE-CHAIR COUCH: Thank you, Mr. Chair. The Section 7.6 [sic] Vacancy in Office, it's, it seems reasonable in case that...this is for the Mayor now. It seems reasonable. It doesn't go down three levels as the Managing Director would, and as it currently is it doesn't go down three levels, it pulls out the Managing Director and goes directly to the Director of Finance to act as Mayor. That depending on what we do for succession of the Managing Director may have to change if we put Finance Director as the third in

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line, that may have to change over here 'cause you don't want, one person could be both Mayor and Managing Director at the same time potentially.

CHAIR VICTORINO: Potentially, yeah.

VICE-CHAIR COUCH: We don't want that potential. So that's something that when we decide what's going to happen with 6-4, what other position we need to put in there. That's the only concern I would have with that one.

CHAIR VICTORINO: Okay. Questions? Okay, moving right along. Go ahead, Mr. Couch.

VICE-CHAIR COUCH: Okay. On Page 10, I have big heartburn about this one. It's the --

CHAIR VICTORINO: This is your last heartburn because it's almost 5:30 --

VICE-CHAIR COUCH: --information management.

CHAIR VICTORINO: --and this is it. Go ahead.

VICE-CHAIR COUCH: This one we might want to have a long discussion on, because it is the Department of Information Management which is the backbone of all the departments here except for ours, we have our own Department of Information Management. So we need to deal with that --

CHAIR VICTORINO: Okay.

VICE-CHAIR COUCH: --as well as it needs to be above all the other departments in my humble opinion, because as Mr. Kushi said, department heads are supposed to be at the same level so you need somebody above them to be able to say look, we need to do this. For instance, our MAPPS project that's going on as we speak --

CHAIR VICTORINO: Okay.

VICE-CHAIR COUCH: --it's all being done at a higher level than the department. So --

CHAIR VICTORINO: Okay, so let me...

VICE-CHAIR COUCH: --I would sure love to have Mr. Verkerke come talk to us. Certainly not, but I don't think we have time today but...

CHAIR VICTORINO: And he's left already, he...

VICE-CHAIR COUCH: Oh okay.

CHAIR VICTORINO: Oh no, he's there. He's hiding right there. You know I don't want to take five minutes and try to get this done 'cause this is very important.

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**June 27, 2016**

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VICE-CHAIR COUCH: Right.

CHAIR VICTORINO: So, Mr. Verkerke, will you make yourself available at 9:00 a.m. on Wednesday?

MR. VERKERKE (from the audience): Absolutely.

CHAIR VICTORINO: Okay, please. And we'll start with you and this particular issue and move on. And I will definitely try to get some answers or some resolution to the other issues that we've discussed prior to this. And again, we still have a lot more to go. And we're going to do the best we can. And I gotta, I will be asking Mr. White if we can find a special, another meeting date, because I don't think we're going to be done with this alone, let alone anything else. And I knew this would be very time consuming. I had hoped to be a little bit more efficient, but I apologize, I wasn't that great, not that good. Sorry. Okay, so with no further discussion, I'd like to recess this meeting --

COUNCILMEMBER WHITE: Chair?

CHAIR VICTORINO: --till 9:00...oh yes?

COUNCILMEMBER WHITE: I'm sorry, before you recess, I'd just like to say that I agree with Mr. Couch that information technology is the backbone of all departments and should be dealt with in a special way. And I think as you go through it or as Mr. Verkerke evaluates it, I'm wondering if it's not appropriate just to pretty much leave it the way it is so the Managing Director would have as part of a division of his office the information technology's operation because...

CHAIR VICTORINO: Well again we'll discuss this Wednesday morning at 9:00 a.m.

COUNCILMEMBER WHITE: Right. Yeah, I'm just...

CHAIR VICTORINO: Okay. I'm not trying to say one way or the other. I'm just giving them...

COUNCILMEMBER WHITE: No, and I think you've been very fair and equitable to all of us today and I appreciate it.

CHAIR VICTORINO: And it's not been easy at times.

COUNCILMEMBER WHITE: We know that's a stretch for you.

CHAIR VICTORINO: Yes. Only, I only got angry one time with Mr. Couch and he deserved it. Anyhow, with all that's been said, I, if with no objections, I'll recess this meeting till Wednesday, June 29<sup>th</sup> at 9:00 a.m. No objections?

COUNCILMEMBERS: No objections.

CHAIR VICTORINO: This meeting is in recess. . . .(gavel). . .

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**RECESS:** 5:24 p.m.

APPROVED:



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MICHAEL P. VICTORINO, Chair  
Policy and Intergovernmental Affairs Committee

pia:min:160627:ds

Transcribed by: Daniel Schoenbeck

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CERTIFICATE

I, Daniel Schoenbeck, 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 13<sup>th</sup> day of July, 2016, in Kula, Hawaii



Daniel Schoenbeck