

**POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE**  
Council of the County of Maui

**MINUTES**

**June 29, 2016**

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

**RECONVENE:** 9:03 a.m.

**PRESENT:** Councilmember Michael P. Victorino, Chair  
Councilmember Don Couch, Vice-Chair  
Councilmember Gladys C. Baisa, Member  
Councilmember Robert Carroll, Member (In 9:47 a.m.)  
Councilmember Elle Cochran, Member  
Councilmember Stacy Crivello, Member  
Councilmember Don S. Guzman, Member (In 9:50 a.m.)  
Councilmember Riki Hokama, Member  
Councilmember Mike White, Member

**STAFF:** Kimberley Willenbrink, Legislative Analyst  
Sharon Brooks, Legislative Attorney  
Tammy M. Frias, Committee Secretary

**ADMIN.:** Edward S. Kushi, Jr., First Deputy Corporation Counsel, Department of the Corporation Counsel

**OTHERS:** Additional attendees (10)

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

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CHAIR VICTORINO: ...*(gavel)*... Good morning. This meeting of the Policy and Intergovernmental Affairs Committee will reconvene. This is our reconvening from the June 27, 2016 meeting. Good morning, Members. Let me introduce who's here at this time. And I believe some will be arriving a little bit later, and they will have to do their catching up at that point. Our Vice-Chair of the Committee, Mr. Don Couch.

VICE-CHAIR COUCH: Good morning, Chair.

CHAIR VICTORINO: Good morning. And I am the Chair, Michael Victorino, so I should have announced that part. And here also is, Elle Cochran, from West Maui.

COUNCILMEMBER COCHRAN: Good morning. Aloha, Chair.

CHAIR VICTORINO: So you're not holding it up today?

COUNCILMEMBER COCHRAN: No.

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VICE-CHAIR COUCH: Good morning.

COUNCILMEMBER COCHRAN: Better, better.

CHAIR VICTORINO: Better.

COUNCILMEMBER COCHRAN: Better.

CHAIR VICTORINO: Okay. Just so I know then if you hold it up --

COUNCILMEMBER COCHRAN: I --

CHAIR VICTORINO: --now --

COUNCILMEMBER COCHRAN: --will though.

CHAIR VICTORINO: --that's the question. Okay. Thank you, Elle, for that clarification.

COUNCILMEMBER COCHRAN: Thank you.

CHAIR VICTORINO: Our lovely lady from Molokai, Ms. Stacy Crivello.

COUNCILMEMBER CRIVELLO: Aloha and good morning, Chair.

CHAIR VICTORINO: And our representative from the island of Lanai, Mr. Riki Hokama.

COUNCILMEMBER HOKAMA: Chairman.

CHAIR VICTORINO: And the Chair of the Council, Mr. Mike White.

COUNCILMEMBER WHITE: Good morning, Chair.

CHAIR VICTORINO: Good morning. And 'cause excused at this time and hopefully they'll be joining us very soon, Robert Carroll, Gladys Baisa, and Don Guzman. My plan today is very simple. We had a lot of changes. And we're gonna have the Staff pass out the change and give to the audience all the changes we made along with what Mr. Kushi had brought forward to incorporate. And so my plan is to give you this now, recess the meeting 'til 10:45, give everybody a chance to go over all the revisions, what Mr. Kushi and I worked very late yesterday with. And that way you guys have the opportunity to make sure...yes?

MS. WILLENBRINK: You wanna recess 'til 10:45?

VICE-CHAIR COUCH: Not...

CHAIR VICTORINO: Ten forty-five.

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VICE-CHAIR COUCH: Not 9:45?

CHAIR VICTORINO: I mean 9:45.

VICE-CHAIR COUCH: Thank you.

CHAIR VICTORINO: I said 10:45. Okay. I apologize. Whoa, they're...no wonder everybody looked at me like, what are you talking about? I apologize. It's early and I'm still trying to get this together. Anyhow, 9:45. I meant 9:45 a.m. And that way, you'll have an opportunity to review the changes, which many of you agreed upon. In fact, on...it was almost unanimous every time. And also the agreement on the changes that Mr. Kushi had brought forward in regards to the, what you call, changes to make sure that the managing, County Manager, would fit into the HRS and other issues, yeah? So with no other questions...and I'll share that Ms. Gladys Baisa has joined us. Don't worry, Ms. Baisa. Don't run too fast to your seat because I'm gonna recess the meeting to give everybody an opportunity, review all the changes we made. And we're going to reconvene at 9:45 a.m. Okay? So this meeting stands in recess. . . .(gavel) . . .

**RECESS: 9:06 a.m.**

**RECONVENE: 9:47 a.m.**

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

CHAIR VICTORINO: . . .(gavel) . . . This meeting will reconvene. Members, thank you very much. I think I introduced all the Members, they were here in the beginning. I just...I'm not...I can't even recall who was here. Let's go with Mr. Carroll, Ms. Baisa, Ms. Cochran, Mr. Couch, Ms. Crivello and Mr. Hokama are present. And I'm...and Mr. White I know will be up shortly, and Mr. Guzman said he'll be here around tenish. He had something else he had to get done. Okay. So, Members, I gave you the changes that Mr. Kushi's, I and the Staff worked on yesterday afternoon 'til fairly late, trying to incorporate what we had agreed upon and as well as the other issues Mr. Kushi had brought up that we wanted to make sure was in this resolution. I will ask you now if you have any specific questions in this area as far as...and I hope you guys all remember the changes. But if you have any questions of any of the changes or what we incorporated, you can address it to Mr. Kushi at this time. Does any Member have any questions? Mr. Hokama?

COUNCILMEMBER HOKAMA: Chairman, I thank you and Mr. Kushi for this work you've done on this proposal this morning.

CHAIR VICTORINO: And please thank the Staff too because they were really, really helpful.

COUNCILMEMBER HOKAMA: I understand 'cause, you know --

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CHAIR VICTORINO: You and I both know how...

COUNCILMEMBER HOKAMA: --we all deal with Committee Staff. So yes, I appreciate the additional work Staff does after you and Mr. Kushi do your initial work.

CHAIR VICTORINO: Yes.

COUNCILMEMBER HOKAMA: But for me, Chairman, I will just say I'm quite uncomfortable --

COUNCILMEMBER BAISA: Mic.

COUNCILMEMBER HOKAMA: --because there seems to be a sense of a predetermined...

CHAIR VICTORINO: Can you go closer to the mic, Mr. Hokama?

COUNCILMEMBER HOKAMA: There seems to be --

CHAIR VICTORINO: I'm sorry.

COUNCILMEMBER HOKAMA: --a sense of a predetermined --

CHAIR VICTORINO: I couldn't hear him either.

COUNCILMEMBER HOKAMA: --decision already. That by working on this, this is what we're gonna push out.

COUNCILMEMBER BAISA: Yeah.

COUNCILMEMBER HOKAMA: Okay. That is not my position on this subject.

COUNCILMEMBER BAISA: Yes.

COUNCILMEMBER HOKAMA: I prefer 10(7) as I stated at your meeting on Monday --

CHAIR VICTORINO: Yes.

COUNCILMEMBER HOKAMA: --Mr. Chairman. So for me, I will be happy to listen, observe, but this is not a version or option that I'm supportive of. Thank you.

CHAIR VICTORINO: Thank you, Mr. Hokama. Anyone else have any questions for the testifier? And I'd like to recognize the attendance of Mr. Guzman.

COUNCILMEMBER WHITE: Good morning.

COUNCILMEMBER GUZMAN: Thank you, Chair.

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CHAIR VICTORINO: Good morning, sir.

COUNCILMEMBER GUZMAN: Good morning.

CHAIR VICTORINO: So we have all nine Members present. Thank you. And I hope you had time to review all the...

COUNCILMEMBER GUZMAN: I did.

CHAIR VICTORINO: Okay. Good. 'Cause I can't play catch-up now. I gotta move ahead. Any other questions for Mr. Kushi on the changes and any of the revisions that he had brought forward that we all kinda agreed upon? But I just wanna make sure everybody is clear. Mr. White, you have a question?

COUNCILMEMBER WHITE: No.

CHAIR VICTORINO: No question. Okay. Seeing none...

VICE-CHAIR COUCH: Wait, wait, wait.

CHAIR VICTORINO: Oh, you have a question. I'm sorry, Mr. Couch. Go ahead, Mr. Couch. And please tell us what page.

VICE-CHAIR COUCH: Page 7.

CHAIR VICTORINO: Page 7. Okay.

VICE-CHAIR COUCH: Numbers three, four and five. Those powers weren't given to the Managing Director. Is that...is there a reason why not? And as far as that is concerned, six, seven, eight as well.

CHAIR VICTORINO: Well these were what was agreed upon, these were here, the original. These were not new. Not that...am I correct, Ms. Willenbrink? From number four on? Four, five, six, seven...

VICE-CHAIR COUCH: But they're...

CHAIR VICTORINO: Wait. No, no, no, no --

VICE-CHAIR COUCH: They...

CHAIR VICTORINO: --wait, wait. I'm...that was...that's been deleted. No, no, no. Let's go to the back page. I'm sorry. Excuse me. We're starting off on Page 8 where we incorporated the changes. And it starts from number two 'cause all the others are bracketed out, mister...

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VICE-CHAIR COUCH: Understood.

CHAIR VICTORINO: Okay.

VICE-CHAIR COUCH: But those are taking away powers from the Mayor and not giving them to the Managing Director.

CHAIR VICTORINO: Two; administrative heads of any department...okay. In pursuant, pertaining to the Mayor's function and duties. Well, it's taking it away from the Mayor so I would have to...well, Mr. Kushi, how would I address that because I would believe it went to the Managing Director but I may be wrong. But, Mr. Kushi, if you could answer Mr. Couch's question.

MR. KUSHI: Yes, Mr. Chair. Again, it was a proposal by the Special Committee.

CHAIR VICTORINO: Yes.

MR. KUSHI: And I know what the question is. Technically, I guess you could transfer those enumerated sections over to the Department of Management as under his powers. But again, the powers and duties of the proposed Director of Management is to be the County's Chief Operating Officer. I would assume, and which is a bad word, that the reference powers would come under that authority. But to be clear, we could transfer it to the Office of Managing Director. And, Mr. Chair --

CHAIR VICTORINO: Yes?

MR. KUSHI: --if I may before getting into discussion?

CHAIR VICTORINO: Yes. Go ahead.

MR. KUSHI: On behalf of my Office, I, at this time, I'd like to apologize to this body, and but more so to the Special Committee members, all of the members that...I know we're kinda ripping up this proposed resolution. But had my office done a better job in reviewing it at the committee level, maybe we wouldn't have taken up this time. So again, I apologize for that process. But on the other hand, as a double-edged sword, if we did get involved, they probably wouldn't make the deadline. So again, here we are.

CHAIR VICTORINO: No, and I thank you, Mr. Kushi. And, you know, some of us are...want to fall on swords and sacrifice and say we didn't do this right, we didn't do it right. But hindsight is 20/20. On top of that, we are forced in a box by a deadline. And I've been trying to get this completed so we can vote on it, so it can either move on or move out. One or the other. But I understand and I thank Mr. Kushi and his staff because they did do a yeoman's job trying to get things done. And I thank the Committee for their work. So I thank everybody. Is it perfect? No. But I think we're at a point where we need to make a decision. But I wanna make sure that all the bases are covered. So now, you didn't address, mister...or did you address his question? I forgot.

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VICE-CHAIR COUCH: He did.

MR. KUSHI: Yes.

CHAIR VICTORINO: Yes, please.

MR. KUSHI: Referencing and let's go to Page 7. And it goes over to Page 8. So if it's a request that items under the existing powers, 7-5; item 3, 4, 5, 6, 7, 8, 9, 10; 11 is taken care of in another --

CHAIR VICTORINO: Okay.

MR. KUSHI: --section; and 13, be transferred over or placed in the Managing Director's Office. That can happen --

CHAIR VICTORINO: Mr. Couch?

MR. KUSHI: --by amending the Department of Management's powers and duties starting at Page 11.

MS. WILLENBRINK: Chair, if I may?

CHAIR VICTORINO: Any more questions? Okay. Ms. Willenbrink, please?

MS. WILLENBRINK: It is kind of addressed. But I agree, it might be more clear. If you look on Page 12; the very first one, 5, supervise and coordinate those functions described in Subsections 7-5.6, 7-5.7 and 7-5.8, does cover some of those. But --

COUNCILMEMBER WHITE: But that's bracketed.

MS. WILLENBRINK: --if you would like that spelled out, I don't...

COUNCILMEMBER WHITE: That's bracketed out.

MS. WILLENBRINK: I think that might be...

COUNCILMEMBER WHITE: Isn't it?

CHAIR VICTORINO: But he's saying that's bracketed out.

COUNCILMEMBER WHITE: Yeah.

MS. WILLENBRINK: Oh, you're correct.

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CHAIR VICTORINO: I think, again we're bracketing it out because it was bracketed...under the Mayor, and we're trying to bracket it out. So I guess we need to make sure that that is specified --

MS. WILLENBRINK: Okay.

CHAIR VICTORINO: --and put in as Managing Director's duties.

MS. WILLENBRINK: So...

CHAIR VICTORINO: I guess it has to be clearly defined so that there's no question in anybody's mind.

MS. WILLENBRINK: Three --

COUNCILMEMBER WHITE: Yeah.

MS. WILLENBRINK: --four, five, six, seven, is that all, Mr. Couch?

VICE-CHAIR COUCH: Through ten.

CHAIR VICTORINO: Mr. Couch? Hang on a second.

VICE-CHAIR COUCH: I had just hit three through eight. I thought nine was in with the MD stuff. But apparently it's...I missed it. Eleven is extremely important. Who gets that? Is that taken...you...is Mr. Kushi saying it's taken up by...it's been added? I thought that that was there.

CHAIR VICTORINO: Mr. Kushi?

VICE-CHAIR COUCH: And the...yeah, 13 is an interesting point. Who makes the State of the County Address now? I think that's what 13...

CHAIR VICTORINO: Yeah. Public and...well, you know, a lot of things need to be worked out. I...those maybe in my mind is not that big a deal at this point. But yeah, it could become a problem down the road. So we need to address it. But I think those that you, the first items that you brought up really need to be addressed and put under the Managing Director so we're clarified. Ms. Baisa? Oh no, before I recognize you, Mr. White had asked to be --

COUNCILMEMBER BAISA: That's fine.

CHAIR VICTORINO: --recognized. So please, Mr. White, I'm sorry.

COUNCILMEMBER WHITE: Thank you, Chair. I agree with Mr. Couch that moving those into the Managing Director's area would provide a lot of additional clarity --



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CHAIR VICTORINO: Yeah.

COUNCILMEMBER WHITE: --so there's no question, so.

CHAIR VICTORINO: Yeah. Okay. Ms. Baisa?

COUNCILMEMBER BAISA: Thank you very much, Chair. Chair, my question is not about what's in this changes. But my question is of, you know, about process.

CHAIR VICTORINO: Yes.

COUNCILMEMBER BAISA: You know, it appears to me that we have lots and lots of work to do on this document. Because every time we look at it, we see more things and we have more questions because of all the, you know, the big change that could occur here. And it's my understanding, and I, maybe I'm wrong, correct me so that I understand, if we push this out of Committee that this would then go to full Council of course for, you know, voting on whether we put it on the ballot or not. It seems to me that again, we're against a timetable. Regardless of what we do, we're on a timetable. And that timetable I've heard is July 15<sup>th</sup>.

CHAIR VICTORINO: That's correct.

COUNCILMEMBER BAISA: Now, either we're gonna have a whole lot of meetings before then, or we are not going to have a product that in my opinion is ready to approve because there's still too much in the air. And it's bothering me that we're trying so hard to find the holes and fix them and yet we're not...we don't have the time to do it. We don't have the time to do it. And we keep hearing, well this person has second thoughts. The other one needs to look at it some more. We didn't think about this. I'm real uneasy about with this. I'm really uneasy with it. And in the end, we're gonna have to vote whether we get this out of Committee or not. When are we...when is that deadline?

CHAIR VICTORINO: Well at this time, Ms. Baisa, the best I can tell you, I am looking at another all-day meeting on July 5<sup>th</sup>, okay. And if that's necessary, okay. I will not give you a timetable other than July 5<sup>th</sup> would be the ultimate drop-dead date because we got to give Staff time to make the Committee --

COUNCILMEMBER BAISA: Right.

CHAIR VICTORINO: --report to get it ready for Council. And it has to be out seven days.

COUNCILMEMBER BAISA: Okay.

CHAIR VICTORINO: If you do that, you got ten days and that's cutting it real close.

COUNCILMEMBER BAISA: Okay. Looking at that, Chair --

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CHAIR VICTORINO: Yes.

COUNCILMEMBER BAISA: --my concern is --

CHAIR VICTORINO: Yes.

COUNCILMEMBER BAISA: --that say we finish this on the 5<sup>th</sup>, okay. Say we finish it on the 5<sup>th</sup> or we think it's okay to put out there.

CHAIR VICTORINO: Yes.

COUNCILMEMBER BAISA: How are we going to communicate this to the people that would want to know exactly what we're putting out there, and have time for them to look at it, study it, come testify and get this done? I'm really concerned.

CHAIR VICTORINO: Well, the only thing I can say is that the next opportunity that they would have to testify would be at the July 15<sup>th</sup> meeting.

COUNCILMEMBER BAISA: That's right.

CHAIR VICTORINO: And I'm sorry to say that, but that's exactly what we're working under. And everybody in the room knows that I'm pushing as hard as I can, and I'm getting scolded sometimes for pushing as hard as I can. But I'm trying to give everybody an opportunity to share their manao and as well as give us what I call the best product we can put out. So I'm at this juncture where, you know, to be honest with you, Ms. Baisa, I'm gonna be asking you to really consider, is this enough? Is this ready to go? Or do we move on to other issues? It's your call. This is not my decision. It is your decision. All of us will make this decision together. That's what this nine of us, nine Members, are here for. And okay, and I hear you loud and clear, Ms. Baisa. I don't know what else to do. We've, you know, we worked late last night trying to, you know, trying to get this all together. And I don't know what else to do.

COUNCILMEMBER BAISA: I understand, Chair, what you're trying to do. And I appreciate it 'cause you are in a very tough spot. But what I feel...

CHAIR VICTORINO: That's what I get paid the big bucks I've been told. Oh, okay.

COUNCILMEMBER BAISA: Yeah, right. I hope you don't spend them all in one place.

CHAIR VICTORINO: No, not necessarily.

COUNCILMEMBER BAISA: But for me, I do not feel that we can do the right job in the time we have. And if we can't do the right time...job in the time we have, then we're gonna spend an awful lot of time and energy trying to do something. And at the end we're gonna have a product we can't support anyway because it's not, you know, it hasn't been really shared with the community. They haven't had a chance to meet on it,

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come back. I mean can you imagine what our Council meeting would be like on the 15<sup>th</sup>?

CHAIR VICTORINO: I can imagine.

COUNCILMEMBER BAISA: Yeah. And that's worrying me.

CHAIR VICTORINO: We've been there. Right --

COUNCILMEMBER BAISA: You know --

CHAIR VICTORINO: --Mr. White?

COUNCILMEMBER BAISA: --we spend months and months and months --

CHAIR VICTORINO: Yes.

COUNCILMEMBER BAISA: --and in some cases, years, trying to look at a simple ordinance. And this is not a simple ordinance. This is changing the way we do government in Maui County. And, you know, it's been really brought to the floor the last couple days with the passing of Mayor Cravalho, how old our government is, and how it has worked all these years. And we're making a major change and we're trying to push it through. I'm not comfortable. But I appreciate what you're doing.

CHAIR VICTORINO: Yeah, well --

COUNCILMEMBER BAISA: Thank you.

CHAIR VICTORINO: --I thank you. And it's not...I don't need any appreciation. I just need as much help as I can from you to make this work. Mr. Carroll, you had something you wanted to add?

COUNCILMEMBER CARROLL: Thank you, Chair. I was really hoping that we could get this together. And I made remarks before that I think the voting public can discern what they want. But I don't think they can do it with the document that's --

COUNCILMEMBER BAISA: Right.

COUNCILMEMBER CARROLL: --before us today.

COUNCILMEMBER BAISA: It won't happen.

COUNCILMEMBER CARROLL: There are too many changes. There's too many changes inside here. And there's too many things that have come up. If we'd show...if we go over there and take more changes today and more changes on the 5<sup>th</sup> or whenever, it's not the same document --

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COUNCILMEMBER BAISA: No.

COUNCILMEMBER CARROLL: --that was vetted by the Committee and with the public. We're having a...it's gonna be a different document. And the public has not had time and the Committee has not had time to argue it out, those who were for, those who were against. Maybe some of those who were against would like it. Maybe some of those who are for won't. But the biggest point is that it will not have a chance to be really vetted by the public. The public will not have a chance to consider it and what's going to go out to be on the ballot. That is a real problem with me. If this was something else, if this was another item that was gonna go on the agenda or the Council was going to approve a law and we will just state it right now where we're going to approve a law, not doing a Charter amendment, just a law, and we were at the same situation right now making these changes, we would have everybody in the world over here saying, no way, you go over there and go back and finish this up and bring it out and give the public a chance to go over there and comment. I'm really disappointed. I would have hoped that...and I don't wanna be critical of the committee but I had hope that we would had a clean document with this, working with the committee, working with Corporation Counsel and everybody that we wouldn't have all of this. I didn't foresee this. I thought we would had a clean document that was acceptable. It's obviously not now.

CHAIR VICTORINO: Yeah --

COUNCILMEMBER CARROLL: And --

CHAIR VICTORINO: --and --

COUNCILMEMBER CARROLL: --I'm --

CHAIR VICTORINO: --I agree with you.

COUNCILMEMBER CARROLL: --really sorry and there's nobody to blame. It's just the way circumstances went. But on my behalf, I'm very disappointed with what we have before us today. Thank you.

CHAIR VICTORINO: And I thank you, Mr. Carroll. And I'm sorry that, you know, we tried to incorporate what you folks wanted, what Mr. Kushi...to make it palatable so that we don't have HRS, you know, challenges. I...it's been an endless process. And it's been a very...for me, a very enlightening process working through all these different situations. So, thank you. Mr. Guzman?

COUNCILMEMBER GUZMAN: Does that . . .*(inaudible)*. . .

CHAIR VICTORINO: Oh you were raising your hand, yeah?

COUNCILMEMBER GUZMAN: Oh, I...oh, was I?

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CHAIR VICTORINO: I'm sorry.

COUNCILMEMBER GUZMAN: I might have been putting up my hands like this. But I'll --

CHAIR VICTORINO: Please don't --

COUNCILMEMBER GUZMAN: --speak.

CHAIR VICTORINO: --do that.

COUNCILMEMBER GUZMAN: Thank you for the opportunity, Chair.

CHAIR VICTORINO: Yeah. Well, 'cause you went like this so I thought --

COUNCILMEMBER GUZMAN: No, no.

CHAIR VICTORINO: --you wanted --

COUNCILMEMBER GUZMAN: I was like this.

CHAIR VICTORINO: --to say something. I'm sorry.

COUNCILMEMBER GUZMAN: I usually do that when I start getting stressed out. Anyways, yeah, I can see that we still need some work on the floor --

CHAIR VICTORINO: Yes.

COUNCILMEMBER GUZMAN: --as a Committee.

CHAIR VICTORINO: Yeah.

COUNCILMEMBER GUZMAN: I do thank the Special Committee for really vetting it through. But that's a different procedure.

CHAIR VICTORINO: Yes.

COUNCILMEMBER GUZMAN: It's in our hands now. And if we don't have the opportunity to really ask the questions and go through it and correct it and get a clean document or at least something that I feel is sufficient enough to pass muster, I would be hesitant. But if we work, really work hard and I'd like to steal the words from Mr. Hokama, focus, focus, focus, and not burn the daylight. I think that's how it goes. But anyways, we could...

CHAIR VICTORINO: We're burning daylight so let's go.

COUNCILMEMBER GUZMAN: Yeah. Burning daylight. I think we might have --

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CHAIR VICTORINO: Yeah.

COUNCILMEMBER GUZMAN: --a possibility of getting this through by next week or July 5<sup>th</sup>, on the deadline. But if it isn't possible and there's a possibility that we can't do it, I would like the opportunity to bring up PIA-10(5). Because I know that we recognize that there needs to be changes in the form of government. So I would like to at least have that opportunity to pass out 10(5) so it's in full Council. And whether, you know, this measure, this Charter Amendment before us, makes it out then we'll make that decision in full Council on either one, 10(7) or 10(16). But I would like to have that opportunity to have both at full Council, passed through at full Council instead of working on 10(16) and 10(5) dies.

COUNCILMEMBER BAISA: Yeah.

COUNCILMEMBER GUZMAN: Never to be heard. And so --

CHAIR VICTORINO: Well, let me --

COUNCILMEMBER GUZMAN: --10(16) --

CHAIR VICTORINO: --assure you...

COUNCILMEMBER GUZMAN: --could die too --

CHAIR VICTORINO: Yeah.

COUNCILMEMBER GUZMAN: --and --

CHAIR VICTORINO: No --

COUNCILMEMBER GUZMAN: --stay --

CHAIR VICTORINO: --let me assure you...

COUNCILMEMBER GUZMAN: --in Committee so there's nothing. There will be no resolution whatsoever.

CHAIR VICTORINO: I'm not gonna let anything die --

COUNCILMEMBER GUZMAN: Yeah.

CHAIR VICTORINO: --at this point.

COUNCILMEMBER GUZMAN: Yeah.

CHAIR VICTORINO: Okay. And I'm trying to say, okay, we got 10(16) because that incorporates in somewhat 10(5) and 10(7) --

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COUNCILMEMBER GUZMAN: Right, correct.

CHAIR VICTORINO: --and 10(14). And I made the, you know, I tried to incorporate that in one of my...for all of you guys together so that we have one packet to talk about because that was yours, Mr. Carroll, and I think Mr. Hokama, if I'm correct. And nothing is gonna die. But what I meant at this juncture, I'm here with this document, with this issue and we have 'til 12:00, maybe 12:30, and then we have an all-day meeting possibly on July 5<sup>th</sup>. I mean if you look at the calendar, there's nothing in between. And if we don't give the Staff time to put out the Committee report and you know how extensive --

COUNCILMEMBER GUZMAN: Yeah.

CHAIR VICTORINO: --this Committee report is gonna be, they're not gonna get the job done. And so we're still behind the eight-ball. So we're burning daylight by discussing it further.

COUNCILMEMBER GUZMAN: Right, right.

CHAIR VICTORINO: I would like to say this, nothing is gonna die unless you say, you vote on it and say you want it to die. Okay?

COUNCILMEMBER GUZMAN: But, Chair, there could be a possibility that both could go up to the full Council, 10(16) --

CHAIR VICTORINO: Both could.

COUNCILMEMBER GUZMAN: --and 10(5).

CHAIR VICTORINO: Yeah. It could be.

COUNCILMEMBER GUZMAN: Or if we heard 10(5) or I mean sorry, 10...yeah 10(5) and it --

UNIDENTIFIED SPEAKER: Ten seven.

COUNCILMEMBER GUZMAN: --passes up...or, God, 10(7), sorry, 10(7).

CHAIR VICTORINO: Yeah. Well, yeah.

COUNCILMEMBER GUZMAN: Ten sixteen could basically not pass through Committee. I just want the opportunity to have either one of them there in full Council to vote on.

CHAIR VICTORINO: Well, I'd like the opportunity --

COUNCILMEMBER GUZMAN: Yeah.

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CHAIR VICTORINO: --to finish what I can so that everybody has a fair chance. And again, if we gotta go full day in, on July 5<sup>th</sup>, bring all these other ones up, fine. If we can make a decision and move into the other ones today, I'll do what I can.

COUNCILMEMBER GUZMAN: Okay.

CHAIR VICTORINO: Okay?

COUNCILMEMBER GUZMAN: Thank you, Chair. Thank you.

CHAIR VICTORINO: And, you know, I'm really trying to push this along. Mister...wait, Mr. White and then Mr. Couch. Go ahead.

COUNCILMEMBER WHITE: Thank you, Chair. I appreciate the way you've conducted this. And I think, you know, the concerns are somewhat valid. But at the same time, I think we have addressed the meatier sections of the resolution. A lot of the following pages have relatively minor changes. I think if we push through this, we could end up with a document that addresses the concerns of the Committee. And we would have an opportunity to vote on something that we then have four months to present to the public and have their input and response and ultimately it's up to them. And I agree with Mr. Carroll's initial statement the other day that, you know, the people should have the ability to decide on this. And our job is to push out a bill that is clean and but it, it's really, it's our job to push something out so the people have the ability to make a decision on it. I have a lot of confidence in them being able to decide whether what we've come up with is good or not. And so I'd like us to, you know, we've punted this to the Special Committee. They've come back. And I think we've done some good tweaks, and I would hate to see it die at this point because we're not up to the challenge of making a few more adjustments to the bill. So I would like to push forward with this review. I think Mr. Couch should get credit for, you know, for wanting to go through this page-by-page. I think it's appropriate and I'd like to continue to do that.

CHAIR VICTORINO: Okay. Any other comments? Yeah, Mr. Couch?

VICE-CHAIR COUCH: Thank you, Mr. Chair. Just on a personal note, I can't guarantee I will be here on July 5<sup>th</sup>. I've been receiving discerning and going from bad to worse news on my --

CHAIR VICTORINO: His mom.

VICE-CHAIR COUCH: --text. So there may be a possibility I'm leaving town tonight, so.

CHAIR VICTORINO: Yeah.

VICE-CHAIR COUCH: And that being said, my brain is not all here at this moment. So on this...



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CHAIR VICTORINO: Yes. Go ahead.

VICE-CHAIR COUCH: You know, we took--I'm trying to count the number of meetings--in the double digits of meetings, we took 18 months to revise the Short-Term Rental Home Bill.

COUNCILMEMBER BAISA: Don, talk into the mic, please.

UNIDENTIFIED SPEAKER: Talk into the mic.

VICE-CHAIR COUCH: Oh, sorry. We took 18 months to revise the Short-Term Rental Home Bill, which isn't as important as our County's constitution which is the Charter. And we're being asked to come up with something that is some pretty significant changes to our Charter in what amounts to about seven hours and maybe another full day. I want this in some form to go to the people at some time. I think this Council and potentially the next Council can do a, the right job and get this on the next ballot. I'm not...I have no rush to get it on this ballot. The next ballot is fine with me. That being said, I have other alternatives if necessary. But at...like I said I can't speak to them right now. I'm trying to get back into focus here. So, thank you.

CHAIR VICTORINO: Oh, thank you. Now, who wanted to speak? Somebody else. Oh, Ms. Crivello? Thank you.

COUNCILMEMBER CRIVELLO: Are you asking for comments on this resolution or --

CHAIR VICTORINO: Well --

COUNCILMEMBER CRIVELLO: --overall?

CHAIR VICTORINO: --you know...

COUNCILMEMBER CRIVELLO: Overall?

CHAIR VICTORINO: Overall. Yeah. And, you know, again we're burning the daylight hours. So, you know, let's make it as quick as possible everybody, you know, so that we can, you know.

COUNCILMEMBER CRIVELLO: Yeah. We...I don't believe we should make this quick --

CHAIR VICTORINO: Yeah.

COUNCILMEMBER CRIVELLO: --and fast. But that's just my opinion and you have yours, Mr. Chair.

CHAIR VICTORINO: Yeah.

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COUNCILMEMBER CRIVELLO: You know, we're...we've asked the Governance Committee to come up with something. And we selected our representatives from our district. I know where my district representative, what stand she took based on listening to our community. And I've asked her to serve and she...I admire and appreciate her participation. But what we also need to say out to the people is that, you know, you vote for us to the Maui County Council and I would hope you would have confidence in our decisions. And so we want to...there are people who wants to put this on the ballot like now. I...just looking at all these changes that we've been doing, there seems to be more time. And I've said that earlier, it is best for us to really, really take deep, intensive vetting by ourselves first of all, and then further outreaching to the public. And then...and so before we make these decisions on this, I would think we would want to present before them what is of the best interest of Maui County citizens. And then if supposingly [sic] it gets on the ballot, then we have two years to work on how we're going to implement it. We have major issues to deal with today. We have the MPO, which brings in revenues. We have TAT, which we have to continually lobby to bring us revenues. We have homelessness. We have community plans that are...need to be addressed. And how, you know, how do we as elected government representatives deal with the issues that our constituents bring before us. And, you know, I was home last night attending various meetings and someone came up to me and go, what you planning to do? Support what may be another overthrow? And, you know, and I says well, it's entirely different --

CHAIR VICTORINO: Yeah.

COUNCILMEMBER CRIVELLO: --you know, but there was an overthrow of a government that was in place and that was working. And our Queen decided to relinquish her powers and the Hawaiian Kingdom surrendered. And yes this is pretty extreme; however, in 1893 the overthrow and annexation happened. And it took five years for them to formalize, to demolish the monarchy. So that was accomplished. And then...so we're saying, you know, change our County governance. People, listen. We're gonna put this on the ballot and you need to change our County government. We're gonna have a separation of powers disappear. I, as your Councilmember, and my colleagues will have just one layer in my opinion. We will just have one layer in making these decisions. It's a one-layer government. So maybe I'm too old-schooled or what have you, but I certainly appreciate the Executive and then the Legislative. And I also, because this is such a major change, I also feel that we have a kuleana. We have a responsibility to vet it thoroughly. I appreciate the work the committee has done. I take nothing away for their meetings. I think it was an...within six months. And then they bring it to us and we have a responsibility to dissect it and whatever way we feel that the community can make the right choice. And I do not want to be one that today will say, County governance complete overhaul. This is a complete overhaul, you know. We talked about directors. We talk about the Managing Director. That is where I go with Mr. Hokama and Mr. Guzman is saying. Let us look at the item on the agenda where we can make decisions and that can give more accountability if that's what we're looking for. But, you know, I'm gonna have to say we have some awesome directors who probably can be making more money in the private sector. So to me when people stepped up to the plate to serve, it's a

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commitment they made to serve. And you know that, Mr. Victorino. Your life is full of serving. And so you can understand that. And I can appreciate and sometimes we have to make, and all of us will agree, very tough decisions and sometimes very unpopular decisions. So for me, I have to think of the message that came to me back home last night. And where sometimes you go in a coffee shop and sit down with the bruddahs here on Maui and then they go; sistah, come on, you know, pay attention. We may not be out there but we have our feelings too, you know. So I, you know, and obviously you know where I'm going with this. So thank you, Mr. Chair, for allowing us the opportunity to at least have the kukakuka, the dialogue and the conversation. Thank you.

CHAIR VICTORINO: And thank you. And forgive me, I'm not trying to rush something through. I have a definitive deadline. And that what's make this very difficult. And I want everybody to understand that. If I had three more months or another two months, I'd have no problem. But I've got 'til July 15<sup>th</sup>. And so, you know, I'm hearing all these different messages. We need more work. We need the public involvement. We need this. We need that. I'm getting to a point where I need to find out from all of you, what do you want us to do? Because I can make another day's meeting but will that be able to do everything? And we've got the other ten amendments that we need to work on, and you want to especially work on certain ones. And I believe some of those will be very valid. You have a couple that need to be worked on, Ms. Cochran. So I wanna work on all of 'em. And you said, Mr. White, oh, just a few corrections. I beg to differ 'cause some of them will still have some work to be done. But that being said, I just wanna try to get a feel. What are we doing at this point? We're at this juncture. I'm willing to continue working on it but we have a limited time. And people are not feeling comfortable with the revised documents. People weren't feeling comfortable with the original documents. So which documents do I use also? We've worked hard last night. Mr. Kushi went to a whole gamut. And, you know, I wanna thank him too because he came back and showed us the, some of the areas of fault that Kauai fell into and they could not move on theirs. So we've tried real hard to make sure that whatever the committee missed, and then that's not your fault because you're limited in their time too, that we caught and we would have it put in so that we would not have a challenge, a legal challenge. And that's our hope. We want a clean product. So I'm asking you, Members, what do you want to do from this point forward? Because I'm at your beckoning. I'm here for your...Mr. Carroll, I'll start with you. You raised your finger three times so I know you wanted to speak. Go ahead.

COUNCILMEMBER CARROLL: Four times.

CHAIR VICTORINO: Four times. Oh I missed the first one.

COUNCILMEMBER CARROLL: I think it's at the point now where I cannot believe anybody in this Council does not have an opinion already --

CHAIR VICTORINO: Yes.

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COUNCILMEMBER CARROLL: --in which way we should go. I'm really disappointed because I had come in to this and, you know, from my remarks the other day, I really looked forward to passing this out. However, this morning when I came in and I looked at this revised document, I cannot support it. I cannot support it for the reasons that I gave earlier. The public has not had time. The committee has not had...the committee that authored this document did not have time. And this Council does not have the time. I'm very disappointed. I'm sorry. I do understand the situation and the Chair's explanation. Thank you. But that's the situation we're at now.

UNIDENTIFIED SPEAKER: . . .*(sneezes)*. . .

CHAIR VICTORINO: God bless you.

COUNCILMEMBER BAISA: Bless you.

COUNCILMEMBER CARROLL: I think...

CHAIR VICTORINO: She had to sneeze. That's okay. Go ahead --

COUNCILMEMBER CARROLL: Oh.

CHAIR VICTORINO: --Mr. Carroll.

COUNCILMEMBER CARROLL: Gesundheit. I think it's time to make decisions. And you wanna know which way everybody wants to go. It's very simple. I would call for the question.

CHAIR VICTORINO: Well, I haven't made a...we haven't had a motion yet so I...and see what I'm trying to ascertain at this point...

COUNCILMEMBER CARROLL: I mean when we get to that point.

CHAIR VICTORINO: Yeah. Okay. Thank you, Mr. Carroll.

COUNCILMEMBER CARROLL: I mean where's...what...which way we want it to go --

CHAIR VICTORINO: Yes.

COUNCILMEMBER CARROLL: --that's how we will find out.

CHAIR VICTORINO: Thank you. Ms. Baisa?

COUNCILMEMBER BAISA: Thank you very much. Chair. Thank you for an opportunity to speak again. You know, as you sit here, the more you sit here, the more you feel like you have to share something 'cause it's so difficult. What we're trying to do here is very, very difficult. But let me tell you, for me, you know, when all this began, I

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promised that I would try very hard to keep an open mind, and that I would study and listen. I would listen to the meetings that were held. I would try to listen to, you know, whatever was going on. I tried to read and pay attention to what was being shared. But I tried to say let's keep that open mind. I told myself, you gotta keep an open mind. But in my mind, I had a different process in my mind. And that process was...and I too want to thank the committees that worked really hard on this. I know it was very difficult for them and they too were rushed unfortunately. I...my idea was that these reports would come back to us and that this Committee would have the opportunity to have like a panel of the Special Committee come and we could ask them questions, and we would have a panel of the Cost of Government Commission and we could have the opportunity to ask them questions so that we could clear up all the, you know, concerns that we had. But that never happened because we got into no more time. So we sit here trying to create a miracle and everybody is under the gun. And I'm really concerned, Chair, because I think this is a draconian change that we're about to make after more than 100 years. And it scares me. It really, really scares me. And when I say 100 years, I'm talking about Maui County existing --

CHAIR VICTORINO: Yeah.

COUNCILMEMBER BAISA: --although I know we've had a...yeah, we've had a Charter for much less than that but --

CHAIR VICTORINO: Okay.

COUNCILMEMBER BAISA: --still a lot of years.

CHAIR VICTORINO: Yes, yes, yes.

COUNCILMEMBER BAISA: And, you know, we've been operating this way for a very long time. So my fear is that we rush into something. And I don't think we need to rush into something 'cause I don't think the world's gonna fall apart in the next two years. But what it would do is give the new Council the opportunity to take the reports and do what I think we should...that Council should do. And that is to meet with the people and discuss everything and have time to educate the public and then to vote. But I think to rush this is going to result again as I've said, acting in haste and repenting in leisure. I'm sorry. I cannot go with this.

CHAIR VICTORINO: Thank you. Ms. Cochran?

COUNCILMEMBER COCHRAN: Thank you very much, Chair. And thank you to my fellow Members. I've been listening and taking in all the comments, and I agree with everyone's comments. You know, as I'm...as early on in yesterday's meeting, good to call for the vote. But again as a lot of Members mentioned, talking more, digging in, delving in and to bringing up more questions and things and definitely don't want to hastily push this out, you know, as much as I have total faith and confidence in the voting body of this community to make the decision. I just wanna make sure also that what they're voting on in this document that we have is thoroughly vetted and is not

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gonna, you know, create some unintended consequences and what have you, hardship down the line. And, you know, this is something really huge as Ms. Crivello stated, Mr. Couch, everyone has so far. So I would be definitely, yeah, a lot, you know, I'd feel better if we have that time but not to rush it just for the sake of, you know, the community wants to vote on this. It's their democratic right, which is true. But again, I wanna make sure that I am beyond 100 percent confident that what we are putting in front of them is something that's going to work, something that is going to improve what we see and address the concerns and issues that we're hearing on a daily basis about this government. And, you know, those are my thoughts at this time, Chair. So if we can do what everyone would like to see done in the pretty short amount of time that you're stating with your deadlines, great. If not, then I too would like to give it that time that it's needed. So I guess we'll just see where we go from that, Chair. And I appreciate the time and energy we're all putting into this --

CHAIR VICTORINO: Thank...

COUNCILMEMBER COCHRAN: --'cause it's a huge undertaking and a huge change.

CHAIR VICTORINO: Yeah, thank...

COUNCILMEMBER COCHRAN: And again and also, Chair, what Mr. Guzman said I think, and others, Mr. Hokama, five of the next nine proposals have something to do with, you know, rearranging existing governance. And I'm good with that too. So, you know, just again, we'll just see where we go from here. So thank you, Chair.

CHAIR VICTORINO: Again at this point, you know, I'm just trying to get a feel on what we need to do next because this was the overarching. With this passes a lot of the other ones would have really basically gone away. If this doesn't pass, then those become applicable and we need to discuss that. So that's what I was trying to get at this point. Mr. Hokama...'cause I already gave you and mister...Ms. Crivello a chance, Mr. Couch. So, Mr. Hokama, you have anything you wanna add? I think I know where you're going, so.

COUNCILMEMBER HOKAMA: Chairman, I've...I believe I have made my position --

CHAIR VICTORINO: Yes.

COUNCILMEMBER HOKAMA: --very clear from the start. I will just say in my experience, your governance structure should be difficult to change. It needs to be able to go through the various hiccups, tantrums, special issues that may occur occasionally within a community, within a County, but it's strong enough to outlast those hiccups and tantrums, if the structure is solid enough. And it shouldn't be so easily changed whereby people have then, I would say for me, the type of level of confidence you need in a structure for a day-to-day operation. We are fortunate. We deal with governance on a day-to-day basis, Chairman. So we have a different perspective, a different experience than our citizens and residents that we represent because of our day-to-day interactions. And they depend on us to make some decisions and values

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and judgments based on that privilege of having that experience and day-to-day operational exercise. So for me, Chairman, I believe that the structure is still strong enough. That by tweaking it to address some of the concerns, as in some of the other proposals that you have agendized, can accomplish the goals of this general community. And I would hope that we would get to those areas of other considerations because I am more amenable to those considerations. Thank you.

CHAIR VICTORINO: Okay. Thank you. Mr. Guzman?

COUNCILMEMBER GUZMAN: Thank you, Chair. I would like to continue the review. I think that if you could just set a deadline and a time that this is exactly where we're gonna stop discussing and either call for a vote or not. And you can say it like at July 5<sup>th</sup>, 9 o'clock, gonna call for the vote. But I think we owe it to the Committee and all the manpower that's gone through it for us to continue to review it as far as we can. My only concern is that I don't wanna exhaust all the time that we don't get an opportunity to discuss the PIA-10(7). Because there's a lot of provisions in that proposal that could allow changes within our form of government as is right now without having real drastic haul over as is in 10(16). So I would suggest that we just go forward. We're only a few more pages through it. Finish the review and then go from there to see if it's ready for some kind of action. But if not, then leave enough time to discuss 10(7). Thank you, Chair.

CHAIR VICTORINO: Mr. White?

COUNCILMEMBER WHITE: Thank you. I would ditto Mr. Guzman's remarks. I understand the concerns. But as I said earlier, I think we're closer to having a clean document than some of the comments infer. And obviously there are strong feelings on both sides of this issue. But I would like to honor the work that we asked the Committee to do by taking the necessary time to vet this. And if people are not comfortable with it by the time we're done with the review, then so be it. And we take a vote and we move on. So I'd, you know, I would like to continue the review and complete that before we move on to the other items.

CHAIR VICTORINO: Okay. I'm gonna take a quick recess subject to the call of the Chair, okay? . . .*(gavel)*. . .

**RECESS: 10:33 a.m.**

**RECONVENE: 10:49 a.m.**

CHAIR VICTORINO: . . .*(gavel)*. . . This meeting will reconvene. Ladies and gentlemen, I've taken the time to meet with the clerk and other entities to see what our absolute drop date, drop-dead date would be on all of this issue. Because we were under this impression and we've correct-fully...correctly so that the 15<sup>th</sup>, we needed first meeting and then we needed the August 5<sup>th</sup>. We can move that a little. We can move that a little. And so I'm trying to at this point, I wanna try to finish the rest of the day, which is 12 o'clock. I'm not going longer than 12:00 because some people have to leave. And

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I wanna be fair to their request. I said 'til 12:00 and 12:00 it will be and look at the 5<sup>th</sup>'s special meeting. I understand your dilemma, Mr. Couch. I don't know how else to address this. And, you know, you're an integral part. And I will assure you all of this, we will defer a final vote until all nine of you in this Chamber. All nine of you have to be in this Chamber. I'm not gonna take a vote with only six Members or seven Members. It will be all nine of you. But we're gonna try to work and clean up what we can so we can...also we wanna move on so we need to get this done so we know we can move on to the next issues. So with all that being said, everybody in this room I do not ever want to hear from anybody, here or in the public, that I haven't been as fair as possible. In fact, I've bent backwards, and my back is hurting already. So with that being said, let's move on. Mr. Kushi, and mister...actually not Mr. Kushi, Mr. Couch, we're burning oil, let's go. The daylight is getting quick. Let's go with other, the other amendments or the other changes that you were concerned with. And so that we can finalize this document as it is at this point. You had a few more concerns, I know some of 'em but I would rather you do 'em than myself.

VICE-CHAIR COUCH: Thank you.

CHAIR VICTORINO: Tell us what page --

VICE-CHAIR COUCH: Sure.

CHAIR VICTORINO: --and...okay?

VICE-CHAIR COUCH: It kinda falls around in Page 12.

CHAIR VICTORINO: Page 12? Okay. Members.

COUNCILMEMBER GUZMAN: Chair?

CHAIR VICTORINO: Yes?

COUNCILMEMBER GUZMAN: I know that we're working off of the new amended version that was distributed today, right?

CHAIR VICTORINO: Are you working off the new --

VICE-CHAIR COUCH: Yeah, yeah.

CHAIR VICTORINO: --amendment?

VICE-CHAIR COUCH: Yeah.

CHAIR VICTORINO: Yeah.

COUNCILMEMBER GUZMAN: Okay.



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CHAIR VICTORINO: Yes. That's why we are here.

COUNCILMEMBER GUZMAN: Okay. Can I address before we move --

VICE-CHAIR COUCH: Oh sure.

COUNCILMEMBER GUZMAN: --forward? I...on one of the amendments that was changed on Page 2, and then we can move to --

VICE-CHAIR COUCH: Yeah, yeah.

COUNCILMEMBER GUZMAN: --Page 12.

VICE-CHAIR COUCH: Yeah.

COUNCILMEMBER GUZMAN: I just wanted to --

CHAIR VICTORINO: Okay. Go ahead.

COUNCILMEMBER GUZMAN: --backtrack a little bit. So on Page 2 we...on number 7 there, I apologize, Section 3-6(7). The...it...you're striking the International City/County Management Association's. And I thought we were gonna just put other, and other entities. Why is it just, and entities?

CHAIR VICTORINO: As requested by the Council, that was what we've agreed upon.

COUNCILMEMBER GUZMAN: Yeah. Does that make sense to say okay, like, let me read that paragraph to you; that are based on advice from the Department of Personnel Services and entities as requested by the Council.

VICE-CHAIR COUCH: It doesn't matter. Yeah.

COUNCILMEMBER GUZMAN: And other entities?

VICE-CHAIR COUCH: Other is fine.

COUNCILMEMBER COCHRAN: Either/or.

CHAIR VICTORINO: That's fine. Entities or other entities is fine but I mean --

COUNCILMEMBER GUZMAN: Okay. That's fine.

CHAIR VICTORINO: --that's what you guys discussed.

COUNCILMEMBER GUZMAN: All right.

CHAIR VICTORINO: Okay.

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COUNCILMEMBER GUZMAN: I mean I'm okay with it. I just thought maybe that would...are you narrowing it to entities within the Personnel Service?

CHAIR VICTORINO: No.

COUNCILMEMBER GUZMAN: Or other entities?

CHAIR VICTORINO: Entities as requested by the Council. So you as the Council would have the ability to say, we would like the International City and County Management Association to advise us on this --

COUNCILMEMBER GUZMAN: Okay.

CHAIR VICTORINO: --hire.

COUNCILMEMBER GUZMAN: Yeah, that's fine. I just want some clarity.

CHAIR VICTORINO: So you have the choice, yeah.

COUNCILMEMBER GUZMAN: Okay. That's fine.

CHAIR VICTORINO: Okay.

COUNCILMEMBER GUZMAN: We can move forward. Thank you.

CHAIR VICTORINO: All right. Thank you, Mr. Guzman. So going back to you, Mr. Couch.

VICE-CHAIR COUCH: Thank you.

CHAIR VICTORINO: Again, what page again? Seven, right?

VICE-CHAIR COUCH: Page 12. Twelve.

CHAIR VICTORINO: Twelve, 12. Yeah, I wasn't sure what page.

VICE-CHAIR COUCH: And I'm not sure where it would fall but --

CHAIR VICTORINO: Yes.

VICE-CHAIR COUCH: --who handles things like bond negotiations, SRF agreements, State Revolving Fund, the negotiations and agreements? Is that --

COUNCILMEMBER HOKAMA: Finance...

VICE-CHAIR COUCH: --clear in here?

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CHAIR VICTORINO: Maybe Mr. Hokama can give his manao in that area and as best you know. Mr. Hokama, you have anything --

COUNCILMEMBER HOKAMA: Chair?

CHAIR VICTORINO: --you wanna add?

COUNCILMEMBER HOKAMA: Chairman, operationally, much of the responsibilities fall with the Director of Finance, consultation with the Budget Director, and if it, regarding the short-term investments and of course the Investment Committee that the Mayor has set up internally. But it would be your key personnel is Finance Director, Budget Director.

CHAIR VICTORINO: Okay. Does the Mayor or the Managing Director have to be a part of that?

COUNCILMEMBER HOKAMA: I believe currently under the current investment --

COUNCILMEMBER BAISA: Chair --

COUNCILMEMBER HOKAMA: --structure --

COUNCILMEMBER BAISA: --we need the mics --

COUNCILMEMBER HOKAMA: --the Managing --

COUNCILMEMBER BAISA: --please.

COUNCILMEMBER HOKAMA: --Director is a...

CHAIR VICTORINO: Can you speak into the mic again? We can't hear you.

COUNCILMEMBER HOKAMA: Thank you. Currently, under your Budget Chair's understanding --

CHAIR VICTORINO: Yes.

COUNCILMEMBER HOKAMA: --the Investment Committee does include the Managing Director as one of the participants with the Budget Director. I believe you have a Finance Director. And if I recall job descriptions and classifications, I believe the Treasurer is also involved in the short-term portfolio requirements. You also look at the bonds. They deal with the bonding agencies, set up the meetings for those reviews by the three major rating agencies. And then at the end, it's what the Finance Director through Council's action that the Mayor and he will agree to on those terms of borrowing or investment, and they are to report back to Council at appropriate times, Chairman.

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CHAIR VICTORINO: So now with this, you know--and I again thank you, Mr. Hokama--you know, you cleared that matter. So this would, now would this turn instead of going to consult and get the approval of the Mayor, would this go now to the County Managing Director? I would...I'm gonna assume and that's a bad word again, I know Mr. Kushi said, tells me that, but that's where it would lie now unless there's some definitive language that says otherwise. Mr. Kushi?

MR. KUSHI: Yes. That's a good assumption again. Again, Mr. Hokama is correct. The Director of Finance as well as the Budget Director usually handles these agreements and processes. The Director of Finance has its own Department. The Budget Director is housed currently under the Office of the Mayor.

COUNCILMEMBER HOKAMA: Correct.

MR. KUSHI: So now I'm not sure what the intent is, but it says the MD will be running the show.

VICE-CHAIR COUCH: Yeah.

MR. KUSHI: It will be more appropriate for that Division to be under the Office of the Managing Director. That can be handled through your budgetary reorganization structure.

UNIDENTIFIED SPEAKER: Okay.

CHAIR VICTORINO: Okay. Go ahead, Mr. Hokama.

COUNCILMEMBER HOKAMA: So stating that, then it's gonna be interesting. So now if a part of the consequences of this moving forward, I am looking at potentially creating four more civil service positions. Because now they're gonna be under Department of Management. And unless there's a change in how we operate contracts and employee positions, people like Mr. Baz, who currently is an appointee, potentially now needs to be considered down the road as a potential civil service equivalent position personnel than appointed Budget Director, right?

CHAIR VICTORINO: Go ahead, Mr. Kushi.

COUNCILMEMBER HOKAMA: So now we're looking at different ways of again, you know, that's one of my things about not having a good financial review of impacts of --

COUNCILMEMBER CRIVELLO: Yeah.

COUNCILMEMBER HOKAMA: --some of these potential changes, Chairman.

MR. KUSHI: Mr. Chair, Member Hokama, I'm not sure what the status of the Budget Director is. He's not a department head. It's a division of...if anything, he's a division head.

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COUNCILMEMBER HOKAMA: But if the Deputy Director is currently civil service, dependent again unless we give contracts. So even for some of IT requirements but, you know, currently they're civil service. We might have to look at them and say, no, we gotta work with the union. We wanna change this now back to exempt appointment. So whatever contractual...you know, for me it's gonna be kinda interesting and I'd be surprised we don't end up in some kinda legal action to have a judge make a final ruling on disposition of employees.

MR. KUSHI: Yeah, Mr. Chair and Member Hokama, there's various division heads. I don't believe they are exempt positions because they're not covered under 76-77, HRS. But I'm...if anything, I believe they're, what do you call, management positions. They will be excluded employees. They'd be an excluded employees. They have no union representation rights. So a reorg can happen. Come to my mind, Mr. Baz, Ms. Rasmussen, OED, you know, they're both housed in the Office of the Mayor right now, and Mr. Verkerke.

COUNCILMEMBER HOKAMA: Yes. Thank you, Mr. Chairman.

CHAIR VICTORINO: Okay. Moving right along, Mr. Couch? Oh, you had a question?

COUNCILMEMBER GUZMAN: I'm sorry.

CHAIR VICTORINO: I'm sorry. Go ahead.

COUNCILMEMBER GUZMAN: I just wanted to follow up. So if OED is like for example under the Mayor's Office --

CHAIR VICTORINO: Yeah.

COUNCILMEMBER GUZMAN: --OED is not specified in the Charter. It...could it not be created via I guess internal policy or something to create an OED Office under the Managing Director's Office? Is that possible?

CHAIR VICTORINO: Anything --

COUNCILMEMBER GUZMAN: Or...

CHAIR VICTORINO: --is possible.

COUNCILMEMBER GUZMAN: Well yeah --

CHAIR VICTORINO: Yeah.

COUNCILMEMBER GUZMAN: --but is there anything in the foresaid amendments to the Charter that would prevent that? I guess that's my question.

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CHAIR VICTORINO: I don't think so, yeah, Mr. Kushi? What do you think?

MR. KUSHI: Yeah. I mean if you're gonna create 'em by Charter, then it's a question of whether they're department heads not. And then this status of the exempt status becomes involved. Right now and historically, it's been created by the budgetary process.

COUNCILMEMBER GUZMAN: Okay.

MR. KUSHI: When the Mayor comes in for his annual budget, he shows you an organizational chart.

COUNCILMEMBER GUZMAN: Right.

MR. KUSHI: And then if you fund it, you fund it. If you don't, they're not there.

UNIDENTIFIED SPEAKER: Right.

MR. KUSHI: You know.

COUNCILMEMBER GUZMAN: So would that mean that the Managing Director would come in at Budget and request?

MR. KUSHI: Correct.

CHAIR VICTORINO: It would be...yeah.

COUNCILMEMBER GUZMAN: Okay.

CHAIR VICTORINO: And that would be an absolute yes.

COUNCILMEMBER GUZMAN: Okay.

CHAIR VICTORINO: And again the O...

COUNCILMEMBER CRIVELLO: OED.

CHAIR VICTORINO: Some days. OED. Economic...that Office has traditionally been under the Mayor because they handle a lot of the promotions as well as ceremonial events. And so that's why it's always been under the Mayor instead of anybody else. So, you know, just to...so that you understand what, how that was created and what the rationale behind of it. And if we're gonna leave the Mayor to do ceremonial as well as that, it may be well-suited to just stay there. You guys have the control on the budget itself when the budget comes down.

COUNCILMEMBER GUZMAN: Very good.

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CHAIR VICTORINO: And that's where your control is.

COUNCILMEMBER GUZMAN: Thank you.

CHAIR VICTORINO: Mr. Hokama?

COUNCILMEMBER HOKAMA: You know, if memories suits me right, Mr. Chairman --

CHAIR VICTORINO: Yes?

COUNCILMEMBER HOKAMA: --I believe Economic Development was at one part, at one time with Department of Planning. I think under Mayors Cravalho and Hannibal Tavares.

CHAIR VICTORINO: Yeah.

COUNCILMEMBER HOKAMA: I believe Mayor --

CHAIR VICTORINO: Lingle.

COUNCILMEMBER HOKAMA: --Lingle was the one that wanted to change it from...I believe at that time it was civil service positions to appointed positions.

CHAIR VICTORINO: Yes.

COUNCILMEMBER HOKAMA: And so I would say, you know, maybe we should look at the history why certain adjustments were made to the current status and if it still holds true to retain that disposition, Mr. Chairman. But, you know, it's gone through an evolvement of...and I can go far back as...I think Mr. Kushi will recall Mr. Eric Soto heading the Department and the efforts of Economic Development. That is when those Administrations were looking at Molokai for more ocean-based, you know, the shrimp farming, the ogo --

CHAIR VICTORINO: Right.

COUNCILMEMBER HOKAMA: --farming. It was great a move to prevent...bring economic diversification to Molokai. And that's why we had Mr. Hau there under Mayor Cravalho to spearhead specific initiatives to encourage diversification. So I would say there's a history on how we've arrived here. And for those of us that have that history would ask that we at least go and understand why the current situation is what it is. Thank you, Chairman.

CHAIR VICTORINO: Okay, Staff will look into that so that we're clear on that matter. Okay? Yes, Mr. Couch?

VICE-CHAIR COUCH: All of that being said, it sounds like if it's...if they're employees of a department which would be Department of managing...Management, then they have to

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become civil service which is what I think Mr. Hokama's concerned about. And I would be concerned too that they can't be appointed anymore. They're there and that would be one of the things that a...either whether it's a Managing Director or a Mayor would be; hey this is the way we're gonna lead our Economic Development and be able to bring in and out their people. So I would have some concerns about it being under Managing Director 'cause then they would have to be civil service. Is that correct, Mr. Kushi?

MR. KUSHI: Yes. The...if they're exempt, they would have to comply with the HRS statute.

VICE-CHAIR COUCH: Okay.

MR. KUSHI: And the latest proposal on you, before you, takes out that exemption for the Department of Management.

VICE-CHAIR COUCH: Right.

MR. KUSHI: The only two people who would be exempt would be the Director and the Deputy Director. Now, there are positions in both offices that are temporary hires and they're exempt. Not to exceed 90 days.

VICE-CHAIR COUCH: Yeah, 90 --

MR. KUSHI: Yeah.

VICE-CHAIR COUCH: --days.

MR. KUSHI: But that's another horse, right?

CHAIR VICTORINO: Okay.

VICE-CHAIR COUCH: Okay.

CHAIR VICTORINO: Okay?

VICE-CHAIR COUCH: That's my concern about --

CHAIR VICTORINO: Yeah.

VICE-CHAIR COUCH: --that portion.

CHAIR VICTORINO: Okay. Moving along.

VICE-CHAIR COUCH: Another portion is the veto budget. The budget veto powers is still under the Mayor. So we're giving...this document gives the Mayor the authority to veto the Managing Director's budget as well as whatever comes from Council now. So that one kinda is a little bit crazy to me. The Mayor has nothing to do with budget



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anymore other than working together with the Managing Director obviously. But if you've got a rogue Mayor that says, okay fine, I don't like either one of 'em, and I'm gonna veto, line item veto or veto. I know Council can override. But if it's a tight one...it just...

COUNCILMEMBER CRIVELLO: No make sense.

VICE-CHAIR COUCH: ...it doesn't mix.

MR. KUSHI: Mr. Chair? You bring up a good point. And just thinking about it out loud is that it was left in the Committee's report. And the Mayor would have a veto over like say the budget ordinance. Now the Mayor presents the budget to you.

VICE-CHAIR COUCH: Right.

MR. KUSHI: In this scenario, the Managing Director will present so the Mayor could veto the Managing Director's budget. That's just one instance. Now other bills and ordinances regarding zoning, et cetera, et cetera, the Mayor will still have that veto power. But again, the veto power if exercised by the Managing Director who is appointed by this body, is totally strange to me also.

VICE-CHAIR COUCH: Right.

COUNCILMEMBER WHITE: Yeah.

VICE-CHAIR COUCH: Right.

COUNCILMEMBER GUZMAN: Right.

VICE-CHAIR COUCH: And, Mr. Chair, that's why --

CHAIR VICTORINO: No. That's why we're here --

VICE-CHAIR COUCH: --we take a long --

CHAIR VICTORINO: --to discuss it --

VICE-CHAIR COUCH: --time to...

CHAIR VICTORINO: --so that the public...and, you know, I know the Committee did a great job, but then there's issues that you're bringing up that are very valid. So continue.

COUNCILMEMBER WHITE: Chair? Before we move to the next item.

VICE-CHAIR COUCH: Yeah, there's...

CHAIR VICTORINO: Oh yeah, okay. Go ahead, Mr. White.

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COUNCILMEMBER WHITE: I'm comfortable with the Mayor having the veto power. Because I think it's, it is inappropriate to have the Managing Director have that veto power --

VICE-CHAIR COUCH: Right.

COUNCILMEMBER WHITE: --when he's hired by the --

VICE-CHAIR COUCH: Right.

COUNCILMEMBER WHITE: --Council.

VICE-CHAIR COUCH: Right.

COUNCILMEMBER WHITE: So I think it is appropriate for the Mayor to continue to have that authority. And if the Council is totally behind the budget they craft, then they're gonna be able to override the veto.

CHAIR VICTORINO: True.

COUNCILMEMBER WHITE: But I think I don't want to see this eliminate the sense of checks and balances. And I think we maintain that by having the Mayor retain the power to veto as one of those checks.

CHAIR VICTORINO: Okay. Okay. Okay. Moving right along and I'm comfortable with that. Go ahead, Mr. Couch. You know, you had a couple more.

VICE-CHAIR COUCH: Yeah. On Page 14, I...the Section 8-3.3, the Prosecuting Attorney basically being appointed by the Managing Director. I would think if that's the case, we would want to move that out and maybe elect the Prosecuting Attorney. But I don't know that...I don't know if that's done in other places.

CHAIR VICTORINO: Electing a prosecuting attorney? Yes. Absolutely.

VICE-CHAIR COUCH: No, no, no. Not electing of the...for the City Manager to appoint the...

CHAIR VICTORINO: Oh, I don't know that.

VICE-CHAIR COUCH: The County Manager to appoint the Prosecuting Attorney. So that's...

CHAIR VICTORINO: Well, most municipalities...

VICE-CHAIR COUCH: I would have a concern with that and that would be a discussion that we would have to...

CHAIR VICTORINO: To answer to your question, you know, most municipalities, I'm familiar with both in California, Nevada and Oregon, they're...most of them are elected. And I

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don't know of many being appointed by a City Managing Director but we can check into that. Ms. Willenbrink, can you look at that and we can find that out? Okay. Next.

VICE-CHAIR COUCH: Page 23. We're getting towards the end for me --

CHAIR VICTORINO: Yeah, yeah.

VICE-CHAIR COUCH: --right? Page 23, number 6, near and dear to my heart. It says community plans are part of the General Plan, which is true. But you've taken out the language generated through citizen advisory councils and accepted by the Planning Commission, Council and Mayor. I think that needs to stay in because that could imply that other community plans can become part of the General Plan that don't get any public scrutiny. I was really alarmed by that being pulled out unless there's a good reason for that. I don't know.

COUNCILMEMBER CRIVELLO: Eight point eight point six.

VICE-CHAIR COUCH: Eight point eight...

CHAIR VICTORINO: This is Page 23.

VICE-CHAIR COUCH: Yeah. Page 23, 8.8.5, number --

CHAIR VICTORINO: It's the last...

VICE-CHAIR COUCH: --6.

CHAIR VICTORINO: Number six, above --

VICE-CHAIR COUCH: Yeah.

CHAIR VICTORINO: --a third down the page. Yeah. So the community plans are part of the General Plan. And that's how it reads.

VICE-CHAIR COUCH: That's how it would --

CHAIR VICTORINO: How would it read --

VICE-CHAIR COUCH: --the amendment would read. Right.

CHAIR VICTORINO: --when we take all of that out. Yes.

VICE-CHAIR COUCH: I think it needs to stay in; community plans generated through the citizen advisory councils and accepted by the Planning Commission, Council and Mayor. Meaning that the Mayor does accept it by not vetoing it. Oh, that's...that

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brings up another good question. If the Mayor can veto, then the Mayor has to also sign bills obviously from the Council. Is that right? I believe that's left --

CHAIR VICTORINO: Don't think --

VICE-CHAIR COUCH: --in there.

CHAIR VICTORINO: --that's gonna change, right?

MR. KUSHI: Right.

VICE-CHAIR COUCH: I think that's left in there.

CHAIR VICTORINO: Yeah.

VICE-CHAIR COUCH: We all...we were focusing on the veto power but that means he also has to sign the bills or --

CHAIR VICTORINO: That is --

VICE-CHAIR COUCH: --let them --

CHAIR VICTORINO: --correct.

VICE-CHAIR COUCH: --become law. So I think that whole section should stay. That whole phrase should stay in, myself. But I don't know why it was taken out. That would be...

CHAIR VICTORINO: Ms. Willenbrink, do --

COUNCILMEMBER WHITE: Chair?

CHAIR VICTORINO: --you have any idea why that was taken out?

MS. WILLENBRINK: I'm not sure, but I think maybe because it's covered in the Maui County Code. But I can't...there were so many things.

CHAIR VICTORINO: Okay.

COUNCILMEMBER WHITE: Chair?

CHAIR VICTORINO: Yes, Mr. White?

COUNCILMEMBER WHITE: Chair, now I know how you feel when you're kinda out of the line of sight, sitting up...

UNIDENTIFIED SPEAKER: Way over there.

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CHAIR VICTORINO: Yeah, I...

COUNCILMEMBER WHITE: Sitting way over here.

CHAIR VICTORINO: Now you know. Okay. Somebody finally finding out. Okay. Go ahead, sir.

COUNCILMEMBER WHITE: But I think it's covered in earlier parts of 8.8.5. Item number 4 for example, there shall be a citizen --

VICE-CHAIR COUCH: Right.

COUNCILMEMBER WHITE: --advisory committee for each community plan area. So I think it may have been taken out simply because it's duplicative of the earlier part of that same section.

CHAIR VICTORINO: Okay. All right, all right. I have no problem one way or the other, leaving it in or taking it out. So long it's...that it recognize that citizen advisory councils, Planning Commission, Council and Mayors would have, still have their say on it.

COUNCILMEMBER WHITE: Yeah.

CHAIR VICTORINO: I mean you gotta.

VICE-CHAIR COUCH: I prefer to leave it in. It's better.

COUNCILMEMBER WHITE: No, let's leave it in.

VICE-CHAIR COUCH: Yeah, I think leave it in.

CHAIR VICTORINO: Any objections to leaving it in?

VICE-CHAIR COUCH: No objections.

COUNCILMEMBER WHITE: No.

CHAIR VICTORINO: Okay. All right. So you un-bracket the brackets. Okay. Moving right along, next, Mr. Couch? Twenty...

VICE-CHAIR COUCH: I think my last one, yeah, is on Page 39.

CHAIR VICTORINO: Oh, 39.

VICE-CHAIR COUCH: Section 13-2.5.

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COUNCILMEMBER WHITE: The page 39?

CHAIR VICTORINO: Page 39, yeah.

VICE-CHAIR COUCH: Page 39.

CHAIR VICTORINO: And what is that now? Which one?

VICE-CHAIR COUCH: Thirteen dash two point five.

CHAIR VICTORINO: Five.

VICE-CHAIR COUCH: It says the members of boards and commissions appointed by the Mayor, with approval of the Council, may be removed for cause upon recommendation of such removal by the Mayor, or Managing Director, and that the, or Managing Director was added, and the approval of two-thirds of the entire membership of the Council. Why is that being put in there when the Managing Director has no say as far as appointing or approving? All of a sudden, the Managing Director would...can remove or at least initiate a removal.

CHAIR VICTORINO: Yeah. Request a removal.

VICE-CHAIR COUCH: I'm not sure that that's a wise thing.

CHAIR VICTORINO: Mr. Kushi?

MR. KUSHI: Mr. Chair, I don't know the committee's recommendation.

CHAIR VICTORINO: Okay. Mr. White, do you have any rationale for...again, like Mr. Couch said, the Mayor appoints, you guys approve or disapprove. And then now the Managing Director will have the right to initiate removal of a board member. And there may be cause but I mean I would think that cause by the Mayor and/or by the Council, you know, will have something, but I don't know.

COUNCILMEMBER WHITE: I think it gives an additional level of involvement by the Managing Director. And, you know, I don't know how many times board members of a board or a commission have been removed. But it seems to me that it would be possibly a necessary option for the Managing Director if there's a particular problem and the Mayor chooses not to act on it. And it has to be for cause anyway so I think that they would have to show cause whether it was the Mayor or the Managing Director. And that's a tough bar to achieve I would think. Maybe Mr. Kushi has some experience with this kind of thing. I'm not sure.

CHAIR VICTORINO: Well I think we've had a few cases in my tenure of removing people because of lack of --

COUNCILMEMBER BAISA: Yes.

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CHAIR VICTORINO: --attendance, total lack of communication. There have been a few times that I've been on this Council where they have come to us to remove someone.

COUNCILMEMBER WHITE: Yeah.

CHAIR VICTORINO: So that has happened. But yeah, go ahead, Mr. Kushi.

MR. KUSHI: Yeah. I agree with Member White in that is...the very small instances that I've been --

CHAIR VICTORINO: Yeah.

MR. KUSHI: --involved with is really due to lack of attendance. And then, you know, a certain board and commission needs to do something that management is, the Executive Branch, needs to happen. And the board can't get a quorum. And the Mayor's Office has sent letters to the member saying, you know, hey you gotta show up. And they don't respond and then I'm going now, we come down to the Council. The Managing Director, being the CEO as proposed, I believe should have that authority also. Other instances may be a violation of the Board of Ethics or code of conduct of a board member which the Mayor may not, may or may not be aware of, but the Managing Director would be. So thinking it over, it may be proper that the Managing Director would have that opportunity to request removal. But of course, a removal will be subject to this body's approval.

COUNCILMEMBER WHITE: Right.

MR. KUSHI: So I don't see a real beef about leaving it in.

CHAIR VICTORINO: Okay. Thank you. Any other questions, Mr. Couch? And that's it as far as your...

VICE-CHAIR COUCH: For as far I...the ones --

CHAIR VICTORINO: Yeah.

VICE-CHAIR COUCH: --I flagged.

CHAIR VICTORINO: Okay. Any other Member have anything else they flagged or would like to discuss in these documents?

COUNCILMEMBER COCHRAN: Chair?

CHAIR VICTORINO: Miss...oh, yeah.

COUNCILMEMBER COCHRAN: Oh, sorry.

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CHAIR VICTORINO: Yes, yes.

COUNCILMEMBER COCHRAN: Okay. Just going back real briefly to Page 23. That item about the community plans that Mr. Couch...we re-un-bracketed those brackets.

CHAIR VICTORINO: Yeah.

COUNCILMEMBER COCHRAN: The...number six, community plans generated through citizen advisory councils and accepted by the Planning Commission, Council, and Mayor. So I mean we're going through this with the Lanai Plan right now. CPACs provided something, then the Department went through and started revising and re-whatevers. They got all upset and people are saying, hey, that's not what we chose or whatever. So now, this is kinda I guess in a sense saying it comes from the CPAC and the Planning, us, Mayor are to accept it. So it doesn't say anything about with their revisions or changes or updates or however you wanna word it. So I'm just trying to figure out, is this language gonna address the situation we're trying to deal with right now? Or is it, you know, is there a way to address the situation we're dealing with right now within this verbiage that we're looking at? And I think Mr. Couch has his --

CHAIR VICTORINO: Yes, Mr. Couch?

COUNCILMEMBER COCHRAN: --wheels turning.

VICE-CHAIR COUCH: Yeah. Thank you. This actually is what allows for all of the --

CHAIR VICTORINO: Groups to review.

VICE-CHAIR COUCH: --reviews as well as other language. But we're in a...what this Managing Director, County governance is about is who gets the duties between Managing Director or --

CHAIR VICTORINO: And the Mayor.

VICE-CHAIR COUCH: --Mayor. We can't make, I would think legally, we wouldn't be able to make changes to the Charter that were significantly different from that. And this would be, I would think significantly different. We either leave the language as is or take it out because it has the word Mayor in it. But I think it needs to go back to the Mayor 'cause the Mayor signs all bills. So I think even taking this language out might be out of the scope of this resolution.

CHAIR VICTORINO: Mr. Kushi?

MR. KUSHI: Yeah, I agree. I think it's just a housekeeping matter. That really wasn't related to the Managing Director nor the Mayor, so.

VICE-CHAIR COUCH: Right.



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CHAIR VICTORINO: And I --

COUNCILMEMBER COCHRAN: Okay.

CHAIR VICTORINO: --believe, Ms. Cochran...

MR. KUSHI: And the issue --

CHAIR VICTORINO: Oh.

MR. KUSHI: --that you're dealing with with the Lanai --

CHAIR VICTORINO: Sorry.

MR. KUSHI: --Community Plan is beyond this.

COUNCILMEMBER COCHRAN: Okay.

CHAIR VICTORINO: And I believe --

COUNCILMEMBER COCHRAN: Okay.

CHAIR VICTORINO: --administratively, we, you know, maybe that's where we should be looking at and how that process works.

COUNCILMEMBER COCHRAN: All right.

CHAIR VICTORINO: And I think that's another issue that will be coming up soon, is revamping the General Plan process. I think there's a number of us that want to see something. I would, but then I'm not gonna be around. So I would rather somebody else who is gonna be around to bring it forward, you know, as far as that is concerned.

COUNCILMEMBER COCHRAN: Okay. Just thought maybe it could be addressed via this route, but not. So that's okay.

CHAIR VICTORINO: Not at this time. Thank you.

COUNCILMEMBER COCHRAN: Thank you.

CHAIR VICTORINO: Yes, Mr. Hokama?

COUNCILMEMBER HOKAMA: Since the Lanai Community Plan seems to keep popping up, for me, Chairman, since this was...is now brought before us as part of the discussion, I hope we don't legislate ordinances via the Charter. And that's the purpose of ordinances, is to put the meats and bones on the skeletal structure of our governance which --

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UNIDENTIFIED SPEAKER: Right.

COUNCILMEMBER HOKAMA: --is the Charter. And not to make the Charter so detailed that it comes in times, inflexible to meet the needs of our unique communities. I would say, you know, if there's a concern, I would prefer that we just make it clear. The community plans are generated by the CACs, reviewed by the Planning Commission and adopted by the Council. That is the process.

COUNCILMEMBER COCHRAN: True.

COUNCILMEMBER HOKAMA: Adoption. Our role is to adopt, make final action through an adoption of an ordinance. The Planning Commission doesn't have to accept the plan. They're bound to review the plan and give their comments. They don't have to agree and accept.

COUNCILMEMBER COCHRAN: Right.

COUNCILMEMBER HOKAMA: That's our job on the adoption of the plan. And so, if, you know, we wanna make it clear, I would say let's state what is our responsibility and the process. Because to me, the Planning Commission is not required to accept a plan. And in nowhere do I see that the Planning Department needs to be part of the generation, they're there to assist these components of the community.

UNIDENTIFIED SPEAKER: Okay.

COUNCILMEMBER HOKAMA: And that's the only way we're gonna maintain our uniqueness of the districts, Chairman. Thank you.

MS. BROOKS: Chair? Chair?

CHAIR VICTORINO: I hear Chair, I hear Chair and I couldn't figure who was calling me. Yes, Ms. Brooks?

MS. BROOKS: Thank you. I might add that this could be...

CHAIR VICTORINO: Speak up because you're...you have a soft voice and we can hardly hear you.

MS. BROOKS: Okay.

CHAIR VICTORINO: Go ahead, please.

MS. BROOKS: I might add that this could be seen as a nonsubstantive change because just tightening up the Charter, the process is, as Mr. Hokama has said. So the word acceptance as Members have discussed seems to imply that all have to accept it. But the process is as Mr. Hokama has described. So the change is really nonsubstantive.

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COUNCILMEMBER COCHRAN: Okay.

CHAIR VICTORINO: Okay. So then you wanna put the word review? Is that what I'm hearing from you, mister...

COUNCILMEMBER HOKAMA: I, you know, for me I can see a Planning Commissioner said that we didn't accept it.

CHAIR VICTORINO: Right.

COUNCILMEMBER HOKAMA: And so by our decision, that plan is void 'cause we never did accept the plan. We gave our version of the plan.

VICE-CHAIR COUCH: Right.

COUNCILMEMBER COCHRAN: Right.

COUNCILMEMBER HOKAMA: Okay. So who controls the plan then? The Commission or the Council? I think it needs to be clearer. We've always made it the intent for Council to formally adopt the final plan.

COUNCILMEMBER COCHRAN: Yeah.

COUNCILMEMBER HOKAMA: And that's why we're at the end of the process. You know, my thing is --

COUNCILMEMBER COCHRAN: Review.

COUNCILMEMBER HOKAMA: --if we are gonna work on this and state it clearly for the community. Because if anything, there's more confusion now on who is in charge of operations, Mayor or the Director?

CHAIR VICTORINO: Okay.

COUNCILMEMBER HOKAMA: It's gonna be interesting, Chairman.

CHAIR VICTORINO: Okay.

VICE-CHAIR COUCH: So, Mr. Chair, this is all outside of the scope of --

CHAIR VICTORINO: Right.

VICE-CHAIR COUCH: --this then.

CHAIR VICTORINO: And again...

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VICE-CHAIR COUCH: So I'm okay with taking that language out and then at another --

CHAIR VICTORINO: Another --

VICE-CHAIR COUCH: --time --

CHAIR VICTORINO: --point.

VICE-CHAIR COUCH: --putting in --

CHAIR VICTORINO: Yeah.

VICE-CHAIR COUCH: --exactly what the issue is or through 2.80B. As Mr. White says, it's fairly covered between...in the rest of the section.

CHAIR VICTORINO: Okay.

VICE-CHAIR COUCH: I thought that this would make it more clear but apparently, it --

CHAIR VICTORINO: So...

VICE-CHAIR COUCH: --it's seeming to muddy the water so I'm fine with --

CHAIR VICTORINO: Can we just remove it?

VICE-CHAIR COUCH: --removing it.

CHAIR VICTORINO: Do I have consensus to just remove it as it was originally bracketed out?

VICE-CHAIR COUCH: Yeah.

CHAIR VICTORINO: Consensus?

COUNCILMEMBER COCHRAN: Okay.

VICE-CHAIR COUCH: Consensus.

CHAIR VICTORINO: Okay. Moving right along. Okay. Go ahead. Anything else, gang? Do I see any other work on this? I'm asking, this document that's in front of you. We've completed the review. Is there anything else that needs to be added? Ms. Willenbrink, you have anything else you wanna add?

MS. WILLENBRINK: Were you going to address the emergency management?

CHAIR VICTORINO: You mean the Civil Defense issue? 'Cause it still says Civil Defense in here.

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MS. WILLENBRINK: May I defer to your attorney?

CHAIR VICTORINO: Ms. Brooks?

MS. BROOKS: There was some suggestion that a possible revision would be to clarify what the Mayor's powers are in the case of an emergency. Currently, the Mayor --

CHAIR VICTORINO: Yes.

MS. BROOKS: --is empowered under HRS, Chapter 127A.

COUNCILMEMBER BAISA: We need more volume.

CHAIR VICTORINO: Okay. You know what, bring that to me. Bring it to me. What it was, it was a...and I understand what she's asking now. Thank you, Ms. Brooks. And Ms. Brooks and Ms. Willenbrink spent a number of hours with me and Mr. Hokama will tell you that...okay. So what we had in the resolution, the Mayor may declare an emergency, right? He will declare the emergency, right? So what we were looking for is, we looked under the Revised Statutes, Chapter 127A, and it clearly states that what we're wanting to put in is having the authority to call a state of emergency, exercise emergency powers in the County provided by HRS, Chapter 127A, and other applicable laws. Well then it came to my attention that what if Chapter 127A of the Hawaii Revised Statutes is changed. Now what happens? So then I came up with this; that having the authority to call a state of emergency and exercise emergency powers in the County as provided by law. And that was the change that I wanted to add as far as the emergency declaration of the Mayor. 'Cause the Mayor then will be calling the state of emergency and exercising all emergency powers, calling whatever departments in, whatever necessary staff that needs to be brought forward during the course of the emergency. And I think the original language or somewhat is language was to have in consultation with the Managing Director. Well, we all know when emergencies hit, sometime this could be very difficult. I'm not saying that the Managing Director is not to be included, but this is an emergency. Go ahead. Mr. Couch?

VICE-CHAIR COUCH: Having been in a couple of times --

CHAIR VICTORINO: Yes.

VICE-CHAIR COUCH: --in the Emergency Operations Center, to have the Mayor who is required by HRS, who now no longer has any dealing with the department heads or anything all down there, all of a sudden be the one to manage the department heads. I have more heartburn on that. The...you got somebody who's not heavily involved with the departments as the Mayor is now who can say, okay, this we know where all this equipment is, we know where all that equipment is. But to be that person to now direct all of those as required by HRS, that's a little scary as well. I mean, yeah we need to get...the Managing Director needs to be in there, but how can we do that over HRS? I...

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CHAIR VICTORINO: Well again, you know, this is --

VICE-CHAIR COUCH: 'Cause there's --

CHAIR VICTORINO: --just a means...

VICE-CHAIR COUCH: --a lot of stuff that goes on down --

CHAIR VICTORINO: Yeah.

VICE-CHAIR COUCH: --in there.

CHAIR VICTORINO: And so...and I understand that. I've been in there, you know.

VICE-CHAIR COUCH: Yeah.

CHAIR VICTORINO: I've been inside that room doing the emergency. So I understand the coordination that --

VICE-CHAIR COUCH: Yeah.

CHAIR VICTORINO: --goes on between Police, Fire, Public Works and other agencies that are applicable. And so...but I don't know how...you're gonna let the Managing Director do it then you have to change the HRS. So I mean that was my means of trying to correct this problem. Again, just one of many that we had, one of the many that I came across. So, and at this point, if you rather just leave it as it is, that's fine. But again when the Mayor declares an emergency as stated, I would believe he would need the ability to direct people. Now, directing people doesn't mean you need to know where everything is. The people that you're directing should be the ones that know where everything is, Mr. Couch. And I think that it's just like a general. The general don't know where all his troops are but his colonels and his majors better know where everybody is and where every tank is or whatever. I mean you use protocols. Somebody used the word protocol yesterday like a military operation. Well, and all of us know, in most military operations, the real leaders of anything is master sergeant or chief petty officers, those who know the men, know the operation, and know where everything's at, not the generals. But that's another story and another conversation. Go ahead.

VICE-CHAIR COUCH: Which brings up another point.

CHAIR VICTORINO: Okay. Here we go.

VICE-CHAIR COUCH: Right now, this Council --

CHAIR VICTORINO: Yes.

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VICE-CHAIR COUCH: --cannot give direction to department heads or anybody in the --

CHAIR VICTORINO: That is correct.

VICE-CHAIR COUCH: --Administration. Now we have a third person, the Mayor...well the Mayor who is removed from department heads. Are we gonna put a provision in there that says the Mayor can't give direction? Or if not, because of the emergency powers thing then what's to prevent the Mayor from saying, you know, I really think you should do this, this and this, where we can't do that now. I'm just curious if there's an issue with that. It just came up now saying, oh --

CHAIR VICTORINO: Well again --

VICE-CHAIR COUCH: --what about the Mayor, if you got a...

CHAIR VICTORINO: --we're focusing on emergencies. The Mayor would --

VICE-CHAIR COUCH: But...

CHAIR VICTORINO: --not have an --

VICE-CHAIR COUCH: But in...

CHAIR VICTORINO: --opportunity in the...other than that during the emergency period.

VICE-CHAIR COUCH: Why not? It doesn't prohibit it at this point. So see, that's where more discussion needs to be had. So okay, thank you.

CHAIR VICTORINO: Okay. If we dig deep enough you can find a hole somewhere.

COUNCILMEMBER CRIVELLO: Yeah. Chair?

CHAIR VICTORINO: Go ahead.

COUNCILMEMBER CRIVELLO: I think there's a lot of holes. I mean --

CHAIR VICTORINO: You got that.

COUNCILMEMBER CRIVELLO: --if we're talking about the Mayor can do this, the Mayor can do that, but the Mayor does not appoint the directors.

CHAIR VICTORINO: No.

COUNCILMEMBER CRIVELLO: And like you just said, you know, they have all their underlings. And that's the Managing Director's call as far as having direction over the various departments and directors. So I...like you said, and like Mr. Couch says, there's more work that needs to be done on all of these, you know.

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CHAIR VICTORINO: Okay. Okay. So, you know, that's on the table also. And again that was just to clarify the point of, if the Mayor does declare an emergency and he or she is supposed to be conducting the emergency services, then I mean you can get the Managing Director. The Mayor goes to the Managing Director and the Managing Director tells the various department heads what to do. I don't know if that's a good chain of command, but that may be something we have to look at. And if that's the case, then HRS has to be changed because it specifically says the Mayor. So we need to go change some State laws. But like you said, Mr. Hokama, they should do it because we say it should be done. Anyhow, anything else, ladies and gentlemen?

COUNCILMEMBER COCHRAN: Chair?

CHAIR VICTORINO: Yes, Ms. Cochran?

COUNCILMEMBER COCHRAN: In this reference, I mean could it be like in conjunction with kinda language? I mean because we're tied to the HRS, so you can't really delete this function of the Mayor, you know. I mean the Mayor has every right to consult in others. As you state, to the people who actually know the ins and outs of what's going on and...so I mean they're not just gonna willy-nilly make a emergency call without consulting obviously people or being, you know, guided by other entities or what have you. So, and then I'm looking at...'cause it's on Page 8, right? Number 5, underline 5.

CHAIR VICTORINO: Right.

COUNCILMEMBER COCHRAN: And the 8, number 8, 18 is bracketed now. It's a new number 8; exercise other powers and perform other duties as may be prescribed by Charter or by law. So that is calling this emergency, state of emergency, which is in HRS law. So I mean that sentence to me states that they're, this person can do this emergency, you know, call a state of emergency just by that sentence also. But...so.

CHAIR VICTORINO: You mean the Managing Director can call a state of emergency?

COUNCILMEMBER COCHRAN: Well no, it says under the functions of the Mayor, correct?

CHAIR VICTORINO: Yeah.

COUNCILMEMBER COCHRAN: This section?

CHAIR VICTORINO: Yeah, yeah, yeah, yeah, yeah, yeah.

COUNCILMEMBER COCHRAN: Yeah, this is strictly just the Mayor.

CHAIR VICTORINO: The Mayor, yes.

COUNCILMEMBER COCHRAN: Mayoral.



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CHAIR VICTORINO: Yeah.

COUNCILMEMBER COCHRAN: But I mean, yeah I see the sort of Managing Director's not in here but probably should have a say so. I just thought of course the Mayor I would think would work in conjunction with that person. So that doesn't necessarily I think --

CHAIR VICTORINO: I don't think, you know --

COUNCILMEMBER COCHRAN: --have to be stated --

CHAIR VICTORINO: --putting...

COUNCILMEMBER COCHRAN: --in here.

CHAIR VICTORINO: Yeah, and...

COUNCILMEMBER COCHRAN: You know.

CHAIR VICTORINO: But putting in conjunction, what does conjunction mean?

COUNCILMEMBER COCHRAN: Yeah. Or, you know, some term. I don't know if that's the proper word but...

CHAIR VICTORINO: Yeah.

COUNCILMEMBER COCHRAN: And...

CHAIR VICTORINO: Because when there's an emergency, you really need to move on things 'cause you can't be...and you just said --

COUNCILMEMBER COCHRAN: Right.

CHAIR VICTORINO: --willy-nilly. You can't wait. You gotta get that done. This is one of those times when emergency occurs, you better be ready to move. And if the Mayor is the one that's gotta address it and declare it, then the Managing Director then takes over and does all the work. But then what happens if the Mayor wants something different or feels something else should be done? I don't know. Yes, Mr. White?

COUNCILMEMBER WHITE: Thank you, Chair. How about if we say, have the authority to call a state of emergency and authorize the Managing Director to exercise emergency powers as provided by law.

COUNCILMEMBER COCHRAN: What?

COUNCILMEMBER WHITE: The Mayor shall have the authority to call a state of emergency and authorize the Managing Director to exercise emergency powers in the County as

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provided by law. Because the Managing Director is the one who's gonna have to effectuate it, and because he runs the --

CHAIR VICTORINO: Right.

COUNCILMEMBER WHITE: --various departments. But the Mayor has...the Mayor will have the ability to call it. And in doing so, he can authorize the Managing Director to carry out the necessary steps.

COUNCILMEMBER GUZMAN: Yeah.

COUNCILMEMBER COCHRAN: Right.

COUNCILMEMBER GUZMAN: I would agree with that.

COUNCILMEMBER COCHRAN: There you go.

CHAIR VICTORINO: Let me handle this. Wait, I'm thinking. I'm thinking. Okay. Hang on. Mr. Kushi, you heard the suggestion by Mr. White?

MR. KUSHI: Yeah. Mr. Chair, did you pass out a copy of the HRS to the Members?

CHAIR VICTORINO: No.

UNIDENTIFIED SPEAKER: Yes.

COUNCILMEMBER WHITE: I...yeah, I think...

CHAIR VICTORINO: Oh, you did? Oh, they have. They have. Okay. I'm sorry. Yes we did. I apologize.

MR. KUSHI: Okay. I'm referencing the handout, the HRS, 127A Chapter. Look on page...it's in the back. It's...

CHAIR VICTORINO: Which page? They're not numbered so...

COUNCILMEMBER WHITE: They're not.

CHAIR VICTORINO: Oh, yeah, they're numbered.

COUNCILMEMBER WHITE: Page 3 of 5.

MR. KUSHI: Okay, okay. Yeah, yeah, yeah. Starting from Page 3.

CHAIR VICTORINO: Three?

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MR. KUSHI: Three of 5, yeah. Right in the middle, it says C as in cat. The Mayor may authorize the following powers pertaining to emergency management. You move on to Page 5 of 5, subsection 14. And the...if the Mayor declares an emergency and then he has the power to order and direct all government agencies, officers, employees of the County. It should include the Managing Director. So in case of emergency, I read this scheme to be that the Mayor is the chief and he can order the Managing Director to do whatever he wants.

COUNCILMEMBER GUZMAN: Okay. So no need the language.

MR. KUSHI: So I don't think there's a need to revise your proposals.

CHAIR VICTORINO: Okay.

COUNCILMEMBER COCHRAN: Okay.

CHAIR VICTORINO: Sounds good to me.

COUNCILMEMBER COCHRAN: All right.

CHAIR VICTORINO: Yeah. Thank you, Mr. Kushi.

MR. KUSHI: Mr. Chair?

CHAIR VICTORINO: Yes, sir?

MR. KUSHI: If you're done with that, in conjunction with your discussion --

CHAIR VICTORINO: Yes, sir.

MR. KUSHI: --at Page 35 --

CHAIR VICTORINO: Thirty-five.

MR. KUSHI: --of the proposed resolution.

CHAIR VICTORINO: Thirty-five.

MR. KUSHI: Section 9-9, subsection 2; to meet public emergency, et cetera, et cetera, upon written request of the Mayor, which is bracketed out, the Managing Director may pass so and so. To be consistent with the emergency declaration, I believe you should leave the Mayor in, not the Managing Director.

CHAIR VICTORINO: Do you guys see where that is on section 2?

COUNCILMEMBER WHITE: Yeah.

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CHAIR VICTORINO: Page 35.

COUNCILMEMBER WHITE: Page 35, the last paragraph.

CHAIR VICTORINO: Nine point nine, 9-9 I should say, the very last paragraph on the page, Mr. Guzman, number 2.

COUNCILMEMBER GUZMAN: Right.

CHAIR VICTORINO: To meet a public emergency threatening life, health, or property, the Council, upon written request by...and it's bracketed out, Mayor, and it says Managing Director, may pass emergency appropriations. Such appropriations shall be made by ordinance, which shall then take immediate effect and must be approved by not less than seven Members of the Council. So you still have control. I mean the Mayor can't just go off wild. But that's what he's trying to say to effectuate consistency. Yeah, mister...

MR. KUSHI: Correct. With the HRS, 127A.

COUNCILMEMBER GUZMAN: So it's striking...

CHAIR VICTORINO: So what I, then I would be --

MR. KUSHI: We're leaving it --

CHAIR VICTORINO: --suggesting --

MR. KUSHI: --back.

CHAIR VICTORINO: --is take out Managing Director and bracket out or leave the Mayor in there and take the brackets out.

COUNCILMEMBER GUZMAN: Yeah.

CHAIR VICTORINO: Is that okay? Okay. Mr. White?

COUNCILMEMBER WHITE: Yeah. I agree.

CHAIR VICTORINO: Okay. Okay. Thank you, Mr. Kushi. You know, that's why we have you here. Anything else? It seems like we're just about done with this document as far as...and I believe people still have some questions. So what I'm going to say because it's almost 12:00, it's 20 of 12:00. And I really would like...I guess there's no choice on the matter to go into July 5<sup>th</sup> and have that special meeting. And this would be the first thing we'd bring up and look at, Mr. White, maybe proposing yay or nay, and seeing where this goes.

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COUNCILMEMBER WHITE: I think it's appropriate for us to...I think Mr. Carroll had a very good point that the...that with changes, it's appropriate for us to make the changes. Put them on --

CHAIR VICTORINO: Yeah. No --

COUNCILMEMBER WHITE: --you know --

CHAIR VICTORINO: --we'll do that.

COUNCILMEMBER WHITE: --that website --

CHAIR VICTORINO: Yeah.

COUNCILMEMBER WHITE: --and so forth so that --

CHAIR VICTORINO: Yeah.

COUNCILMEMBER WHITE: --the public has an opportunity --

CHAIR VICTORINO: Yeah.

COUNCILMEMBER WHITE: --to take a close look at them --

CHAIR VICTORINO: Yeah.

COUNCILMEMBER WHITE: --and...

CHAIR VICTORINO: This gets the six days so that should be able to get done.

COUNCILMEMBER WHITE: But I also feel that it's...it might be appropriate to have this not a recess meeting but a, you know, a posted meeting so that we can accept testimony on the item.

CHAIR VICTORINO: Mr. Kushi, you have something...oh, I'm sorry, Mr. White, I'm sorry.

COUNCILMEMBER WHITE: Because I think it's, it is something that I feel reasonably comfortable with the changes that we've put through, and we have a couple more that need a little more clarity. But I think we're very close to having something that's workable. And...but I think it's appropriate for the public to have another opportunity to speak to it.

CHAIR VICTORINO: So we're gonna spend the whole day again now on this item? Is that what your referring to, sir?

COUNCILMEMBER WHITE: Or...

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CHAIR VICTORINO: 'Cause I do have the other items that I really would like to give everybody a shot at.

COUNCILMEMBER WHITE: Yeah.

CHAIR VICTORINO: You know, so again, I'm here to make it fair. But I cannot be fair if I spend my whole time with this and then come...we never get to the other ones. So I'm trying to find the balance, Mr. Chair.

COUNCILMEMBER WHITE: Yeah. No I...

CHAIR VICTORINO: I'm trying to find the balance.

COUNCILMEMBER WHITE: No and I think you've done an admirable job of conducting the meeting. It's my feeling that we have some wiggle room with respect to timeframes within which to get this done. And I think between now and the 5<sup>th</sup>, we can take a look at what those timeframes might allow us to do. But I think this issue needs to be, you know, given another shot by the public. And...but, you know, again that's your call and...

CHAIR VICTORINO: Thank you very much. Always punt back to me. I love it. Yes, Ms. Baisa?

COUNCILMEMBER BAISA: Chair, don't shoot the messenger. But, you know, if we're saying that we need to spend time looking at this and have another meeting, I hate to say it but I think that if we're gonna get community input, we're talking about testimony. And I know what that does to our schedule. But, you know, if we want public testimony and a reaction as to the changes we've made, that's our chance to get it. So if we're gonna do that, then that's the price. If not, then we deal with it today. Because I am concerned about what Member Guzman is saying, we got a whole bunch of --

CHAIR VICTORINO: Yeah.

COUNCILMEMBER BAISA: --amendments. And if we do this on the 5<sup>th</sup>, I don't know you're gonna get to the amendments.

CHAIR VICTORINO: It may be a challenge but I mean we have some other wiggle room so, like Mr. White has mentioned so. And again, the question that I have for you folks is, are we dedicated? I need you guys' assistance in making sure that all nine are here. Like now, Mr. Hokama is not here and I know he had to run out for a special meeting he had told me about. So, it's important, you know. I want all nine. When this vote is taken, nine will be here or this vote will not be taken. Yes, Ms. Crivello?

COUNCILMEMBER CRIVELLO: Are you gonna take roll right now if we all, nine of us, will be here? With your, what you're saying? Are you gonna get confirmation today that all of us will be here...

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CHAIR VICTORINO: On the 5<sup>th</sup>?

COUNCILMEMBER CRIVELLO: On the 5<sup>th</sup> --

CHAIR VICTORINO: Yeah.

COUNCILMEMBER CRIVELLO: --as to that, your schedule.

CHAIR VICTORINO: Yeah. Well, it's not my schedule. It's the schedule I could find and that's the only time.

COUNCILMEMBER CRIVELLO: Yes.

CHAIR VICTORINO: Yeah. So again, who cannot be here on the 5<sup>th</sup>? And, you know, Mr. Couch has a special problem right now, I mean special challenge. And we pray everything works out for you and your family, Mr. Couch, and especially your mom. I know the feeling. You know, I was away when my mom passed and it was really hard. But I understand that, so. And so, you know, again, we may have to --

VICE-CHAIR COUCH: Thank you.

CHAIR VICTORINO: --defer until you come back.

VICE-CHAIR COUCH: Thank you for those words. It's looking --

CHAIR VICTORINO: Yeah.

VICE-CHAIR COUCH: --like --

CHAIR VICTORINO: I'm sorry.

VICE-CHAIR COUCH: --I'm leaving.

CHAIR VICTORINO: Yeah, yeah. Okay. So again, you know, I can look for other dates but I don't know when Mr. Couch will be back. None of us know that.

COUNCILMEMBER CRIVELLO: Well I'm just --

CHAIR VICTORINO: Yeah.

COUNCILMEMBER CRIVELLO: --trying to follow through on your concern of having all nine Members here to vote.

CHAIR VICTORINO: Quick recess, subject to the call of the Chair. . . .*(gavel)*. . .

**RECESS: 11:44 a.m.**

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**RECONVENE: 11:53 a.m.**

CHAIR VICTORINO: . . .*(gavel)*. . . The meeting will reconvene. After long discussions with various Members and, you know, knowing that we need to make a decision, and again, I know there's so many more questions that need to be answered. I wanna be fair and honor the fact that the Committee has worked really, really hard. And I wanna honor them by doing and getting a vote to move or not to move this forward. We've done a lot of work. We've made what I consider the corrections that were necessary. You know, it wasn't to change what you did. It was to make the changes so that it would conform with HRS' and other issues. And I think we've...and I thank Mr. Kushi and the Legal Department, even our Staff, for working so hard in doing that. So I would like to make my recommendation.

COUNCILMEMBERS: Recommendation.

CHAIR VICTORINO: The Chair would like to make a...have someone make a motion for the proposed resolution, proposing an amendment to the Revised Charter of the County of Maui (1983), as Amended, to Provide That a Managing Director Shall be Appointed by the County Council to Function as the Chief, County's Chief Operating Officer, with the Elected Mayor Retain *[sic]* with the Powers to Represent the County in Intergovernmental Relations, Approve or Veto Bills, and Nominate Members of Boards and Commissions; and all amendments that have been made and approved by all of you, either by consensus or by vote. So did I cover that, Ms. Willenbrink? All the various amendments?

MS. WILLENBRINK: We could check with the attorneys, but you did not say a motion to pass on first reading. I don't know if that's necessary.

CHAIR VICTORINO: No. I don't think it's necessary here. Okay. 'Cause we're passing it out to the Council. Okay.

VICE-CHAIR COUCH: I'm sorry, Mr. Chair. I didn't hear. You were...you read the resolution but your recommendation is to approve it or not?

CHAIR VICTORINO: To approve, yes.

VICE-CHAIR COUCH: Okay.

CHAIR VICTORINO: To approve.

COUNCILMEMBER WHITE: With nonsubstantive...

CHAIR VICTORINO: With nonsubstantive change --

COUNCILMEMBER WHITE: Yeah.



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CHAIR VICTORINO: --and the Staff can change --

COUNCILMEMBER WHITE: Yeah.

CHAIR VICTORINO: --and make those, yeah.

COUNCILMEMBER WHITE: So...

CHAIR VICTORINO: And the filing of County Communication from the Chair of the Special Committee on Governance dated December 17, 2015, and filing of County [sic] Report 16-95.

COUNCILMEMBER WHITE: So moved, Chair.

COUNCILMEMBER COCHRAN: Chair, I second the motion.

CHAIR VICTORINO: It's been moved by Mr. White and seconded by Ms. Cochran. And, Mr. White, I will give you the first opportunity.

COUNCILMEMBER WHITE: Well, Chair, I appreciate the openness with which you've conducted this. I think we've made some very appropriate changes to the document. And I think this is a very important move for us to consider. And with that, I'm...I will support your recommendation.

CHAIR VICTORINO: Thank you. Mr. Guzman, do you have anything you'd like to add?

COUNCILMEMBER GUZMAN: Yeah. Thank you, Chair. I will support your recommendation strategically only. And I'm gonna speak only about for myself. I'm in full support of 10(7), the other initiative that's not before us, this body, right now. And my concern is, if this 10(16) gets into Council, and it doesn't pass out of Council, 10(7) is still lingering, and may not even be heard. So there's no changes whatsoever to the government. So my vote will be yes on this and yes on 10(7) if it gets heard. So whichever one dies in the Council, lives on and gets an appropriate change in our government. So strategically that's why I'm gonna vote yes on this one.

CHAIR VICTORINO: Thank you.

COUNCILMEMBER GUZMAN: So that there's an opportunity for both measures to be heard, whichever one makes it out of the full Council, it's the change that we live with. So thank you.

CHAIR VICTORINO: And I'll assure you that will be heard, you know. At our next meeting, we will hear 10(7) and the rest of 'em. Even though, and then we can see how we can in conjunction to or if it is different. And if this fails, then that --

COUNCILMEMBER GUZMAN: Right.

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CHAIR VICTORINO: --become applicable as discussion on it.

COUNCILMEMBER GUZMAN: I'm just assuring --

CHAIR VICTORINO: Yeah.

COUNCILMEMBER GUZMAN: --you know --

CHAIR VICTORINO: Yeah.

COUNCILMEMBER GUZMAN: --the fact that if 10(7) doesn't make it, then 10(16) dies at full Council, there'll be no change whatsoever. So I need to get that 10(7) up there.

CHAIR VICTORINO: Okay.

COUNCILMEMBER GUZMAN: Thank you.

CHAIR VICTORINO: Mr. Hokama? Thank you, Mr. Guzman.

COUNCILMEMBER HOKAMA: Chairman, I speak against the motion. I believe 10(7) is the more appropriate adjustment to our structure of governance. Thank you.

CHAIR VICTORINO: Thank you. Ms. Crivello?

COUNCILMEMBER CRIVELLO: You know, I don't have to repeat myself.

CHAIR VICTORINO: Yeah.

COUNCILMEMBER CRIVELLO: And so I vote no on your recommendation, Mr. Chair.

CHAIR VICTORINO: Well, you don't have to vote now. You just...

COUNCILMEMBER CRIVELLO: . . .*(inaudible)*. . .

CHAIR VICTORINO: Yeah, thank you. Mr. Couch?

VICE-CHAIR COUCH: Thank you, Mr. Chair. You know, as I mentioned, we've gone through a lot of work the last two days, but it has raised more questions to me than it has answers. I want this to be done correctly. I still want it to be done. It's unfortunate we have this time constraint, that was kind of our own doing. We might have wanted to start earlier with the committee. The committee did great work. They have a good recommendation and I wanna see that recommendation go but not with this. You know, we did a lot of good discussion but there's just more questions keep coming up. So at this point I can't support it. More work in the next six months and then it might be worth putting it --

CHAIR VICTORINO: Well...

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VICE-CHAIR COUCH: --to the next ballot.

CHAIR VICTORINO: I will assure that this will...this report and this will not just die today, you know. Somehow, some way, I'm gonna wanna see this moved on and/or at least being brought back up again. Even if I won't be in this Chambers, I believe it's time to have the discussion and really cover the bases. And I hope the next Council doesn't punt to somebody else. They do it themselves. That's my feeling. Ms. Cochran?

COUNCILMEMBER COCHRAN: Thank you, Chair. And I'm in support of this actually --

CHAIR VICTORINO: Okay.

COUNCILMEMBER COCHRAN: --you know. And I think the Special Committee that we, you know, created to work on it did a lot of work and brought the document that we have here today. And then, you know, Mr. Couch definitely had a lot of questions. And so we took all, you know, part of last meeting and then all of today, to vet through that. So I think we did a lot of the tweaking, so to speak, to it from the work that was thoroughly done through Special Committee. And it is unfortunate that perhaps, Corporation Counsel really wasn't that, you know, involved at the time during the Special Committee work. But, you know, Mr. Kushi explained that and apologized. But he had his say here today and we implemented his things into this document. So for where it stands, I am in support. But also 10(7) and some of the other proposals, I believe if this does not go through will help address I think the issues that occur within existing form of governance. And looking forward to that discussion, too. So at this point, I know this is a tall order and really flipping things on its head in a lot of ways. But I'm in support and would like to see...I, in the, you know...I'm in the part where we don't know unless we try. And I don't think there's gonna really be some huge, hugely unfixable negative consequences with this call. So at that point, Chair, I just...that's my thoughts.

CHAIR VICTORINO: Thank you.

COUNCILMEMBER COCHRAN: Thank you.

CHAIR VICTORINO: Ms. Baisa?

COUNCILMEMBER BAISA: No, thank you. I've made my feelings clear. Thank you.

CHAIR VICTORINO: And, Mr. Carroll?

COUNCILMEMBER CARROLL: Thank you, Chair. The bill before us today is not the bill that was sent to us. This is a different bill. This is a bill, a Council bill, not from the committee. It's a \_\_\_\_\_ from the Committee that we have changed and altered. In altering it, we have made this bill over here to where the Council now has many other powers, many...more authority. This was not run by the general public. The committee that gave us the original bill had no chance to have meetings on this. They

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had no chance to get the input from people if they like the changes or not. I don't think it's appropriate. It sounds nice, yeah. Okay, wow, we're being responsive. No we're not. We're being exactly the opposite. If this was a bill that I had in my Committee, to okay a land use change, and we changed it that much, what came from the Planning Commission and everybody else, nobody would vote for it. If this was a law that we were...was before this Council, this Committee, or this Council, what would be before the Council. No way would this happen with the changes made because everybody would say; hey this is not what was submitted to us when it came. And we've made the changes, and we could say the changes are self-serving. It's not appropriate. I am one that supports having the public go over there and have something on the ballot that they can make the decision. But the one that goes on the ballot should be what came from the committee and was vetted by the public to where they had the chance to go over there and say what they wanted to have on the ballot. They have not had that chance. So I cannot support the motion on the floor. Thank you, Chair.

CHAIR VICTORINO: And thank you, Mr. Carroll. And I do agree with what you've said that we've changed it. But again, many of these changes were effectuated by looking at and which the committee may not have had all the time to look at the various obstacles with HRS, and the letter from the Attorney General which stated that the route we were going may be challengeable. So we did all this work to make those plausible changes so that we could get a bill so that the people would be able to choose. I agree. So it's...I think the work we did the last few days was not to take away what the committee gave to us. It was really to enhance it and that was my point of view. We were trying to make it better, not to take away but to make it better. They worked hard. And we wanted to make sure that it didn't get to the voters, and then have a legal challenge after it was passed. And we've had those experiences also. And I can tell you right now that people would be willing to challenge it if not corrected. That's all we did, Mr. Carroll. So, but that being said, you know, now it's my opportunity, Bob, I gave you a chance. Now let me finish. And, you know, and I'm not discouraging or disputing what you said. It is a different bill. Absolutely. But I believe a bill that, like Mr. White said, is more plausible and much more adoptable to what we're trying to accomplish here. So I feel good about what we did. But go ahead, Mr. Carroll. I will give you one more opportunity.

COUNCILMEMBER CARROLL: I'm taking your place.

CHAIR VICTORINO: Go right ahead.

COUNCILMEMBER CARROLL: All what you said is true and what I said is true.

CHAIR VICTORINO: Yes.

COUNCILMEMBER CARROLL: But I would just close with a final thing --

CHAIR VICTORINO: Yes.

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COUNCILMEMBER CARROLL: --that we are the ones making the decision. The public does not have a chance to do this. If it was any other item on this floor, I don't know of any Councilmember who would support it. And I'll leave it at that.

CHAIR VICTORINO: Okay.

COUNCILMEMBER CARROLL: Thank you, Chair.

CHAIR VICTORINO: Thank you, Mr. Carroll. Yes, Mr. Couch? One more time.

VICE-CHAIR COUCH: Thank you, Mr. Chair. What...yeah, my second on this motion.

CHAIR VICTORINO: Yes.

VICE-CHAIR COUCH: The one thing that we haven't even looked at was HRS. It's been talked HRS, there are some HRS that needs to change for this to work, not just the civil service one but other HRS.

CHAIR VICTORINO: Yes.

VICE-CHAIR COUCH: So what happens if this passes out and HRS doesn't change? Then where are we? So we haven't even discussed those ramifications. And the one thing that we...hasn't even been mentioned until I just thought about it this morning is, County Code needs to change. There are 110 places where the word Mayor shows up. Some of 'em are, you know, Mayor Tavares Park.

CHAIR VICTORINO: Yeah, yeah, yeah --

VICE-CHAIR COUCH: Yeah.

CHAIR VICTORINO: --yeah, yeah, yeah.

VICE-CHAIR COUCH: But there are 110 different places in the County Code where it says Mayor. So that's County Code that we haven't even looked at yet to see if we need to change that should this go through. We should know what the ramifications are before we go any further in my opinion. That's where I'm having my concerns.

CHAIR VICTORINO: Everyone has had a opportunity, I'm gonna look around one more time for second and final opportunity. Yes, Ms. Crivello?

COUNCILMEMBER CRIVELLO: Thank you. I just want to say I agree with...on Councilmember Couch's comments because it's...this is not a small thing --

CHAIR VICTORINO: Yes.

COUNCILMEMBER CRIVELLO: --that we're trying to offer to our constituents and the voters. It's major.

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CHAIR VICTORINO: Yeah.

COUNCILMEMBER CRIVELLO: You know, it's balancing of power. We have a flat slate if you ask me except maybe during the emergency. And even the veto power for the Mayor, I mean how is...will he or she be fully in tune with our managing or the appointed Managing Director? So we don't get it...take away the politics. It remains. But I want to just say this again, we have an Executive, and we have Legislative branches. So are we putting this all in place? There's much work that needs to be done. Just in the short time that we've worked on it and kinda unfair to the committee that put in all this time that they didn't have the kind of counsel that they deserved to come up with the final resolution. And not to say it can never be brought up again, it's how much time we will be putting into this to fully vet and present to the public. We have an accountability to our voters and my decision may not please voters, but I do represent the constituents all of Maui County, Molokai, Lanai and Maui. And so I take in full responsibility on my decision. Thank you.

CHAIR VICTORINO: Thank you. Seeing no more...yes, Ms. --

COUNCILMEMBER COCHRAN: Yeah.

CHAIR VICTORINO: --Cochran?

COUNCILMEMBER COCHRAN: I'm really raising my hand for something now.

CHAIR VICTORINO: Yeah. Well I, you know...

COUNCILMEMBER COCHRAN: Thank you, Chair. And real briefly I hope. So...and I'm hearing everyone's concerns and, you know, that's what we're about. And I just, you know, don't wanna lose sight that this whole talk is in reference to the question to be put on the ballot for this community to vote on. And yes, the nitty-gritty is what we've been going through the last few days. Personally, this is just me, that I'm comfortable with what is in here. And it's on each and every one of our parts to educate the community prior to the November ballot coming out on what it is this question is pertaining to and what they're gonna be voting on. And so that's how I feel. And I wanna focus that this is the democratic party. This is to get the voice of the people and the community and our constituents that put us in these seats to make a decision on. And that's fine. They can vote it up or down just as we all can sitting here. But for me, the bottom line is to put this question on the ballot for the community to vote on or not. And then the finer details are what's sitting in front of us, and that's our kuleana to go out and educate them about what that is. And that's how they're gonna make the decision come November. So, Chair, that's my thoughts, my --

CHAIR VICTORINO: Thank you.

COUNCILMEMBER COCHRAN: --final concluding, and I'm ready to vote.

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CHAIR VICTORINO: All right. Thank you.

COUNCILMEMBER GUZMAN: Okay.

CHAIR VICTORINO: For your second --

COUNCILMEMBER GUZMAN: I guess --

CHAIR VICTORINO: --and final time.

COUNCILMEMBER GUZMAN: --everybody's doing a second.

CHAIR VICTORINO: Okay. Go ahead.

COUNCILMEMBER GUZMAN: Okay. Chair, yeah, just to reiterate what my point of view is, I would rather vote on this measure as well as 10(7) in full Council, pass them both out to full Council. So at that point, I know that there will be a change either way. But passing one out and one not, I don't know at this stage. So I would rather see them both be there and voted on full Council. So at least I know for sure there will be a change.

CHAIR VICTORINO: Okay.

COUNCILMEMBER GUZMAN: Thank you.

CHAIR VICTORINO: Thank you. Anything else? Seeing none, and I'm gonna do this by roll call. It's Chair's decision to do it by roll call. So, Ms. Willenbrink, will you start? Go ahead.

MS. WILLENBRINK: Councilmember Robert Carroll.

COUNCILMEMBER CARROLL: No.

MS. WILLENBRINK: Councilmember Gladys Baisa.

COUNCILMEMBER BAISA: No.

MS. WILLENBRINK: Councilmember Elle Cochran.

COUNCILMEMBER COCHRAN: Aye.

MS. WILLENBRINK: Councilmember Don Couch.

VICE-CHAIR COUCH: No.

MS. WILLENBRINK: Councilmember Stacy Crivello.

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COUNCILMEMBER CRIVELLO: No.

MS. WILLENBRINK: Councilmember Riki Hokama.

COUNCILMEMBER HOKAMA: No.

MS. WILLENBRINK: Councilmember Don Guzman.

COUNCILMEMBER GUZMAN: Aye.

MS. WILLENBRINK: Councilmember Mike White.

COUNCILMEMBER WHITE: Aye.

MS. WILLENBRINK: Committee Chair Mike Victorino.

CHAIR VICTORINO: Only on the revised resolution would I voted yes. And that's what I'm gonna vote on the revised resolution. Yes.

MS. WILLENBRINK: There's four "ayes," five "noes"; motion fails.

**VOTE:**        **AYES:**        **Chair Victorino and Councilmembers Cochran, Guzman, and White.**

**NOES:**        **Vice-Chair Couch and Councilmembers Baisa, Carroll, Crivello, and Hokama.**

**EXC.:**        **None.**

**ABSENT:**     **None.**

**ABSTAIN:**    **None.**

**MOTION FAILED**

CHAIR VICTORINO: All right. I'm going to recess this meeting to July 5<sup>th</sup> and then we'll finish up all the rest of the items that we have on the meeting. This meeting is in recess.

MS. WILLENBRINK: Chair? Do you want...

CHAIR VICTORINO: Nine a.m. here. Yeah, 9:00 a.m. here. Okay?

MS. WILLENBRINK: And did you wanna defer this matter?

CHAIR VICTORINO: What's that?



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MS. WILLENBRINK: Did you want to defer this matter --

CHAIR VICTORINO: Yes.

MS. WILLENBRINK: --to the next...

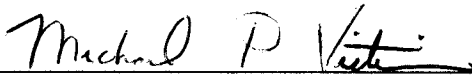
CHAIR VICTORINO: Yeah. Okay. Defer this matter. Yeah. Thank you.

**ACTION: DEFER pending further discussion.**

CHAIR VICTORINO: This meeting is in recess. . . .(gavel). . .

**RECESS: 12:14 p.m.**

APPROVED:



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MICHAEL P. VICTORINO, Chair  
Policy and Intergovernmental Affairs Committee

pia:min:160629r:acqp

Transcribed by: Ann Carmel Q. Pugh

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CERTIFICATE

I, Ann Carmel Q. Pugh, 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 18<sup>th</sup> day of July, 2016, in Kula, Hawaii

A handwritten signature in cursive script, appearing to read "A.C. Pugh", is written over a horizontal line.

Ann Carmel Q. Pugh