

GOVERNANCE, ETHICS, AND TRANSPARENCY COMMITTEE

Council of the County of Maui

M I N U T E S

Council Chamber

October 1, 2019

CONVENE: 9:03 a.m.

PRESENT: Councilmember Michael J. Molina, Chair
Councilmember Keani N.W. Rawlins-Fernandez, Vice-Chair
Councilmember Riki Hokama (arrived at 9:05 a.m./left at 12:15 p.m.)
Councilmember Tasha Kama
Councilmember Kelly T. King (left at 12:15 p.m.)
Councilmember Alice L. Lee (arrived at 9:08 a.m.)
Councilmember Tamara Paltin
Councilmember Shane M. Sinenci
Councilmember Yuki Lei K. Sugimura

STAFF: Shelly Espeleta, Legislative Analyst
David Raatz, Supervising Legislative Attorney
James Forrest, Legislative Attorney
Pauline Martins, Committee Secretary

Don Atay, Executive Assistant to Councilmember Sinenci

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

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

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

ADMIN.: Edward S. Kushi, Jr., First Deputy Corporation Counsel, Department of the Corporation Counsel
John Buck, Deputy Director, Department of Parks and Recreation
John Holiona, Deputy Corporation Counsel, Department of the Corporation Counsel
Iwalani Gasmen, Deputy Corporation Counsel, Department of the Corporation Counsel

OTHERS: Jasee Law
His Highness Kaua
Plus (1) other person

PRESS: *Akaku Maui Community Television, Inc.*

**GOVERNANCE, ETHICS, AND TRANSPARENCY
COMMITTEE**

Council of the County of Maui

October 1, 2019

CHAIR MOLINA: . . . *(gavel)* . . . The Governance, Ethics, and Transparency Committee meeting for Tuesday, October 1, 2019 will now be called to order. Good morning, everyone. It's two minutes after the hour of 9:00 a.m. Thank you for being here to address our proceedings which are on our agenda today. But, before we start, as many of you know, we lost a very beloved friend and Council colleague last week, the passing, of course, Mr. Danny Mateo, and I would just like to ask for a brief moment of silence.

[Moment of Silence for Danny Mateo.]

CHAIR MOLINA: Thank you very much, Members. Okay. Well again, thank you, again, for being here on this, my goodness, first day of October. Let's see who's here. Let's recognize our Member from Kahului, Ms. Kama, good morning.

COUNCILMEMBER KAMA: Aloha kakahiaka, Chair.

CHAIR MOLINA: Aloha. And we have our colleague from Upcountry, Maui, Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Good morning.

CHAIR MOLINA: Good morning to you. And from West Maui, Ms. Paltin.

COUNCILMEMBER PALTIN: Aloha kakahiaka, Chair.

CHAIR MOLINA: Aloha. And, of course, my wonderful Vice-Chair from Molokai, Ms. Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Aloha kakahiaka, Chair.

CHAIR MOLINA: Good morning. And we have our Council Chair, Kelly King.

COUNCILMEMBER KING: Good morning.

CHAIR MOLINA: Good morning. And, of course, all the way from wonderful Hana, Maui, Mr. Sinenci.

COUNCILMEMBER SINENCI: Aloha kakahiaka, Chair.

CHAIR MOLINA: Aloha kakahiaka to you, too. And excused this morning, we have Members Alice Lee and Riki Hokama. Committee Staff, we have Shelly Espeleta and Pauline Martins, good morning, ladies. And from Corporation Council, we have Mr. Ed Kushi, good morning.

MR. KUSHI: Good morning.

**GOVERNANCE, ETHICS, AND TRANSPARENCY
COMMITTEE**

Council of the County of Maui

October 1, 2019

CHAIR MOLINA: Members, we have, one...two...three...four items on our agenda this morning. But before we address our agenda items, Chair will be taking public testimony. For the public's information, you will be given three minutes to testify. Please state your full name for the record. And if you are a lobbyist, please inform the Council Committee of that consideration.

MR. LAW: Aloha kakahiaka.

CHAIR MOLINA: So, at this point, Ms. Espeleta, do we have anyone signed up for testimony?

MS. ESPELETA: No.

CHAIR MOLINA: No? Okay. Well, I see Mr. Law. Okay, Mr. Law, if, after you're done, we're going to go out to our, the neighbor islands. But, first, Mr. Law, can you state your full name for the record.

. . . BEGIN PUBLIC TESTIMONY . . .

MR. LAW: First, I'd like to welcome Mister Councilman from Lanai, Riki Hokama.

CHAIR MOLINA: All right. Good morning, Mr. Hokama.

COUNCILMEMBER HOKAMA: Good morning.

MR. LAW: Yes, he's...

CHAIR MOLINA: Okay. Mr. Law, go ahead and state your full name for the record and...

MR. LAW: Jasee Law from Kula. So, yeah, Mr. Hokama reminds me of rules. If we could have a rule about shoes, then I'd appreciate it, Mr. Chairman. No, seriously, the Council rules speaking of the time limit on there, I think it was on there --

COUNCILMEMBER KAMA: Oh, yeah.

MR. LAW: --amendments to the oral testimony.

COUNCILMEMBER KAMA: Three minutes.

MR. LAW: I think, seriously, that we should have a born-here rule. If you're born here, then you get maybe two minutes and then, if you're not, then you only get one minute. And don't waste time reading the decorum act. Mr. Mateo, who didn't have to be reminded about decorum, would tell you that we don't have much time. Time is limited for us kanakas here on Earth. I was reminded yesterday at the Water meeting that there is

**GOVERNANCE, ETHICS, AND TRANSPARENCY
COMMITTEE**

Council of the County of Maui

October 1, 2019

no, speaking of the, I think you guys are hopefully going to speak about the furniture in here and the accouterments. So, Ms. King would probably be able to tell us about feng shui, where you're supposed to have the flowing water. Thank you, Mr. Chairman.

CHAIR MOLINA: Okay, thank you, Mr. Law. Members, any questions for Mr. Law at this point? Seeing none, thank you, Jasee. Is there anyone else that has signed up to testify here in the Chambers? Okay, seeing none, let's go out to Molokai. And, Ms. Lindo, do we have anyone on Molokai that would like to testify on our agenda items today? Let's see, do we have ...

MS. LINDO: Aloha and good morning, Chair, this is Zhan at the Molokai Office and there are no testifiers.

CHAIR MOLINA: Okay, mahalo. Let's go out to Lanai and Ms. Fernandez. Do we have anyone on Lanai that would like to testify on our agenda today?

MS. FERNANDEZ: Good morning, Chair, this is Denise Fernandez at the Lanai Office and there are no testifiers.

CHAIR MOLINA: Okay, mahalo. And let's go out to Hana. And, Mavis, do we have anyone out in Hana that would like to testify on our agenda today?

MS. OLIVEIRA-MEDEIROS: Good morning, Chair, this is Mavis from the Hana Office and there's no one here to testify.

CHAIR MOLINA: Okay, mahalo, Mavis. Okay, Members, if there are no objections, and seeing no one else in the gallery approaching to testify, the Chair will close public testimony on our agenda today. Any objections?

COUNCILMEMBERS VOICED NO OBJECTIONS

CHAIR MOLINA: Okay, so ordered.

... END OF PUBLIC TESTIMONY ...

GET-6(1) AMENDMENTS TO THE RULES OF THE COUNCIL (ORAL TESTIMONY)
(CC 19-121)

CHAIR MOLINA: Alright, Members, let's get right to it. Our first agenda item today relates to Item GET-6(1), Amendments to the Rules of the Council. The Committee is in receipt of County Communication 19-27, from Council Chair King, relating to amendments to the Rules of the Council, and also County Communication 19-121, from Councilmember Lee, transmitting a proposed resolution entitled Amending the Rules

**GOVERNANCE, ETHICS, AND TRANSPARENCY
COMMITTEE**

Council of the County of Maui

October 1, 2019

of the Council Relating to Oral Testimony. Ms. Lee is not here yet. I'd like to afford her that opportunity to speak. However, since she is not here, Members, if there are no objections, I'd like to move on to next agenda item and ...

COUNCILMEMBER KAMA: No objections.

COUNCILMEMBER SUGIMURA: No objections.

CHAIR MOLINA: No objections.

COUNCILMEMBER KING: Chair? I just ...

CHAIR MOLINA: Thank you.

COUNCILMEMBER KING: Chair, I just wanted to, I think that, only my name was only attached because it came from the Council.

CHAIR MOLINA: Okay, thank you.

COUNCILMEMBER KING: On the Council agenda, but this was from Ms. Lee.

CHAIR MOLINA: Okay, thank you for that clarification, Chair.

COUNCILMEMBER KING: So we're going to defer?

CHAIR MOLINA: Okay. And, oh my goodness, and here she comes. Ms. Lee, we have just spoken of you. So, in the meantime, Ms. Lee, would you like to address this item now or do you need a couple minutes to get settled 'cause we had, Chair had just asked for a consideration about moving to another agenda item until your arrival?

COUNCILMEMBER LEE: *(speaking from the gallery)* Which item?

CHAIR MOLINA: GET-6(1) related to the oral testimony.

COUNCILMEMBER LEE: *(speaking from the gallery)* . . . *(inaudible)* . . .

CHAIR MOLINA: And we missed your good mornings with regards to the different languages.

COUNCILMEMBER LEE: *(speaking from the gallery)* . . . *(inaudible)* . . .

CHAIR MOLINA: Good morning.

COUNCILMEMBER KAMA: Guten morgen.

GOVERNANCE, ETHICS, AND TRANSPARENCY COMMITTEE

Council of the County of Maui

October 1, 2019

CHAIR MOLINA: All right. As Ms. Lee is getting settled, Members, we will, at this time, go ahead, and, if no objections, we'll go ahead and address the proposed item from Ms. Lee. Any objections?

VICE-CHAIR RAWLINS-FERNANDEZ: No objections.

COUNCILMEMBER KAMA: No objections.

COUNCILMEMBER SUGIMURA: No objections.

CHAIR MOLINA: Okay. Ms. Lee, the Chair will give you the floor now to discuss your proposed Amending the Rules of the Council Relating to Oral Testimony.

COUNCILMEMBER LEE: Okay. I think I'm up to speed. If everybody has the reso in front of them, under B(1), about the middle of the paragraph, my concern is that some people try to monopolize the testimony time and they should be given a reasonable amount of time. You know, at Council meetings, we have, I don't know, sometimes 20, 30 items, and to think that they can have three minutes on each is ridiculous. And some of them try, but, you know, I think, in all fairness to the group as a whole, meaning the audience and those who want to testify outside of the, in our District Offices, I think a reasonable amount of items should be provided for the testifier to speak on, and I had suggested three items at one time. And as a compromise, people, I mean, the Council can consider having them come back at the end of the line for another three items.

CHAIR MOLINA: Okay.

COUNCILMEMBER LEE: But, to me, three items at one time is very fair.

CHAIR MOLINA: Okay, thank you, Ms. Lee. And, for the record, you mentioned a resolution. Would you like to read the proposed amendment that's underscored in the resolution?

COUNCILMEMBER LEE: Sure. If the presiding officer accepts testimony on all items at the beginning of the meeting, each testifier shall be allowed to speak on no more than three items at one time. After all registrants and other members of the public have been afforded an opportunity to testify, testifiers who wish to speak on the remaining items on the meeting agenda will be afforded an opportunity to do so.

CHAIR MOLINA: Okay, thank you, Member Lee. Members, the floor is open for discussion on the proposed amendment from Member Lee. Member Paltin, followed by Member Hokama.

COUNCILMEMBER PALTIN: Oh, I just was wondering of what she said and what she read. It kind of sounds like they're not limited to the three at the end, that when she was discussing it, she was saying, like, they could have another three at the end, but the way that it reads is, they can continue to testify on the remaining items that they

GOVERNANCE, ETHICS, AND TRANSPARENCY COMMITTEE

Council of the County of Maui

October 1, 2019

signed up for. And, if the presiding officer accepts testimony per item, then it would just be the item, hear it, the item, hear it, so then that wouldn't apply at all.

CHAIR MOLINA: Okay, thank you. Would you like to clarify that for Ms. Paltin? Okay. Member Lee?

COUNCILMEMBER LEE: I just wanted to say, Mr. Chair, that this is more applicable to Council meetings. Generally, committee meetings don't have that many items. So, this will be primarily for Council meetings, but it's really up to the chair of the committee, in case you do have ten items, maybe Budget might have, you know, 30 items on the, on her agenda, so. Again, this is for discussion, but I'm serious about the part about three items at a time. Thank you.

CHAIR MOLINA: Okay, thank you. That's a clarification made on your comments, Ms. Paltin, yeah, so. Okay, I believe we had Member Hokama, now to be followed by Committee Vice-Chair Rawlins-Fernandez.

COUNCILMEMBER HOKAMA: Chairman, thank you. I appreciate this dialogue this morning. I think for some of us, for me, through my years, testimony has gotten beyond just listening to a person's opinions or comments about an item that will be discussed by the body. And, for me, that's where, you know, I have full commitment to allowing anyone to speak their mind, yeah, and that's the testimony, for us to receive comments. We have engaged in dialogue during testimony section with the testifiers, whereby, now testimony for many of our meetings, it's almost the longest part of the meeting, not even the item and the discussion itself. I have a problem with that. I don't have a problem with listening to opinions and testimony, I have a problem with the Members entering into full discussions during testimony period, okay. That is the business function of the agenda and that's when the business should be done, Chairman. So, you know, for me, I have no problem with Ms. Lee's proposal. I think we should think about it, or even look at how our sister entities are doing it. Oahu, you can submit as much written testimony as you want. You have only one minute total to speak, okay, and they function. So, I don't have a problem with even looking at reducing time.

CHAIR MOLINA: Okay, thank you very much for your comments. Member Hokama is the longest tenured Member, and having served as Council Chair, your words are certainly, do carry a lot of weight. Moving on to Committee Vice-Chair Rawlins-Fernandez, you have the floor.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Okay, I see what Member Lee is proposing to do, I see the intent behind it, I think, you know, to give those waiting to speak consideration. I think limiting the number of items, perhaps, a better way of approaching this is capping the amount of total time. So, instead of saying, you know, three items, perhaps a total of, like, ten minutes or something, you know, so then three items, three minutes max, so that would be like nine minutes for three items.

GOVERNANCE, ETHICS, AND TRANSPARENCY COMMITTEE

Council of the County of Maui

October 1, 2019

But, sometimes people just, testifiers just want, just need, like, 30 seconds on an item, and perhaps they have, like, five items that they would like to speak to, and the total time, you know, one minute per item, five items would be five minutes. And then that way, they don't have to wait all the way until the end of the line to share their manao on the last two items if they're capped at three items total. So, my proposal is, instead of limiting the number of items, perhaps proposing a maximum amount of total time, and then that way testifiers can speak to more than, you know, all the items that they wish to speak to and it's still achieving the purpose of giving all those who signed up to testify the consideration of not having to wait all day to testify. So, that's my manao on that. And, I agree with Member Hokama that, I'm not sure how we would put that in, I think it probably is in there, the Council Rules, as far as not engaging in dialogue during testimony period. I, too, am guilty of this, but to keep, you know, questions limited to clarification on the testifier's testimony only and questions, and not so much comments. Mahalo, Chair.

CHAIR MOLINA: Okay, thank you for your comments, much appreciated. So, you're looking at more of a time limitation. So, for example, if you testify on more than two items, then you have a broad, I guess, time parameter of saying, for example, okay, if you testify on more than two items, you will be given up to, say, ten minutes, five minutes, et cetera. So, have you come up with any particular time you're looking at, at this time, or this is still something you're still --

VICE-CHAIR RAWLINS-FERNANDEZ: Oh, I was just --

CHAIR MOLINA: --tossing around.

VICE-CHAIR RAWLINS-FERNANDEZ: --thinking like a total of...yeah, so if, you know, someone, so it would still be three minutes per item --

CHAIR MOLINA: Uh-huh.

VICE-CHAIR RAWLINS-FERNANDEZ: --but if the testifier signs up for, say, four items, that would be 12 minutes, so --

CHAIR MOLINA: So, you limit it to ten?

VICE-CHAIR RAWLINS-FERNANDEZ: --capping it at, like, ten minutes or something --

CHAIR MOLINA: Okay.

VICE-CHAIR RAWLINS-FERNANDEZ: --and then that way it's, you know, it's still achieving that purpose of, you know, trying to limit the amount of time each testifier --

CHAIR MOLINA: Okay.

GOVERNANCE, ETHICS, AND TRANSPARENCY COMMITTEE

Council of the County of Maui

October 1, 2019

VICE-CHAIR RAWLINS-FERNANDEZ: --takes.

CHAIR MOLINA: Let's go to Member Kama, and then followed by Member Lee.

COUNCILMEMBER KAMA: Thank you, Chair. I like the discussion that we're having. But, you know, three minutes really is a long time. When you think about when you have to prepare a speech that you're going to make and you're only given three minutes, it really is a long time. So, if somebody's going to testify on, like, say, three or more, it's what we're talking about, I think seven minutes is, like, a lot of time to be able to cover, especially if you're clear in your head and what it is that you're going to say and you just kind of wrap it up into seven minutes of just, 'cause, I mean, ten minutes is a long time to listen to one person speak about different topics. So, that's my suggestion for a timeframe. Thank you, Chair.

CHAIR MOLINA: Thank you, Member Kama. Member Lee, followed by Chair King and Member Sinenci.

COUNCILMEMBER LEE: You know, I agree with our Members that, you know, who want efficiency, more efficiency in the meetings. We all relish community input and testimony but there's a limit to where, you know, everybody's repeating the same thing and they don't realize, it probably cost us maybe 25,000 or more, you know, a meeting. So, depending, if it goes all day, and that's much more. So, you know, I think we have to be cognizant of, you know, how much is this costing. And so, there's an expense to all of this, besides wear and tear on us but, again, on the one hand, we want public testimony, on the other hand, there's gotta be parameters and I'm glad people are thinking along these lines. Thank you, Mr. Chair.

CHAIR MOLINA: Okay, thank you, Member Lee. Chair King?

COUNCILMEMBER KING: Thank you, Chair. So, yeah, I think this probably came from a practice that I was using, employing when we were confirming the directors for the departments and we had a lot of testifiers. We had seven directors on the agenda and so three minutes each would have been 21 minutes, so I limited the testifiers to three items and then they could come back after. And then most of them got their testimony done for all of their seven members that they wanted to endorse or not within that nine minutes or shorter. But, I guess what I wanted to point out is that every chair has that ability to do that however they want, however they see fit, and depending on the number of testifiers who show up that day, the amount of agenda items that may be heavy on that agenda and so I don't, you know, I'm not sure, I guess what we're trying to do is put, institutionalize it so that we have a reason to limit people or it's a mandate. I'm just not sure it's necessary to put it into the rules because the, and, you know, I think Mr. Hokama's concern is also the responsibility of every chair to make sure that, you know, we're not allowing the Councilmembers to engage in dialogue with the testifiers, and ourselves to police ourselves, as well. So, I'm just not sure that it needs, I think it's a good idea, I just don't think it needs to

GOVERNANCE, ETHICS, AND TRANSPARENCY COMMITTEE

Council of the County of Maui

October 1, 2019

used that often or, you know, I guess I'm okay putting it in, but if you only have two testifiers, that means--what does that mean, that you can only allow them to testify on three items? You know, and so I think we have to, I think the flexibility is good to just allow each Councilmember and have some guidance. And I think the discussion is good, to talk about how much time and expense it is, but I also think that even though people may be repeating others, they have that right to say the same thing if they want to and I don't think it's good to limit people just because they're repeating what another testifier said. So, we have to be cognizant of respecting everybody's right to repeat, if they want, even if we have to, you know, even if it takes us longer sometimes to sit here and listen to it. So, I'm just not quite sure. I'm not opposed to this, but I just think it could have unintended consequences. Thank you.

CHAIR MOLINA: Okay, so noted. And as the facilitator, as the current Chair, generally your item, your agendas typically have the most items when you factor in County communications, committee reports, resolutions, and so forth, so you have on average maybe 20 items that a person could potentially testify on at one time --

COUNCILMEMBER KING: Right.

CHAIR MOLINA: --without any type of parameters, like, that is being proposed by Member Lee.

COUNCILMEMBER KING: Yeah, and that's something that, you know, I can employ if I choose to, if it looks like it's getting out of hand, so, you know, I'm willing to do that. But I think GET and EDB also probably have ...

CHAIR MOLINA: Yeah, we've been quite busy --

COUNCILMEMBER KING: Yeah.

CHAIR MOLINA: --for sure.

COUNCILMEMBER KING: We've all been busy.

CHAIR MOLINA: Okay. Member Lee, a clarification to Chair King's comments?

COUNCILMEMBER LEE: In a broad way. Okay. I was thinking that, you know, sometimes in the heat of the moment, it's hard to give the Chair that responsibility to say, okay, you can have, you know, three minutes more or one minute more, whatever. It's easier to say, according to the rules, you have three minutes, but any objections to giving the testifier more time, you know, because sometimes, I mean, for the sake of the ease of implementation and administration of rules, it's easier on the Chair to have that option, you know, to ask the Members to deviate from the rules, as opposed to not having rules and making it up sitting up there, you know, that's the hard part.

GOVERNANCE, ETHICS, AND TRANSPARENCY COMMITTEE

Council of the County of Maui

October 1, 2019

So, you know, again, I would hope that everybody would want parameters for their own benefit, really. Thank you, Mr. Chair.

CHAIR MOLINA: Okay, thank you, Member Lee. Member Sinenci?

COUNCILMEMBER SINENCI: Thank you, Chair. I, too, appreciate this discussion and hearing from my fellow members. In the short time that I've been here, I appreciate the, you know, the prerogative of each committee chair. You know, if you did have a larger meeting with more, whether it be contentious items where you had a lot of testifiers and maybe reserving, you know, the first meeting for testifiers only and then recessing for discussion. But, you know, looking sometimes, right, you want to keep, it kind of limits you if you've got certain items on your agenda, you kinda want to keep it at three or four items. If not, if people are going to speak to all the items then you might have over 10 minutes, 12 minutes if everybody's speaking to multiple items on your agenda. So, but, again, I've appreciated, you know, the call of the committee chairs if they wanted to, you know, if they don't have a lot of testifiers, maybe allowing little bit more time, and then I can see where, right, you would need more direction when you have many testifiers. So, just my comments. Thank you.

CHAIR MOLINA: Thank you very much, Mr. Sinenci. And, as I understand this proposal, this would apply more towards Council meetings. I guess, historically, committee meetings, there's been, the chairs have been allowed more, a little bit more flexibility, but to use the Rules of the Council as a guide, if I'm correct. So --

COUNCILMEMBER KING: Chair?

CHAIR MOLINA: --I can recall, we had one, I had a former colleague from my previous tenure on the Council and she allowed testifiers up to ten minutes and then you had others that went with the traditional, I guess, the rules that was established on the Council, for three minutes with an additional minute to testify, 'cause I'm remembering this from back in the day when I previously served. So, anyway, as we, you know, move on with this, and just to assure the general public, this is not an attempt to stifle any testimony from the public. This is more of a time management issue. And when we've had a lot of testifiers, we've had people leave because, you know, some testifiers will take a lot of time, speak on three or four items and a lot of people are, have responsibilities they need to address, so, sometimes they leave and we don't want that to happen, we want to minimize that from happening because we do want to hear from every member of the public as much as possible. Okay, Chairman King, followed by Member Paltin.

COUNCILMEMBER KING: Yeah. I think this is on general testimony, so it should apply to all chairs for all testimony, but I also, wondering what we would do in a case where, where there were, you know, frequently, you have more than three items on a committee agenda, as well, but if you have testifiers come and testify in a committee meeting and only get to speak to three items, if they can get through, I mean, I kind of

GOVERNANCE, ETHICS, AND TRANSPARENCY COMMITTEE

Council of the County of Maui

October 1, 2019

like what Councilmember Rawlins-Fernandez was saying, if they can get through all their testimony, they should not be limited to just speaking on three items because maybe they, that's nine minutes, and if they can testify on all the items in that nine minutes, they should be able to do that. So, if we are going to put a limitation on it, I would say let's do a time limitation and allow them to speak to whatever they can speak to. We just have to figure out how we're going to do that, per item with the time, limit timer, and it might take a little more thought on that. The practice has always been that it's up to the chair of whatever meeting we're in to decide if they, if it's three minutes plus one minute or if it's three minutes total, you know, to have that flexibility, depending on how big your schedule is, how many testifiers are in the room. So, this would kind of standardize it, I guess, and not give the option of that extra minute, but you also have to figure out how you're going to cut people off at the end of that time because sometimes that's difficult to do --

CHAIR MOLINA: Yes.

COUNCILMEMBER KING: --you know, and that's not written into the rules, that's not really enforceable.

CHAIR MOLINA: True, good point. Something else that we may also want to consider as we move on this item, what if the presiding officer doesn't take testimony at the beginning of a meeting --

COUNCILMEMBER KING: Right.

CHAIR MOLINA: --because sometimes we've had that happen where a presentation is put on first, then testimony is taken after. And, you know, testimony is sometimes in the middle of presentations, so, all these little things. And, I can see the good argument for standardizing it and also the need for possible flexibility, as well. Member Paltin?

COUNCILMEMBER PALTIN: Thank you, Chair. I think this is a timely discussion and I agree with Member Rawlins-Fernandez about the items and the time limit, as well, like, something, if you're speaking on more than three items, you have a maximum of ten minutes. I just wanted to point out that the cost is not only to the County, the cost is also to the testifier, especially for members from my community. We don't have a phone-in option and, like, I know, I live in Napili, you know, so, for people in my community that need to come and testify, it's taking a day off of work, it's paying the gas to drive over an hour, sometimes, depending on traffic, if you get stuck on this side. So, three minutes seems like a lot if you just, you know, jump in your car and it takes you five, ten minutes to get here, but if you're driving, you know, two hours more and, three minutes doesn't seem a lot, you're thinking about what you're gonna say the whole way. Some people have anxiety about speaking in this setting and so it may take them longer to get their words out because they're, you know, dealing with other factors about speaking. A member of my community came to the injection well, and this just highlights both sides of the issue, that he was number 15 to testify and,

GOVERNANCE, ETHICS, AND TRANSPARENCY COMMITTEE

Council of the County of Maui

October 1, 2019

you know, we had a lot of children that needed to go back to school, and he ended up getting a \$60 parking ticket on top of taking the day off from work. So, the cost of public testimony is a real cost and it's not limited to the County and, you know, people that feel so strongly that they would drive and take the time off work and pay the fine to have a chance to speak for three minutes. And it goes to say, too, like, you know, if we engage in discussion or if we let people talk long time then his 15, number 15 testifier is over two hours later, so, it's really a balance, but I would be supportive of, if they have more than three items, letting them finish in ten minutes, and if they need to come back, they need to come back. But, I also would like to allow any of the chairs to have their discretion similar to like how we afford the directors discretion on things, you know, like, there might be that one situation that we can't predict where, you know, we need more time, and I'd like to say, you know, this is the guideline and the standard practice, but at the chair's discretion, if they feel it's necessary, with no objection from the Members, they can, you know, waive this or something like that. Because if we afford that kind of privilege to the directors, the chairs should have the same kind of discretion, if need be, and there is no objection.

CHAIR MOLINA: Words well taken, Member Paltin. It's something that I, I had those same ideas along that line, where we could consider that the chair shall announce prior to accepting testimony, the number of items that testifiers can testify on at one time. So, basically, it's the flexibility 'cause sometimes we have big agendas in our committee meetings, sometimes we don't, so, it kind of varies, it sort of fluctuates. Member Lee, did you want to provide comments to Member Paltin's --

COUNCILMEMBER LEE: For clarification --

CHAIR MOLINA: --response --

COUNCILMEMBER LEE: --yes.

CHAIR MOLINA: --'cause I have Member Sugimura and Member Kama have ...

COUNCILMEMBER LEE: Why don't you take them.

CHAIR MOLINA: Okay, good.

COUNCILMEMBER LEE: Thank you.

CHAIR MOLINA: And I've never seen such enthusiasm. Chair appreciates all of you jumping in here. Member Sugimura, followed by Member Kama, and then Member Lee.

COUNCILMEMBER SUGIMURA: Based upon the discussion, I really like this, and I kind of thought it was already being put into practice, but I like that it's being made available for everyone to understand through the amendment to the rules. So, what about if we add on, amend it, so it'll read, if the presiding officer accepts testimony on all items at

GOVERNANCE, ETHICS, AND TRANSPARENCY COMMITTEE

Council of the County of Maui

October 1, 2019

the beginning of the meeting, each testifier shall be allowed to speak on no more than three items at a time, at the call of the chair, so that it would be, even the thought about, so, adding, at the call of the chair, at the end 'cause it sounds like people wanna have discretion, or the chairs wanna have discretion. And even the thought about what you said at the beginning of the meeting, because I've seen it where Member Kama has taken presentation from the developer first and the departments and then had public testimony. So, even the word beginning, maybe you can exclude that word because it doesn't necessarily always have to be at the beginning. So, those two changes.

CHAIR MOLINA: Okay, thank you for that consideration. If, at all possible, if you could, I guess, maybe Staff could, they may need some clarification to, I guess, memorialize your proposed amendment to this, as well, Member Sugimura.

COUNCILMEMBER SUGIMURA: Okay.

CHAIR MOLINA: So, we do have some time to address that. In the meantime, let's go to Member Kama, followed by Member Lee.

COUNCILMEMBER KAMA: Thank you, Chair. So, I think what I wanted to just insert someplace in this reso, no matter how you choose to do it, but the chair does have discretion and I think if we inserted something of that language, that even though we're gonna, whatever the guidelines might be that we're going to set for ourselves, that we police ourselves, but that we also understand that it is at the chair's discretion. And I have actually taken that discretion, you know, depending, and, again, and you're correct, depending on what your topic is, what you anticipate the testifiers and the amount of people show up, you can pretty much gauge if you're going to have to have a recess or two, and then through that determine how your testimonies are going to be. But that's why, at the discretion of the chair, and I'd like to see that someplace in this resolution or somewhere. But, thank you.

CHAIR MOLINA: Thank you, excellent observation, Member Kama. Member Lee?

COUNCILMEMBER LEE: Okay. If anybody's watching this proceedings, I want them to know that all of us, not just some of us, are strong advocates for the community speaking at our meetings, but I'm for fairness, that's the difference, I think, here. Some people, and that's why I, this provision allows for three items, but you can come back and do 500, you know, that's up to the call of the chair, three items at three minutes, nine or ten minutes. That's a lot when you have 100 people in the audience, you know, so all the people who have come from other places, yeah, Upcountry, East Maui, anywhere, all have to wait and all have to run down and move their cars and that's not fair to them. I'm for fairness. And then, what I don't like is getting around public testimony. I never saw this before when I was first on the Council. Oh, we'll take all the testimony so that the next time we don't have to take testimony. No, we wanted everybody to testify all the time, but within limits, and that's a big difference.

GOVERNANCE, ETHICS, AND TRANSPARENCY COMMITTEE

Council of the County of Maui

October 1, 2019

So, I don't like this idea of taking 10, 12 hours of testimony so that we don't have to take at the next time. I think the people have a right to see decision making after their testimony. Thank you.

CHAIR MOLINA: Okay, words well taken, Member Lee. Member Hokama?

COUNCILMEMBER HOKAMA: Yeah, times have changes, styles have changed, the meetings have changed. Council used to take less than an hour before TV, and that was only radio rebroadcast. I would say, maybe we might need some discussion, Chairman, on what the committee should do at the committee level and what we should do at Council. Maybe one way is to have the committees be a little bit more flexible, if that's the right term, regarding the testimony portion, since that is where we doing the work to craft the final legislation recommended for final Council review and approval, and at the Council level, we hold it tight, because we already did the work at committee. And if that's a premise we all agree, that the Council is the final review of the product and we're gonna make a vote, then we limit testimony on that final product and we do all the workings in committee. And, I share that because it's kind of interesting if you look at the so-called superior level of government. Does anybody testify on second and final reading at the State Legislature? Nobody does. They don't even have an opportunity to testify on second and final reading on any bill for an act at the Legislature. There is no testimony on their agenda for the order of the day at the Legislature. Congress, unless you're invited to testify, you are not allowed to testify, okay. So, it's interesting how the law is bent for certain levels of use, okay. We've been very broad, yeah, very general, and I think we followed the concept of democracy as best we can, Chairman, but I think if we make an agreement that the work will be done at committee and not at Council, that's why we have referrals, maybe we can adjust, accordingly, the time for testimony at Council. Just a comment, Chairman.

CHAIR MOLINA: So noted, Member Hokama, and we appreciate you bringing up the, I guess, the parameters that are at the State and Federal level. Seems quite draconian to us here at the County, yeah. Member Rawlins-Fernandez, followed by Chair King.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Okay, so, I have a proposed amendment to the proposed amendment to the rules. If the presiding officer accepts testimony on all items at the beginning of the meeting, each testifier shall be allowed to speak for three minutes on each item, for a total of ten minutes, on an unlimited amount of items. I think this would be more fair because it would give the testifier the discretion, the option, to complete their testimony on all the items they would need to and not have to wait to testify on the other items, wait until the end of the line, 'cause I think that's not fair either, to force someone who really wants to share their manao on an item but they have, you know, four items, so they're gonna have to wait all the way until the end to have to share with us their testimony on that one item. I don't think that's fair. I think we should allow the testifier to have that option to provide testimony on all the items that they need to and, out of respect for everyone, to just ask that their testimony be limited to ten minutes. So, that's my proposal. And, then,

GOVERNANCE, ETHICS, AND TRANSPARENCY COMMITTEE

Council of the County of Maui

October 1, 2019

in taking into consideration, I think what I understood Member Hokama saying is, perhaps, instead of the presiding officer, if we're saying that this is more of a, an issue at full Council meetings, that this amendment be for full Council meetings, and instead of saying presiding officer, we could say, if the Council Chair accepts testimony on all items at the Council meeting, and then that would specify that this amendment is for Council meetings and not for committee meetings, and that would give the committee chairs the option, or the flexibility to have that discretion.

CHAIR MOLINA: Okay, thank you. Member Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

CHAIR MOLINA: Chair really appreciates this discussion 'cause we've got, well, we have Member Lee's proposal, and we have proposed amendments from Members Rawlins-Fernandez and Member Sugimura. I believe we had another consideration for, maybe Chair King. But, prior to recognizing Chair King, Members, the Chair had expressed to you about taking a recess this morning. We do have the flag raising ceremony for our Filipino constituents out in the front yard this morning. Chair's intent was to take a recess in about maybe ten minutes, or so, so we can attend, and then to reconvene this meeting at 10:30. So, I just wanted to put that consideration in your mind. Member Rawlins-Fernandez, quick follow up?

VICE-CHAIR RAWLINS-FERNANDEZ: Yes, sorry. So, I wanted to read it in full so that everyone understands what the amendment is. It's to just that one section. So, if the presiding officer accepts testimony on all items at the beginning of the meeting, each testifier shall be allowed to speak for three minutes on each item for a total of ten minutes on an unlimited amount of items. After all registrants and other members of the public have been afforded the opportunity to testify, testifiers who wish to speak on the remaining items on the meeting agenda will be afforded an opportunity to do so. So, it was just that one section, and keeping in the opportunity to come back later.

CHAIR MOLINA: Okay.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

CHAIR MOLINA: You read that. Can you repeat that again? No, just kidding, maybe at a later point. Chair King?

COUNCILMEMBER KING: Okay. So, I just wanted to go back to, because I think we should not limit this just to full Council meetings because we had a full day, as you know, in GET when we had the injection well settlement case, so, something like this should apply, but I do agree with Member Kama that we should, it should be at the discretion of the chair because if we lock in, then there's going to be those exception times and if we keep it too loose, then we're--one of the things I worry about is by putting that ten

GOVERNANCE, ETHICS, AND TRANSPARENCY COMMITTEE

Council of the County of Maui

October 1, 2019

minutes in there, are we encouraging people to take the full ten minutes? You know, if I knew I could have up to ten minutes, I might just come here and take the full ten minutes instead of limiting it to one. But, you know, those are the things that are going to happen, anyway, regardless of what we put in here, so, we just have to be, we have to understand that everything's gonna, everything we do is going to have consequences we probably haven't thought of, but that's where the flexibility comes in, I think, the discretion of the Chair come in.

CHAIR MOLINA: Okay. Certainly a consideration to think about.

COUNCILMEMBER KING: Yeah, and I really want to recognize the issue of, that Member Paltin brought up, where people come from, you know, long distances and when they're limited to three minutes and then, you know, they're waiting all that time and then they get a parking ticket, I mean, I don't know. We are working on trying to get a district office for West Maui, and we're looking for a site right now, so, hopefully that'll help with people that might wanna just call in but, you know, we're trying to attack it from, the issue from all sides. But, meanwhile, I just think that we're going to be, we're gonna find some unintended consequences if we lock this in too hard. We also have had some Council meetings where we've had first readings that have gone, that have had a lot of testifiers, and have gone --

CHAIR MOLINA: Sure.

COUNCILMEMBER KING: --I mean, we took a long time with the Waikapu, on the first reading. So, they're not necessarily coming, every issue doesn't come from the committees ready to vote on, you know, sometimes we make some major changes.

CHAIR MOLINA: Well, thank you, Chair King, you know for that consideration, kind of brings to mind Chairman [sic] Hokama's thought about maybe, you know, amending the standard testimony time, which is three minutes, to maybe something a little less, but, I mean, just, again, this is just food for thought, if we're concerned about that parameter of establishing ten minutes, a blanket ten minutes, if you will. Member Paltin, followed by Member Hokama.

COUNCILMEMBER PALTIN: I just was wanting to comment on the folks taking the full ten minutes. I think that they wouldn't be afforded ten minutes unless they're testifying on more than three items and, you know, sometimes we see folks really want to take ten minutes on one item, but that's the Chair's responsibility to say, you had your three minutes on that item, you need to move on to the next item, and if you can't do that then you're done, kind of thing, as well as, you know, just--I guess I had a question. If, within the discretion, like, the standard is three minutes. If the Chair announces at the beginning of the meeting, like, seeing that there's a packed house, testimony today will be limited to one minute. Is that also a discretion that they could take if they announce it at the start and it's fair across the board to everybody, that everyone is playing under the same rules? So, I don't know that we need to have it in

GOVERNANCE, ETHICS, AND TRANSPARENCY COMMITTEE

Council of the County of Maui

October 1, 2019

writing that we're going to limit it to one minute if that's a discretionary authority that we can utilize at any time, as long as we're being fair to everybody.

CHAIR MOLINA: Good point, Member Paltin. And, of course, the Chair will ask the body for that consideration. The body can reject or accept the Chair's recommendation. So, again, it comes down to the Chair's flexibility. Member Hokama?

COUNCILMEMBER HOKAMA: Quickly, Chair. I would ask that for those that may have some re-wording, recommendations, if they could submit to your Staff, so, after recess we could have something before us, visually, if that would assist us, Chair. And then, second, I would say, a lot of this discussion I hearing is workable if we have the Members up to speed on parliamentary procedure. The rules of procedure, established by Members, is there to conduct the meeting in an orderly and fair manner but, unless you know your rules, your rules does not benefit the chair, okay, and there's always ways to handle unruliness. You either pound it in recess, call the police, or whatever have be, but decorum has to be kept, Chairman, to maintain the order of conducting the business. So, I would say, that would be my recommendation that maybe we just need a refresher on procedure, because it is not the lawyer's call, it is the Member's call in procedure. Thank you.

CHAIR MOLINA: Okay, thank you, Member Hokama.

COUNCILMEMBER LEE: Mr. Chair?

CHAIR MOLINA: Member Lee, I'll give you the last word before we break for recess. Member Lee?

COUNCILMEMBER LEE: While somebody is working on an amendment, I'm, just have a question, if this is of any concern to anybody here. Before, we never really had testimony on referrals. I don't think people understand that a referral is just the beginning of the process and that the better time to come and testify is at the committee meeting. So, I really don't, somewhere along the line, people, the public was encouraged to come here, not realizing that they're just gonna have to do it again at a committee meeting. So, I just thought I'd bring that up.

CHAIR MOLINA: Okay, good point.

COUNCILMEMBER KING: Chair?

CHAIR MOLINA: That's something I'd like to get a response from Corporation Counsel --

COUNCILMEMBER KING: Chair, can I speak to that?

CHAIR MOLINA: --if there may be any Sunshine Law, because it's posted on the agenda, so.

GOVERNANCE, ETHICS, AND TRANSPARENCY COMMITTEE

Council of the County of Maui

October 1, 2019

COUNCILMEMBER KING: Chair, can I speak to that because I've been working with our counsel on that?

CHAIR MOLINA: Okay, make it quick, Chairman.

COUNCILMEMBER KING: Okay. So, you know, I kind of proposed putting on the communications, no legislative action will be taken, but then it was pointed out that sometimes legislative action is taken. Sometimes we waive the committee rules and we go ahead and take a vote, and, so, you can't tell the public they can't speak to that when it is possible that a vote would be taken, you know, so I also, like, you know, kind of floated the possibility of, if we don't hear from Members who want to, you know, make a motion on the floor to waive committee rules and we could put something on the agenda, that's not, that's kind of outside Sunshine Laws, too, so that's not legal. So, it's hard to find a legal way to say, no action will be taken, when it's possible that somebody could ask to waive committee rules and discharge it, or whatever, and then try to take a vote on the floor. So, that's where we get stuck with, I mean, I had the same concern, but I just couldn't, everything I suggested was not legal.

CHAIR MOLINA: Okay. Well, we certainly don't want to do anything illegal. So, Members, your Chair will invoke his flexibility right now to take a recess. So, Members, we're going to be in recess and we will reconvene the GET meeting of October 1st at 10:30 a.m. Meeting in recess. . . . *(gavel)* . . .

RECESS: 9:51 a.m.

RECONVENE: 10:33 a.m.

CHAIR MOLINA: . . . *(gavel)* . . . The GET meeting for Tuesday, October 1st is now back in session, it's 10:33 a.m. Thank you very much for that recess, Members. Chair appreciates you taking the time to recognize the ceremony that occurred on our lawn this morning. We're on GET Item 6(1), which relates to the, amending the Rules of the Council relating to oral testimony as proposed by Member Lee. And we've had quite a lengthy discussion this morning and, prior to the break, the Chair did ask those of you with proposed amendments to go ahead and memorialize them in writing for the Members' consideration to review. During the recess, the Chair had time to think about this and being the discussion has been long and very interesting, the Chair's gonna ask for your consideration for deferral, prior to any discussion. That will give Members time to further work on this, if necessary. The Chair intends to bring this back before the end of the year for clarification. Chair would also like to consult with the other counties to see how they're dealing with this issue, if at all. So, that is the Chair's intent for this topic here today. Members, any discussion on the proposed amendments? Anyone would like to say something? Otherwise, the Chair was just going to go ahead and defer the item. Any discussion prior to the Chair's recommendation for deferral? Okay, I guess if no one has anything to say ...

**GOVERNANCE, ETHICS, AND TRANSPARENCY
COMMITTEE**

Council of the County of Maui

October 1, 2019

COUNCILMEMBER KING: Chair?

CHAIR MOLINA: Chair King?

COUNCILMEMBER KING: I just wanted to bring up Member Kama's earlier proposal that we add in, at the discretion of the Chair.

CHAIR MOLINA: Okay. Member Kama, any comments as it relates to your proposal?

COUNCILMEMBER KAMA: No, I just wanted that language inserted. And maybe when we look at the ...

CHAIR MOLINA: Would you like to read that into the record? Just...

COUNCILMEMBER KAMA: All I wanted to do was to include, at the chair's discretion, and maybe it could be under B, Item 1, and then Item 1 becomes 2 and it, the numbers go down like that, but that the Chair does have discretion.

CHAIR MOLINA: Okay, so noted. Councilmember Sugimura?

COUNCILMEMBER SUGIMURA: So, did Staff pass this out?

UNIDENTIFIED SPEAKER: Yes, Shelly ...

COUNCILMEMBER SUGIMURA: Oh, you did. So, I hope that, what I tried to do, encompass that, because we're talking about presiding officer, so I added in, at the call of the presiding officer, which I think accomplishes what Member Kama is talking about. Thank you. But, you're deferring this, so we can talk about it later.

CHAIR MOLINA: Thank you. Member Lee, as the person who introduced this proposal?

COUNCILMEMBER LEE: Well, actually, I'm going to ask you, Mr. Chair, if you would mind referring the matter of additional district offices to the Budget Committee, perhaps.

CHAIR MOLINA: Okay, so noted. Okay, let me try and make, get a general understanding. So, the district offices, oh, that this go out to the district ...

COUNCILMEMBER LEE: No, you would add district offices ...

CHAIR MOLINA: Oh, add district offices to ...

COUNCILMEMBER LEE: Yeah, let's say, one in West Maui, perhaps one in South Maui or maybe East Maui.

**GOVERNANCE, ETHICS, AND TRANSPARENCY
COMMITTEE**

Council of the County of Maui

October 1, 2019

CHAIR MOLINA: Okay, so noted.

COUNCILMEMBER LEE: East Maui, meaning Haiku.

CHAIR MOLINA: Okay. Member Hokama, followed by Chair Lee...Chair King. Sorry, gave you a promotion there.

COUNCILMEMBER HOKAMA: Chairman, I'm very happy and open to proposals. I would just say, though, at the meeting, the discretion of the officer, I get issues with that. So, I mean, I'd be, at this time, supporting it, and this is the reason. I think the chair should make up its mind prior to posting, and at posting, list exactly what the chair expects during testimony. So, I post three minutes only upfront, it's not a discretion, it is part of the posting, so people know how to prepare to give testimony at the meeting. To not understand what is the rules at the meeting and then come and say, now this is what you going be allowed may, in effect, neutralize their testimony 'cause they based it on their understanding of what they were supposed to have or, I hate to use the word, entitled, nobody is entitled to anything, yeah. So, for me, Chair, I prefer that it be upfront, decided by the committee chair at posting, already, how to deal with testimony 'cause the chair controls the agenda. So, if the chair wants to put 200 items, the chair gotta know, one, you going to have an upset committee membership, two, do you really want testimony, since it's so diluted, how does people give testimony, that large an agenda, and is it really a doable agenda for the committee during its time allocations? So, I would say, the chair has a lot to decide prior to the posting, and then post accordingly, Chairman, using the rules as guidance. Thank you.

CHAIR MOLINA: Okay, thank you, Member Hokama. Chair King?

COUNCILMEMBER KING: I just wanted to, I forgot what I was going to say. I just wanted to mention that we are working on, through the Budget, the existing Budget, an office for West Maui District, and if you want to put additional offices, it's a good time for, pre next Budget, you can, maybe that should go to the Budget Chair.

CHAIR MOLINA: Okay, thank you for that, Chairman.

COUNCILMEMBER KING: Okay, thank you.

CHAIR MOLINA: I'm sure our Budget Chair will welcome all of your ideas and suggestions.

VICE-CHAIR RAWLINS-FERNANDEZ: I absolutely do. Mahalo.

CHAIR MOLINA: Appreciate the enthusiasm. Thank you, Member Rawlins-Fernandez. So, if there's no further discussion on GET Item 6(1), the Chair, with no objections, Chair will, recommendation is to defer.

**GOVERNANCE, ETHICS, AND TRANSPARENCY
COMMITTEE**

Council of the County of Maui

October 1, 2019

COUNCILMEMBERS: No objections.

ACTION: DEFER.

CHAIR MOLINA: Okay. So noted. Item deferred.

GET-6(2) AMENDMENTS TO THE RULES OF THE COUNCIL (COUNCIL CHAMBER)
(CC 19-27)

CHAIR MOLINA: Moving on to the next item, which is GET Item 6(2). It relates to a correspondence dated September 16, 2019, from Councilmember Yuki Lei Sugimura, transmitting a proposed resolution entitled Amending the Rules of the Council Relating to the Council Chamber, and the purpose of the proposed resolution is to amend the Rules of the Council relating to any structural, decorative, or other nonemergency modifications to the Council Chambers. Councilmember Sugimura, you have the floor.

COUNCILMEMBER SUGIMURA: So, do you want me to read this into the record, as you did before?

CHAIR MOLINA: Have at it.

COUNCILMEMBER SUGIMURA: Rule 27, Approval of Modifications to the Council Chamber. Any structural, decorative, or other nonemergency modifications to the Council's Chamber shall be referred to appropriate Council committee for discussion, or an affirmative vote from a majority of the Council shall be received, prior to funds expended. That is the amendment.

CHAIR MOLINA: Okay, Councilmember Sugimura, any further discussion --

COUNCILMEMBER SUGIMURA: Yeah, so ...

CHAIR MOLINA: --before I open up the floor for the Members?

COUNCILMEMBER SUGIMURA: Yeah, I just wanted to hear discussion and to do this amendment. I believe, Chair, that the Chambers, unlike our offices, the Chamber belongs to the people and, therefore, that things happen in the chamber are something that I would love, not love, like to have it presented, or ideas presented to the Council and, for discussion, and then to have a majority approve before we make changes. So, I strongly believe that this belongs to the people and it's not, you know, doesn't belong to a Council person or, you know, a one opinion, but I think it's all of us collectively as this is the, this is where we accept and receive comments from the general public, the

GOVERNANCE, ETHICS, AND TRANSPARENCY COMMITTEE

Council of the County of Maui

October 1, 2019

people we represent, the constituents, and I just wanted to propose this amendment. Thank you, Chair, for posting it.

CHAIR MOLINA: Okay, thank you, Ms. Sugimura, for that consideration. Members, discussion on the proposal from Member Sugimura? Okay, Chair King?

COUNCILMEMBER KING: Okay, thank you, Chair. I'm not sure what this will affect, but I want to point out that there are things that have happened in the Chambers, like per HIOSH, that will require changes, putting up the clock, things like that, would have to get a vote. Decorative items that are on Councilmembers' desks, do those need to be, you know, discussed by the Councilmembers before they can be approved? So, I'm not sure what the definition of that is or what the purpose, but I kind of find it superfluous, at this point.

CHAIR MOLINA: Chair, define superfluous for me.

COUNCILMEMBER KING: Not needed, not necessary.

CHAIR MOLINA: Thank you. I, as a layperson, I appreciate --

COUNCILMEMBER KING: Okay.

CHAIR MOLINA: --that clarification. Members, discussion on the proposal? Councilmember Hokama?

COUNCILMEMBER HOKAMA: Thank you. I would say there's merit to this proposal about the big stuff, like the old contract we had with an artist to develop with the original building, it was a joint architectural and design component for this structure in the 1960s, and I think this may be the only brother-sister combination on a government structure, where I believe the brother was the architect of the building and the sister was the creator of our County seal tapestry. I will say, though, one thing that the family and I have been discussing is whether or not we have any violations of Federal law under the Visual Art ...

CHAIR MOLINA: Excuse me, Member Hokama, if I could interject. Because that specific item's not on the agenda, I would ask that we not get into too much details about that particular item, only because of Sunshine Law parameters that I've been advised. So, if we could just not get into too much detail. I know it may have served as the impetus ...

COUNCILMEMBER HOKAMA: Yeah, no problem.

CHAIR MOLINA: Yeah, okay.

COUNCILMEMBER HOKAMA: Who advised you on that, Chair?

**GOVERNANCE, ETHICS, AND TRANSPARENCY
COMMITTEE**

Council of the County of Maui

October 1, 2019

CHAIR MOLINA: Thank you. I spoke to some of my Staff, as well, and, in my opinion, too, I didn't want to get too deep into it so, as we don't get the Sunshine Law police on us. I realize it may have been an impetus for this proposal, but if we're going to talk specifically about that item, get into a long, engaged discussion, that's where I can see there may be a concern from the Sunshine Law --

COUNCILMEMBER HOKAMA: Well, I --

CHAIR MOLINA: --perspective.

COUNCILMEMBER HOKAMA: --appreciate your guidance, Chair, yeah, and I'll take that, you know, definitely --

CHAIR MOLINA: Yeah, thank you. So, we'll ...

COUNCILMEMBER HOKAMA: --how I structure my comments but, again, I'm saying that we need to be aware that there is Federal law, okay, it is called the Visual Artist Rights Act, and the artist has rights about this type of procurement and the rights that the artist must be given by Federal law, including the disposition of and the replacement of things that have been purchased under government, okay. In the past, there was no such protection for artist integrity and work product but, after 1990, Congress did pass this act, okay. So, my point is, we need to be aware of the ramifications and that if we are in violation of Federal law, yeah, we will be, then, subject to appropriate remunerations and recoveries on behalf of the artist. So, my thing is, let us be, at least, knowledgeable of what we do before we do it because even the after disposition of the work comes into play by Federal law. So, I will be proceeding under continued review of Federal law as it impacts this County.

CHAIR MOLINA: Okay, so noted. Thank you, Mr. Hokama, and the Chair appreciates your diligence and support of the Chair's concern with regard to the Sunshine Law parameters on this, much appreciated. Member Kama?

COUNCILMEMBER KAMA: Thank you, Chair. So, I was just looking and reading, for myself, what I understand this to be, is, like, for example, I'm looking at those two drums on both sides of you and I know that we're going to do the Chambers again at some time in the future, I'm not sure when, but I think what this resolution says is that we have to figure out what are we doing with this. And, so, I'm looking, also, at everything in this Chamber and I'm saying, okay, we have an American Flag, we have a Hawaiian Flag, and the flag in the corner, I guess, is that the County flag?

UNIDENTIFIED SPEAKER: Yes.

GOVERNANCE, ETHICS, AND TRANSPARENCY COMMITTEE

Council of the County of Maui

October 1, 2019

COUNCILMEMBER KAMA: Okay, so we have to determine what things must be in here and what things don't need to be in here, but we do that collectively as a body. And I think that's what I understand this to be. Thank you, Chair.

CHAIR MOLINA: Okay, thank you, Member Kama. Mr. Sinenci?

COUNCILMEMBER SINENCI: Thank you, Chair. And thank you to Member Kama's comments, yeah, regarding some of the Hawaiian implements that are included in the chambers and, as a cultural practitioner and the Chair for the Cultural Preservation, you know, we did seek some advice from some of the cultural practitioners in our community because some of the implements, for cultural practitioners, mean certain things to them, who continue to practice the culture. So, as far as, whether it be hula drums or pohaku kui ai or anything that's cultural, for those practitioners, sometimes it's very sensitive for them if they're not being used in the correct way, so, that's why we asked, you know, some of the practitioners to kind of weigh in on some of the implements in the Chambers. There are implements that are conducive to the practice of government and that would be suitable and more culturally appropriate to have in this space. But, as far as some of the other implements, yeah, we don't want to be inappropriate to some of the practitioners. So, just wanted to add those comments. Thank you, Chair.

CHAIR MOLINA: Okay, thank you, Mr. Sinenci. Just one quick question for Councilmember Sugimura. As I interpret the resolution, it mentions other nonemergency modifications. Now, if we had Risk Management, someone come and tell us that there needs to be some modifications as it relates to security, so that will be excluded from this, right? So, the Council would generally not have a say or the Chair, 'cause if Risk Management is telling us, for the sake of security, how does that play into this resolution?

COUNCILMEMBER SUGIMURA: Yeah, that's a very good point, Chair. So, that's exactly why that word is in there because we need to always feel that safety of our Members are, or Members and the public is very important, so, definitely that. And then, for what Member Sinenci was, is talking about, I think that's a really important aspect of why we need to have a public discussion, because of the sensitivity to our Native Hawaiian culture and understanding what the, what it means, you know, for people like me that, I'm not Hawaiian. I can do research but there's always somebody wiser and probably more experienced and it can be up for public discussion. I'm not too sure what exactly Member Sinenci is referencing but, in general. What?

UNIDENTIFIED SPEAKER: The gavel.

COUNCILMEMBER SUGIMURA: Oh, the gavel.

UNIDENTIFIED SPEAKER: Not right now.

GOVERNANCE, ETHICS, AND TRANSPARENCY COMMITTEE

Council of the County of Maui

October 1, 2019

COUNCILMEMBER SUGIMURA: Well, whatever, I mean, whatever it may be, you know, that can be up for discussion. And I'm not too sure why you talking about the gavel because I don't see a gavel that's ...

CHAIR MOLINA: I believe in previous terms there was the poi pounder that was used as a, as a meeting instrument --

COUNCILMEMBER SUGIMURA: Oh, okay.

CHAIR MOLINA: --I guess, so to speak, which might not have been inappropriate for culture purposes.

COUNCILMEMBER SUGIMURA: Anyway, I just wanted to say that's, you know, in relationship to what Member Sinenci said.

CHAIR MOLINA: Okay, thank you, Member Sugimura. Mr. Hokama?

COUNCILMEMBER HOKAMA: Chair, thank you. Boy, you really picked some good topics today, yeah. Again, Chair, I think this is really healthy, but I think one of the things that we shouldn't forget is the historical components that may affect and assist us in making good decisions for the future, and one of it is the design of this Chambers. It was designed specifically for this layout for acoustical purposes. So, when you look at the contracts, when you look at how they approached the construction of this design of this building, then maybe we can appreciate why things were done in a certain manner and why the layout is the way it is. They took into consideration all of this. When you look at the documents of the contracts, what they took into account at that point in time to move the County forward. And so, understanding that will assist us in making the right adjustments to go into, moving forward, Chair. But, to ignore why they've done this, especially by law...the County flag is the official flag of the County, and then now to just stick it in the corner burns me greatly, yeah, to me, that's, talking about respect, they respecting [sic] the County flag now, okay. We a unique county that has a specific county flag in its code and we should be flying that flag, and we don't even fly it outside in front of the County Building, the County center. Again, yeah, it's a issue of respect, for me. If we don't want a county flag, then take it off the books, Chairman. But, it's part of it, we have the logo, only Council can authorize its uses, departments cannot alter it or use it for whatever discretion, design of a division or a department. So, if we gonna have a County seal, a County flag, then let's give it the appropriate decorum it deserves, Chairman. Thank you.

CHAIR MOLINA: Thank you for that perspective, Member Hokama. Member Lee?

COUNCILMEMBER LEE: Thank you, Mr. Chair. I just wanted to ask Mr. Sinenci. So, is it appropriate to have the drums there or not appropriate? I didn't understand what you said.

GOVERNANCE, ETHICS, AND TRANSPARENCY COMMITTEE

Council of the County of Maui

October 1, 2019

COUNCILMEMBER SINENCI: Yeah, so, we had...thank you, Member Lee. We had reached out to some of the hula practitioners, the kumu hula, specifically. Because it is, as an implement for hula ceremony and protocols, I guess they treat it as such and, for those practitioners, they might either keep it in a specific area or...so, we're waiting for that response to come back. As far as, there are implements, this being a seat of government, there are Hawaiian implements that is suitable for government practice and usage. And so, to find those that would be maybe more appropriate for this setting than maybe a halau, you know, we're not hula dancers in any of the sense of the word, so --

UNIDENTIFIED SPEAKER: . . . *(inaudible)* . . .

COUNCILMEMBER SINENCI: --I mean, oh, sorry to Member Rawlins-Fernandez. But, I mean, as far as, we didn't want to disrespect those kumu hula that practice.

COUNCILMEMBER LEE: So, we don't know the answer yet?

COUNCILMEMBER SINENCI: Yeah, we're waiting --

COUNCILMEMBER LEE: Okay.

COUNCILMEMBER SINENCI: --response. Thank you.

CHAIR MOLINA: Okay, thank you, Mr. Sinenci. Certainly an interesting study of cultural protocol. Chairman King?

COUNCILMEMBER KING: Yeah, I just wanted to let Councilmembers know that I've been working with Mr. Sinenci on this, so, yeah, we are waiting for a letter. We were made aware at the end of last year that the poi pounder was inappropriate that was there, but that belonged to the previous Chair, so, that left with him. So, I'm not sure if there's a more appropriate gavel but, you know, certainly those are things that could be discussed at chair's meeting. I have a concern with the word, nonemergency, because the HIOSH changes are nonemergency, they're not things that have to be done today, but they are safety issues. The clock is a nonemergency thing and that was a decision that I made, as Chair, to put up there because the previous one was always early or late, you know, it wasn't keeping good time. So, there are some of those kinds of things that I don't think need to go through a Committee vote and then Council vote, so, I would take out that, or add, maybe add, other nonemergency, non-safety and health issues, because those are things that need to be taken care of but they may not be considered emergencies.

CHAIR MOLINA: Okay, so would you, so you leave the word, nonemergency, and add to that?

COUNCILMEMBER KING: I don't know.

GOVERNANCE, ETHICS, AND TRANSPARENCY COMMITTEE

Council of the County of Maui

October 1, 2019

CHAIR MOLINA: Okay.

COUNCILMEMBER KING: I don't know what the intent of that is but I think it's a little concerning because there's no definition of what decorative is but there's a lot of decorative items on the, you know, on the desks over here.

CHAIR MOLINA: Yeah, you make a good point, I mean, decorative is a broad term. Now, of course, Councils change and it, you know, it depends on how future Councils look at something that --

COUNCILMEMBER KING: Right.

CHAIR MOLINA: --is decorative or appropriate. Like, for example, the drums were--well, the previous Councils approved of having the drums and I don't think they were being disrespectful to --

COUNCILMEMBER KING: Well, the previous ...

CHAIR MOLINA: --the Hawaiian culture.

COUNCILMEMBER KING: Chair, the previous Council didn't vote on these things, so they were just purchased by the previous Chair and put there. So, maybe that's part of the concern, is how much money went into those. I'm not sure if that's the poser's concern but, you know, I think it's something that probably needs a little more thought as to what types of items we're concerned about. They also, the previous Chair also spent a couple thousand dollars the last time the Chambers was decorated for the holidays and so maybe that's something that needs to be voted on, I'm not sure, I mean, there is, you know, obviously, if it's decorative, there can't be any holiday decorations without first a committee meeting and I'm not sure if it's a resolution or, you know, how much time it would take, but that kind of precludes trying to do any decorations around the holiday season right now 'cause we don't have time to post and hold all those meetings.

CHAIR MOLINA: Okay, thank you for those thoughts. And, certainly, as I reiterated earlier, you know, Councils change and, again, it's, depends on, well, I say this proposal is something of having the Council be more inclusive in the decision making with the Chair. So, anyway, Councilmember Kama?

COUNCILMEMBER KAMA: Thank you, Chair. Seeing as how these are our rules for this Council, right, so when this Council leaves, the rules go with us, correct? And new Council's gonna come in and they're gonna either add to it, delete from it, or make it better. But, I think what we're really talking here, we're not talking about things that, I mean, that are small. To me, like, the clock is a small thing, decorations for Christmas or Easter or Halloween, they're, I think we're talking about permanent

GOVERNANCE, ETHICS, AND TRANSPARENCY COMMITTEE

Council of the County of Maui

October 1, 2019

fixtures, you know, things that are going to be permanent and I think maybe we should just maybe put permanent fixtures in there because we know what we're talking about when we talk about a permanent fixture. That's not a permanent fixture. This is permanent, the seal's permanent, the flags are permanent, the desks are permanent, the chairs maybe, I don't know, but it's the small stuff that we shouldn't sweat about. It's the big stuff, I think, that we're talking about here. So, you guys can, you know, add to it, but I think it's permanent fixtures. Thank you, Chair.

CHAIR MOLINA: Okay, thank you, Member Kama. Any other discussion? Chair has a recommendation to offer but I'll leave the floor open for any other considerations prior to Chair's recommendation. Okay, seeing none, the Chair --

VICE-CHAIR RAWLINS-FERNANDEZ: Chair?

CHAIR MOLINA: --will ...

VICE-CHAIR RAWLINS-FERNANDEZ: Sorry.

CHAIR MOLINA: Oh, sorry...Member Rawlins-Fernandez?

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. I appreciate this discussion. I guess this will probably be borderlining on Sunshine but, I mean, there's a lot of discretion in all the words, you know, even what is a permanent fixture, what is decorations, what, you know, and so part of this discussion really is how much deference do we want to give our Chair, how much time to we want to spend discussing these things in Chambers. As Member Lee pointed out in the previous item, it cost us about \$25,000 to have a meeting like this on the floor, so do we want to spend that kind of money discussing, you know, whether, you know, a TV goes up or a clock goes up or, you know, so there's that to consider. And what happens if we don't follow our rules? What kind of enforcement do we have when we, so if we, you know, put the County flag up and there was no rule or if we, you know, how are we enforcing these rules? Are we just, you know, playing it by the honor system and if we violate our own rules, there's just, there's no consequences? And so, what's the point of having rules if there is no consequences in not following them? Mahalo, Chair.

CHAIR MOLINA: Thank you, Member Rawlins. That's a good point you bring up 'cause I know up at the State Legislature, they have, censure if any member is doing something inappropriate, such as stripping them of their committee leadership. And maybe I'm just going out on a limb here, I think with our own Council Rules, it's been more like honor system, but it's very vague, I don't think there is any consequences. I want to recognize former Chair Hokama, I think you have a lot of history, any thoughts on that?

GOVERNANCE, ETHICS, AND TRANSPARENCY COMMITTEE

Council of the County of Maui

October 1, 2019

COUNCILMEMBER HOKAMA: I thought Ms. Rawlins-Fernandez brought up a very good point about what happens if we don't do this or if we did something that's not within the rules. Rules give us guidance, Chairman, on how we operate, how we conduct ourselves. I would say, you know, for general things, we would have had a discussion in the annual Budget presentations, if it was going to take money to replace a large screen projection things, would be in the thousands, so would be a budgetary discussion. We would know about these things upfront. Renovations to this Chamber would be an appropriation, we would talk about it in Budget, we would have had that discussion upfront. We're talking about things that we feel won't make an impact that we never discussed and was just, and I think the point from Ms. Sugimura is, let's have a discussion, can be in Chair's meeting, and have that informative discussion happen. You know, we not really intended this but something came up so we have to deal with this, anyone has an issue with the approach or whatever is the resolution recommendation? I think that's healthy, Chair, yeah. Because, for me, how does a Member respond to a public query when he doesn't even know what was happening, okay, just like me, I didn't know how to respond to the family when I was queried directly by them about this Chamber, okay. So, my thing, Chairman, is the situation would drive the discussion and we can have more Chair's meeting and we can just have one item on it, we don't need to have a whole set of items for a Chair's meeting. And Ms. King can say, you know, 1 item is 30 minutes, we going do it lunchtime, in 30 minutes, and that's all we're going to give it. You're not there, too bad, that this is your opportunity to share your point of view, you don't want to be there, don't, but don't complain later. I can accept that because she gave fair notice to opportunity. So, that would be my recommendation, Chair, because, again, the rules take what we do in a normal sense, it doesn't anticipate that unforeseen situations. Yeah. And, so, my thing is, we should be able to have that venue to address that unforeseen situation because whatever happens, if it's the Council action, we would like to at least be able to explain it, eventually, if questioned by the community, and we would always have the same response because we are all informed. Thank you, Chair.

CHAIR MOLINA: Sure, combination of accountability to your constituents. Chair King, followed by Committee Vice-Chair Rawlins-Fernandez.

COUNCILMEMBER KING: Okay, I just wanted to follow up on something that our Vice-Chair Rawlins-Fernandez was talking about because we don't really have an enforcement, I mean, we've had, and I've seen our code of conduct violated, Chair, in the last month, so much so that one of the testifiers who was attacked by one of our Councilmembers wrote a letter to all of us, you know, expressing his humiliation at being attacked on the floor, and that's why I put on the Chair's, the next Chair's meeting, a discussion of enforcement. So, you know, I think these are good discussions to have, but I would just prefer to defer these until we figure out what they actually mean. I was, in just, in researching it, I was given this information on a previous court case that was, had in, that was filed in the City and County of Honolulu, and it was an ordinance that somebody deemed invalid because it went counter to their Council rules. So, the ruling was that the court found the Rules of

GOVERNANCE, ETHICS, AND TRANSPARENCY COMMITTEE

Council of the County of Maui

October 1, 2019

the Council carry no legal weight, that any ordinance that passes that's in violation of Council rules stands because Council rules have no standing, basically. They're basically on the honor system of us trying to say we're going to follow these rules and sometimes they don't get followed. I, in the previous term, I saw our previous Chair make some arbitrary decisions about how he was going to rein in somebody who he felt, you know, was in violation and that's why I wanted to have that discussion. What do we do, what do these mean and what do we do if there's a violation? Because right now there's so many interpretations, like, you know, was said earlier, with the interpretation of what's structural, what's decorative, what's budgetary. Those drums were in the thousands of dollars and those were purchased with no, you know, no vote, and then we're getting complaints about those. So, you know, so I think it is a good discussion to have but I think first, before we go through with changes to Council Rules, we have to decide, what do they actually mean, what kind of weight do they carry, and what are the consequences? Thank you.

CHAIR MOLINA: Good point, Chair. Ms. Rawlins-Fernandez?

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Okay, so, I have some proposed amendments to offer.

CHAIR MOLINA: Ms. Rawlins-Fernandez, would you prefer if I --

VICE-CHAIR RAWLINS-FERNANDEZ: Oh, no, just discussion.

CHAIR MOLINA: --ask for a motion? Oh, okay, at this point.

VICE-CHAIR RAWLINS-FERNANDEZ: Yeah.

CHAIR MOLINA: Okay, go ahead.

VICE-CHAIR RAWLINS-FERNANDEZ: It's not a motion, it's just for everyone's consideration. Okay, so I like Member Kama's point, so any structural, permanent fixture or nonemergency modification to the Council Chamber shall be approved in a Chair's meeting, prior to funds expended. And that was to take into consideration Member Hokama's suggestion, I thought it was great. It's also, you know, a way to cut down on costs, having it in a, on the floor in the Chamber, but still gives everyone the opportunity to discuss and come to an agreement on something that, you know, will impact all of us.

CHAIR MOLINA: Okay.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

CHAIR MOLINA: Thank you, Ms. Rawlins-Fernandez, and appreciate you being cost conscientious about this. Members ...

GOVERNANCE, ETHICS, AND TRANSPARENCY COMMITTEE

Council of the County of Maui

October 1, 2019

COUNCILMEMBER SUGIMURA: Can she repeat that, please?

CHAIR MOLINA: Okay, if you could read that into the record again, Ms. Rawlins-Fernandez --

VICE-CHAIR RAWLINS-FERNANDEZ: Sure.

CHAIR MOLINA: --your proposal for consideration should a motion be put on the floor?

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Any structural, permanent fixture or other nonemergency modification to the Council Chamber shall be approved of in a Chair's meeting, prior to funds expended, so instead of going to committee and then to full Council.

COUNCILMEMBER SUGIMURA: Sounds good.

VICE-CHAIR RAWLINS-FERNANDEZ: Yeah.

CHAIR MOLINA: Okay, thank you. Okay, Members, I'll just throw this out, too, might as well jump into the fray here. I had this proposal for the resolution, or the proposed Council rule change. It would read, any structural, decorative or other nonemergency modifications to the Council Chamber shall be referred to the appropriate Council committee for a discussion, and then adding the words, and recommendation to the Council, okay, we add those words, and then we continue on with, or an affirmative vote from a majority of the Council shall be received, prior to funds expended, and then adding these words after the word expended, and modifications initiated. So, that is something your Chair is throwing out there for consideration should a motion be placed on the floor. So, just my thoughts on it. Any other comments or considerations on this? Chair King?

COUNCILMEMBER KING: Just, I think it's simpler the way Vice-Chair Rawlins-Fernandez proposed it and, you know, I don't think it needs to go through committee and then full Council hearings. But I would question, you know, I would take, I like that you took that word, decorative, out because I think that's very arbitrary and it's subjective, so and there's a lot of things in the Chambers that people bring in and out that are decorative that I wouldn't want to have to take a vote on.

CHAIR MOLINA: Thank you, Chair King. I guess part of the consideration for this added language is, you know, again, it depends on what we're considering. If we're talking about totally modifying these Chambers, where there will be a large cost, in my opinion, maybe it should go, you know, go to whatever, the Budget Committee, for a final review, and then on to full Council. But, again, it just depends on what's being considered for changes to the Council Chamber or adding decorative stuff. And, you

GOVERNANCE, ETHICS, AND TRANSPARENCY COMMITTEE

Council of the County of Maui

October 1, 2019

know, just drinking this cup of coffee, I just realized it's from a well-known fast food restaurant. I don't know if that's appropriate to have here on my desk, but, anyway.

COUNCILMEMBER KING: Chair?

CHAIR MOLINA: Other thoughts? Chair King?

COUNCILMEMBER KING: Just to follow up, you know, we have been discussing changes to the Chamber that require, would require the Council, the Council seats being moved so that we face the public and that would be a budgetary item that would come to, that would be discussed as part of the Budget. That would also be, that's also a safety and ADA item because that was something that, actually, Mark Middleton brought up from Risk Management. He actually had a proposal to do the very same thing, to turn the Council around. And we, right now, we're not ADA compliant, so we will have to make some changes, regardless, that will be considered, they're not emergency because they're not something we have to do, you know, within, you know, for our immediate safety, but they are things we're going to have to address. So, those will probably be packaged all together and brought to the Council because that's a major, permanent change and I think that's, was the intent of the proposal that our Vice-Chair made.

CHAIR MOLINA: And it is somewhat along the lines of what Mr. Hokama had mentioned about, we need to be respectful of anything related to Federal law as well, too.

COUNCILMEMBER KING: Oh, right. And I did get a note on that. The Visual Artist's Right Act prohibits destruction of works of art. It does not, but it does allow for movement, so we're not in violation.

CHAIR MOLINA: Okay, thank you, Chair King. Members, any other discussion? Well, how does the body feel? Do you prefer that the Chair defer this or put out a proposal or ask for a consideration for a motion to approve? I'm open to either. Well, let's go ahead and put it into play. Mr. Hokama?

COUNCILMEMBER HOKAMA: I'll make a motion...well, I'm going to ask Ms. Rawlins-Fernandez to make the motion since she wrote the language. I'll be happy to second her motion.

CHAIR MOLINA: Proceed, Ms. Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Sure. Okay, I move to amend our Council Rules, to add Rule 27, Approval of Modifications to the Council Chamber, to say, any structural, permanent fixture or other nonemergency modifications to the Council Chamber shall be approved of in a Council, in a Chair's meeting, prior to funds expended.

COUNCILMEMBER HOKAMA: Second.

**GOVERNANCE, ETHICS, AND TRANSPARENCY
COMMITTEE**

Council of the County of Maui

October 1, 2019

CHAIR MOLINA: Okay, motion has been made by Member Rawlins-Fernandez, seconded by Member Hokama. So, for clarification on the motion, you're basically amending the initial proposal that's on our resolution, so it's sort of incorporating an amendment into the motion already, the initial motion. Okay, so alright, discussion? Chair King?

COUNCILMEMBER KING: Yeah, I have a question about the HIOSH, because we have some changes and they are going to, they're going to come out of County Clerk's funds. Based on HIOSH, the complaints that were made to HIOSH, and then they advised us and so they're not necessarily emergency but they are, they do have a deadline, which we will not be able to meet if we go through--although, we could, I guess we could put it on the Chair's agenda, I mean, they're not really, we don't really have the option, we have to do them, but we could put it on the, in the Chair's meeting, I guess, if it's, if it just has to go through that agreement. We, I think we're in the second or third week and we had six weeks to complete those changes, so Risk Management is working on them with Clerk's Office and those are going to entail those two doors opening out and then a change in one of the hallway doors so that both of them open out for the escape route purposes. So, if we pass this then --

COUNCILMEMBER SUGIMURA: Chair?

COUNCILMEMBER KING: --I guess, is the body okay if we just add those to the Chair's meeting then?

COUNCILMEMBER SUGIMURA: So, Chair? I have a question.

CHAIR MOLINA: Member Hokama, followed by Member Sugimura.

COUNCILMEMBER HOKAMA: Quick one. So, are we looking at this as a repair/maintenance or is this a capital improvement? Because, again, I understand HIOSH requirements, but the Council still needs to do its required processing if there is any to be done, Chair. So, if we didn't make a CIP and we would need to, why is it that Admin not sending us a proposal to address it in such manner so Ms. Rawlins-Fernandez can give it its due consideration for posting and committee action because I would think that Council would need to appropriate or authorize if it's not already in the Budget, because we didn't talk about this during Budget so?

CHAIR MOLINA: Member Hokama, can we ask Mr. Kushi to opine on this, if he's able to?

MR. KUSHI: Well, if I understand the issue or the question, I believe Mr. Hokama is referring to Section 9-2 of the Charter, regarding payment and obligations. So, you know, basically, it says, that, you know, any payment or obligation by any County employee has to be appropriated and if it's not appropriated, through the Budget, then such payment or obligation is void. So, whatever you want to do, I think you need to have appropriations to fund that.

**GOVERNANCE, ETHICS, AND TRANSPARENCY
COMMITTEE**

Council of the County of Maui

October 1, 2019

COUNCILMEMBER HOKAMA: Again, Chairman, yeah, I appreciate Corp. Counsel's comments. I'm just saying, we just need to do what we need to do to get the job done and we have asked for extensions on deadlines because of our required processing. We still, we gotta do Sunshine posting, we still gotta to X, Y, Z that the State, or however, can exempt themselves from, but we don't. So, I'm just saying, if we need to do something from our side to make this happen, then I would ask that the Admin submit appropriate legislation or proposal so that we can do our end and have our money squared away for the actual implementation and completion of the work. Thank you, Chair.

CHAIR MOLINA: Okay, thank you, Mr. Hokama.

COUNCILMEMBER KING: Chair?

CHAIR MOLINA: Councilmember Sugimura?

COUNCILMEMBER KING: I could give you more information on the, where the funds are.

CHAIR MOLINA: Okay, let me recognize Councilmember Sugimura and I'll follow up with you, Chair.

COUNCILMEMBER SUGIMURA: So, I wanna hear about the, are you gonna talk about HIOSH?

COUNCILMEMBER KING: Yeah.

COUNCILMEMBER SUGIMURA: I'm just curious what that is.

COUNCILMEMBER KING: So, the HIOSH fund, the HIOSH issues are coming out of the County Clerk's budget and they have a budget, they have money in the County Clerk's budget for these types of, I don't know if they are called repair and maintenance because they're not really repairing anything that's broken, they're making changes based on the HIOSH complaint.

UNIDENTIFIED SPEAKER: Compliance.

COUNCILMEMBER KING: Yeah, compliance is what it is. So, it doesn't entail us appropriating any extra funds. It's kind of like the funds in OCS that, we have a fund for audits and every time we approve an audit, we just take it out of that fund, we don't have to appropriate more money for that. So, in my talks with the County Clerk's Office, they were fine with that coming out of their budget, they have enough in their budget for, to cover that.

GOVERNANCE, ETHICS, AND TRANSPARENCY COMMITTEE

Council of the County of Maui

October 1, 2019

CHAIR MOLINA: Okay, thank you. And thank you for that reminder, too. I have Maggie, Deputy County Clerk, out there if you have any specific questions related to that, Members. Again, I want to remind you, we do have a motion on the floor for consideration. Any proposed amendments to the motion at this time or further discussion? Member Sugimura?

COUNCILMEMBER SUGIMURA: So, I just wanted to add to that. Thanks for the explanation on what HIOSH is, but it certainly sounds like something that we're being mandated to do and is, like, considered somewhat nonemergency, but it's safety, so I don't think that is really what we're questioning here, because it sounds like something that we're being mandated or required to do. And, I, you know, the idea of this amendment is just so that there's discussion before action is taken and that there's transparency, rather than, you know, it being announced. And when you do things on, in a Council Chair's meeting, it's not necessarily quite like having it on the Council floor. So, I believe that, again, going back to my opening statements, that this is the people's chamber and, you know, changes that are made to it, it should be discussed so that people can weigh in and talk about things, especially like what, you know, Member Sinenci was saying, if there's cultural significance and whatever, you know, so that sensitivity to that which, actions that we are taking is not, you know, it's more sensitive and it's discussed. That's the intent.

CHAIR MOLINA: Okay, thank you, Member Sugimura. And the Chair certainly appreciates this consideration. Also, Chair would like to thank Council Chair King 'cause we do have an upcoming Chair's meeting next week, if I'm correct.

COUNCILMEMBER KING: Correct. And I think there's an update on the agenda for the HIOSH. It is nonemergency, it's a compliance issue, so I'm not sure where that falls in the, you know, the--and it would have been, I mean, it would have been okay to get it on the, to have a Chair's meeting about it, it just, the way it came up with the six-week deadline, and it took Risk Management a couple of weeks to actually get the plan to us. So, by the time they got it to us, there's not enough time to go through that whole process. We don't really have...and we really aren't going to be able to vote on it, we have to do it.

CHAIR MOLINA: Okay, thank you, Chairman King. Alright, Committee Vice-Chair Rawlins-Fernandez?

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. I think this my --

CHAIR MOLINA: Second and last time.

VICE-CHAIR RAWLINS-FERNANDEZ: --second and last time, yeah. So, I wanted to mahalo Member Sugimura. I think, you know, the effort for transparency is something that we always strive for, and having that discussion, and being collaborative in making decisions together. I wholeheartedly support that. I just wanted to, you know, point

GOVERNANCE, ETHICS, AND TRANSPARENCY COMMITTEE

Council of the County of Maui

October 1, 2019

out that, that this rule would be the floor, it would be, like, the minimum action to take and that we're, as Councilmembers, we wouldn't be, you know, prohibited from taking, you know, referring an item that we want to have on a Chamber floor to the Chamber floor, we still have that option, too, if we wanted to have that discussion, you know, live on *AKAKU*. It's just for, you know, that we also have the option to just have it in Chair's meeting if it's something smaller. Yeah, so, I just wanted to make that point.

CHAIR MOLINA: Good, Chair appreciates --

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

CHAIR MOLINA: --that point and as the maker of the motion. We got a little audience participation there. Alright, Members, if there's no further discussion, Chair's gonna call for the vote on the motion on the floor. All those in favor, signify by saying "aye."

COUNCILMEMBERS: Aye.

CHAIR MOLINA: All those opposed? Okay, thank you. The Chair will mark it unanimous, nine, zero.

**VOTE: AYES: Chair Molina, Vice-Chair Rawlins-Fernandez,
 Councilmembers Hokama, Kama, King, Lee,
 Paltin, Sinenci, and Sugimura.**

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: None.

MOTION CARRIED.

ACTION: ADOPTION OF REVISED RESOLUTION.

CHAIR MOLINA: The proposal will move on to the full Council. Thank you very much, Members, for your due diligence on this.

UNIDENTIFIED SPEAKER: . . . *(inaudible)* . . .

CHAIR MOLINA: Yes, I know. Member Kama, you made a point, this is the full Council, well, in Committee, anyway. Formally, it goes, you know, two weeks.

**GOVERNANCE, ETHICS, AND TRANSPARENCY
COMMITTEE**

Council of the County of Maui

October 1, 2019

**GET-6(3) AMENDMENTS TO THE RULES OF THE COUNCIL (POSTING ITEMS ON
COUNCIL AGENDA) (CC 19-27)**

CHAIR MOLINA: Alright, we got one more item, another item, GET-6(3), related to a correspondence dated September 18, 2019, from your Committee Chair, Michael J. Molina, transmitting a proposed resolution entitled, Amending the Rules of the Council, relating to posting items on Council agenda. The purpose of the proposed resolution is to amend the Rules of the Council relating to the automatic posting of items or matters transmitted to the Council Chair or County Clerk for posting, referral, or consideration by the Council. As, I would like to just open up first by stating my, you know, my reasons for this include, it's more to give, it's a checks and balances proposal. If, for example, we, as committee chairs, decide to hold on to an item that's, you know, that a Member would want drawn out for a meeting, there are mechanisms in place to prevent a committee chair from holding an item for whatever reasons. If you get a simple majority, you can bring the Committee item out for discussion. Currently, as it relates for, any Council Chair who wanted to, whatever, purposefully, hold on to an item or not take an item for posting, there really is no mechanism for that, so this is just more of a matter of checks and balances. And this way, you know, all of us can get our items put on the agenda and then when it goes to the appropriate committee, it's up to the committee chair when to put the item for appropriate discussion. So, that was my basic rationale for this. And, again, it's to be more, I guess, inclusive, to give everybody, from both the Council Chair and committee chairs, I guess, empowerment, and also the empowerment to prevent any withholding of committee items for whatever reason. So, that, in a nutshell --

COUNCILMEMBER KING: Chair?

CHAIR MOLINA: --is my rationale for this. Chair King?

COUNCILMEMBER KING: I think you're kind of contradicting yourself because you just talked about the committee chairs being able to withhold items. So, if the Council Chair has to put it on the agenda, then shouldn't the committee chairs have to put it on the agenda, too? I mean, you're allowing the committees the right to withhold. And I think that your earlier explanation, I think, is backwards. I think it's the Council can actually, with a vote of five, force something on the Council agenda but not on committees, that's what I've been told but maybe Mr. Kushi can clarify.

CHAIR MOLINA: Mr. Kushi?

COUNCILMEMBER KING: But I think if we're going to...he doesn't seem to want to answer.

CHAIR MOLINA: Go ahead ...

GOVERNANCE, ETHICS, AND TRANSPARENCY COMMITTEE

Council of the County of Maui

October 1, 2019

COUNCILMEMBER KAMA: He's reading.

COUNCILMEMBER KING: I think if we're going to make automatic postings, it should be for the committee, too, because, you know, it's been frustrating for those of us who wanted to see things on committee agendas, those were withheld but, you know, to me, it's the purview of the chair. Each committee chair has the right to put something on their agenda or not put something on their agenda, and it should be the same for the Council Chair. But, you know, there's that same argument that you used could be used for withholdings from the committee, because things aren't going to make it to the floor if the committee chairs withhold.

CHAIR MOLINA: If I may respond to that. But there are, again, mechanisms for the body to pull an item out of a Member's committee for discussion. Right now, to my knowledge, like, for example, you held up an item that I had, we had previously discussed, and but it was submitted to you in late July and there was initial agreement on our part, too, that, you know, you had a similar item that you wanted to have discussed.

COUNCILMEMBER KING: Right.

CHAIR MOLINA: But, it had been some time before it was finally being referred. And I know you're going to have it referred now, finally, here in October, and I appreciate that, but I was just looking at it more on a broader scope, 'cause it may have happened with other Members who've had, who wanted their items scheduled on a Council agenda, whether it'd be this term or other terms. So, this is more, again, as I stated, a checks and balances, to give a little bit more empowerment, I don't want to say, less than the powers of the Chair, if you will, but maybe it is. And every Council is different. If this is something this Council wants to consider, the Chair serves the body, that's the bottom line, okay, the Chair serves the body and so it's up to the body as how, what appropriate authority they want to give to their chairs. So, this is a consideration for us to consider.

COUNCILMEMBER KING: Okay. But, Chair --

CHAIR MOLINA: Mr. Hokama?

COUNCILMEMBER KING: --I'm not done yet. Can I finish my thought, Chair?

CHAIR MOLINA: Proceed.

COUNCILMEMBER KING: So, the first item on today's agenda was posted back in March, so you held it for six months before putting it on today's agenda. That's your purview, you know, so I think it happens both ways, you know, you're not, and if there's an automatic posting required by Council, there should be an automatic posting required by committees, as well. But the problem with that is that some agendas are going to end up with so, with, you know, multiple, heavy items and we're going to, that's the

GOVERNANCE, ETHICS, AND TRANSPARENCY COMMITTEE

Council of the County of Maui

October 1, 2019

purview of the Chair is to try and balance it out. I thought, when I looked at the agenda, that you probably held that first item so that you could put all the Council rules together, which is why you and I discussed holding those, the items for the advisory committees and putting them on the agenda together. We talked about that, so, you know, I thought you were good with that, but this happens in committee. It was frustrating for those of us who wanted to see the injection well case, you know, reposted and it was May to September before we saw it on the agenda again. But, you know, I mean, I'm just pointing that out because I think it is, that's the right of every committee chair and it's the right of the Council Chair to post the agenda and schedule things as they see fit.

CHAIR MOLINA: And, thank you for that, but let me point out to you, Madame Chair, I brought that item, still brought that item out and we resolved it, so there you have it. I could've, and I brought it out, once again, for a second time, as you recall. After the deadlock vote, as the Committee Chair, I had the choice of just leaving it as it is, but out of consideration for --

COUNCILMEMBER KING: Right.

CHAIR MOLINA: --you, because it was...wait, wait.

COUNCILMEMBER KING: Right.

CHAIR MOLINA: I just, let me have the floor. I just want to let you know, I brought it out again. So ...

COUNCILMEMBER KING: It's just timing.

CHAIR MOLINA: Excuse me, I have the floor, Madame Chair, I'd appreciate it, this is my Committee, please. Thank you, let me finish. So, I did bring it out, so I just wanted to add further clarity to that. But, let me digress from this debate here. Let's not get into specific items. The whole idea behind this proposal is to empower us, as a body, and provide a mechanism if there is any delay for any communication items being referred to committees, okay. So, I just want to leave it at that and no disrespect to you, Madame Chair, because, again, I'm just trying to look at empowering all of us, more inclusiveness, if you will, and checks and balances. So, and I apologize if, you know, this particular this item was held up for six months, but again, if Member Lee, for example, had wanted this heard, I would've certainly brought it up, you know, sooner. But, we did have some heavy items to consider, which included the injection wells matters, dealing with the nominations of directors, so, and as you stated --

COUNCILMEMBER LEE: I'm not complaining.

CHAIR MOLINA: --Members have stated that this is a very busy committee. Okay, I digress. Mr. Hokama?

GOVERNANCE, ETHICS, AND TRANSPARENCY COMMITTEE

Council of the County of Maui

October 1, 2019

COUNCILMEMBER HOKAMA: Chairman, thank you. I'll give you my perspective, Chairman. I'll be supporting your proposal. I see it differently with the Council Chair and committee chairs. I will say, though, I think the Council Chair should have some flexibility on being not able to post an item that has not been submitted in its complete entirety, 'cause during my tenure, terms of Chairmanship, I've rejected and sent back to Planning, zoning applications that wasn't transmitted to us in its full requirements. And so, there's reasons why the Chair, at times, would consider not posting if it was inappropriate or incomplete submittal for consideration. For those items from the Members, though, I agree with your language. And I see a difference with the committee chairs. The committee chairs need to balance, and when they make their agendas, will review the item, and if is not ready for posting, it won't get posted, okay. You know, one of the difficulties is the Zoning Committee. Not everything is ready for when the Chair wants to deal with it, okay, and we had various different chairs that approached it in various different manners. Mr. English took it first in, first out, so guys pretty much knew the order of sequence and that kind of worked for a while until you had that lump in the road, log, that slowed everything up and hindered it. The second thing as you bring up appropriately is, any Member with an item in committee will then have the opportunity, and that's why the key is understand procedures, Members, yeah, how to deal with unruly people at testimony, it's all in rules of what the presiding officer should be doing. With yours, Chairman, I would say, the Member would write to the chair, asking for a discharge from committee, okay, that the rules allow. So, that is still an opportunity of that Member that feels some aggrievement to find a processing resolution. Once the chair makes, the Council Chair makes no, there is no other opportunity for that matter to reach the Council 'cause it's not posted. So, I would say, there is a difference on what, how we treat committee chairs versus Council Chair, and I would agree with you. If the body chooses, then so be it. The Chair just administers the policy. The Chair does not create the policy, just like the Mayor does not create the _____, he just makes it work. The Chair makes our policy work. So, that's how I look at it, and I'm happy to support your proposal 'cause I think it gives us time. The Chair still has an opportunity to deny initial posting and make the Member know of the points of why it wasn't moved forward, but I think if that is not resolved, then we should be _____, and let the membership, by majority vote, cast, because under Council agenda, we can either file it at that point in time or allow the referral to go to appropriate standing committee for its time and date. Thank you, Chair.

CHAIR MOLINA: Okay, thank you, Mr. Hokama. Chair appreciates your perspective on the historical nature, as well. Member Paltin, followed by Vice-Chair Rawlins-Fernandez.

COUNCILMEMBER PALTIN: Thank you, Chair. I just would like to weigh in my perspective. Like, for me, I feel like I, and I not trying to complain or anything, but I feel like I inherited a heavy load due to medical circumstances in the previous position person. And, not trying to complain or throw anyone under the bus or anything, but for me, the discretion is important, like, you know, in terms of efficiency and whatnot. If I'm

GOVERNANCE, ETHICS, AND TRANSPARENCY COMMITTEE

Council of the County of Maui

October 1, 2019

able to put, like, as many of the TVR items together or, you know, try to arrange it so that like-minded things are there at the same time, so if people come out and they're interested in this issue, they can testify all at once or our resources are all at once. For the specific issue that prompted this, I mean, I have no problem waiving committee referral at the Council meeting this weekend if that would help the cause. But, same thing, like, you know, how a lot of times we afford the directors discretion, I'd like to have a little bit flexibility and discretion, as well, and I think that it's a good thing. Like, you know, the last Council meeting, I mean, maybe not the last Council, but a recent Council meeting, where we had all these various issues that were so important to people and I kind of liked it 'cause it was not listening to the same thing one after another, it was talking about all these issues that we had covered in committee, but some of the people in the audience were just, like, you know, couldn't keep up with the subject, like, now we're talking about this, now we're talking about that. So, I think, you know, the way that you set your agenda, anybody could have some discretion to have, like, you know, kind of a theme going and, you know, sometimes it's beyond our control that it has to be, like, all sorts of bouncing all over the place but, for me, I like to have a little bit discretion. If that's not the case, if we can't have the discretion, I mean, I'll still do the job but there is something to be said for discretion and it doesn't only apply to, like, directors, you know. So, that's just my two cents.

CHAIR MOLINA: Thank you, Member Paltin. Chair appreciates that perspective and, yeah, there's sometimes, I guess, there's no really set rule, I guess, sometimes, and rules are sometimes, there's always exceptions to the rules. So, it's fluid, like the two previous items we discussed. Any other discussion...oh, sorry, Committee Vice-Chair Rawlins-Fernandez?

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Okay, so I like what Member Hokama was saying and so I have an amendment to offer.

CHAIR MOLINA: You are the queen of amendments. Go ahead, Member Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay, so I understand the items that are being referred by Administration, you know, perhaps they don't need to have the same kind of, you know, referral or, not referral, but require posting. So, I was thinking, and I think this is, you let me know if this is kind of your intent, okay. Any item or matter initiated by a Councilmember, transmitted to the Council Chair or County Clerk for posting, and then the rest of your language. And the purpose for that amendment is that it limits the transmittals that are generated by the Councilmembers to the Council Chair to be, required to be posted on the agenda. And then that way, if there are items that aren't completed, as Member Hokama was mentioning, they wouldn't be held to the same strict standards, strict rule. It gives the Chair that flexibility for administrative, or referrals from the Administration, that kind of a discretion, but as far as items that are coming from the Councilmembers, then it would be required to be put on the Council agenda for referral. So, that's an idea for consideration. And the

GOVERNANCE, ETHICS, AND TRANSPARENCY COMMITTEE

Council of the County of Maui

October 1, 2019

other thing I wanted to bring up was something I learned last, not this past weekend, but last weekend. At one of the conventions I went to, I sat down at, for lunch with one of the trustees from OHA, Trustee Lee, and he shared with me their rules on transmittals and posting and that whenever a trustee has an item or a matter that they would like heard, that it actually is directly referred to a Trustee committee before it goes to the board, as a whole, and that's their process, and they're also held by Sunshine Law. So, I thought that was an interesting idea, too, where a Councilmember would refer it to a committee and then, and that way it would kind of, it would be a little more efficient in that it wouldn't have to take two weeks, or one week for posting, and then it takes another two weeks before, you know, it can go to a committee for posting on the committee's agenda. So, I don't have a suggestion for amendment for that, I just wanted to, you know, share that rule from OHA's Board of Trustees, which I thought was kind of cool. Mahalo.

CHAIR MOLINA: Okay, thank you for that consideration. Well, it would be nice to have that memorialized in writing to kind of re-review it, but I appreciate your thought process in all of this. Member Lee?

COUNCILMEMBER LEE: Thank you, Mr. Chair. I just have a couple comments. I'm supportive of what is being proposed but I think one way to resolve, and probably avert, some of these discussions is to have a Chair's meeting more often. And, maybe once a quarter or, you know, sooner than --

COUNCILMEMBER KAMA: Once a month.

COUNCILMEMBER LEE: --you know, three months is fine, too. But, my thinking is it appears that a lot of, there's all these pent up issues and probably could've been resolved a lot easier if they were brought up sooner and people weren't allowed to speculate on why this, why that, you know, there could've been easy explanations, and probably easier solutions to our problems and issues if we were, if we met on a more regular basis in a Chair's meeting, yeah. Thank you.

CHAIR MOLINA: Good point. Member Lee, as a former Council Chair, how often did you conduct Chair's meetings, like, every three months, two months?

COUNCILMEMBER LEE: Oh, no, mine was once a month.

CHAIR MOLINA: You had it once a month?

COUNCILMEMBER LEE: Yeah, once a month. Yeah, I had nine guys, yeah, all men, and, you know, it was like running a preschool, kind of, and everybody, you know, they fight over parking spaces and they fight over this and that, I want this analyst, I want that, you know, so I had, there was a lot of maintenance. And, by keeping everybody informed of everything, then you have less problems in the end.

GOVERNANCE, ETHICS, AND TRANSPARENCY COMMITTEE

Council of the County of Maui

October 1, 2019

CHAIR MOLINA: And, good, and I believe the intent of Chair's meetings is basically to discuss nonvoting items, in general, yeah. Chair King, you wanna weight in on that, once a month?

COUNCILMEMBER KING: Well, was that in addition to your regular two meetings a month? So, that would be three meetings a month at the ...

COUNCILMEMBER LEE: No, once a month for just the Chairs.

COUNCILMEMBER KING: Right, but that was in addition to the two regular Council meetings a month?

COUNCILMEMBER LEE: Yeah.

COUNCILMEMBER KING: So, you had three meetings a month, then Council, full Council meetings? Yeah, I think it would be difficult to get, I mean, I've been having a hard time just getting a quorum of people to --

CHAIR MOLINA: Like herding cats.

COUNCILMEMBER KING: --have, you know, one meeting. Maybe the thing to do is just to set the meeting and not give the choice. I tried giving choices and it was split half and half. But, I'm not, I don't know if we need to do that every month. I think maybe every three months would be good, if people can make it, I mean, we have a hard time sometimes just getting people to make all the committee meetings. But, I did want to kind of propose that, you know, I've been frustrated, not necessarily so much this, there were a couple items this term, but in the past, when, you know, if we transmitted something to a committee and it never got heard. And so, I would like to see, if we're going to do this automatic posting, that that apply to the committees, too. I mean, we, the MPO last term sent a, you know, unanimous vote to, for the GE surcharge to the Council and it never got heard in committee. So, there are things that, you know, I know that you've promised to hear all the Charter amendments, those are coming up. And, by the way, I wanted to mention, too, that some of those things that are on your Master agenda, whoever chairs, can go straight to committee, so Charter amendments for GET can go straight to committee because that's one of your umbrella items. I believe Council rule issues can go straight to committee. Settlements go straight to committee. So, there are, every committee has things that can go straight to your committee that don't have to go through, to the full Council agenda first and then get referred. So, maybe we need to, everybody who has these issues need to review what can go, you know, and we can discuss this at the Chair's meeting, too, what kind of issues can go straight to committee, and then that will get their faster. But there's no guarantee they're going to be heard in committee, you know, so if we're concerned about making sure things are posted, then it should also apply to committee work, as well, and committees should be required to hear everything that comes to them through the Council, otherwise, you know, what's the

GOVERNANCE, ETHICS, AND TRANSPARENCY COMMITTEE

Council of the County of Maui

October 1, 2019

point in posting it on the Council if the committee's not going to hear it. But, and then I wanted to speak to Vice-Chair Rawlins-Fernandez's thought on administrative issues. We've gotten some, you know, we get issues all the time from constituents and the Administration and different departments, and I think the discretion is important because, like, right now, I have an item that was transmitted by the Administration, asking for \$120 million Budget amendment for the promise of an organization that's, you know, we haven't even met the principal, but they're promising the County \$2 billion for all of our affordable housing. So, you know, those are the kinds of things that need to be vetted out. And we're working with, you know, they claim that the Hawaii Community Foundation is supportive, so we've talked to them and they said, well, no, we've, we're still vetting them. So, you know, that's not something that I think that should come to the Council, unvetted. That's, you know, to me, it kind of makes us feel, look silly if we haven't, you know, vetted those things out. So, I'm not, so anyway, that's, I think those kinds of issues need discretion, as well as stacking items into one Council meeting because, you know, like was pointed out earlier, we could get a lot of testimony just on County communications, and if we have to put every communication, we could have 50 communications on one agenda and people coming out to testify on all those items. So, I'm not sure, you know, maybe we need to talk about this in, at the Chair's meeting before we go further and then try to figure out what the real goal is to, for automatic posting. You know, when I talked to Office of Council Services, they're, they said they were real, they didn't like to see any kind of automatic posting rules because there's so many things that come up with some of these items and sometimes they have to be pulled back at the last minute, but this would not allow that to happen.

CHAIR MOLINA: Thank you, Chairman, appreciate that perspective. And, yeah, you've got all the communication referrals that, you know, like I stated earlier, it can be a large number --

COUNCILMEMBER KING: Right.

CHAIR MOLINA: --and you cannot prohibit people from testifying on that, as well. And, again, another reason for my proposal is just to make it a requirement, where if you, as a Chair, you're going to defer the item or not put it on your agenda, just discuss it with the Member and, for all you know, the Member may be amenable to that, as well. So, if you wanna ask the Member to wait for posting for another meeting then, you know, just, again, you know, just for the body's consideration. It's all part of, you know, making everybody, force everybody to discuss the matter and, of course, with the Chair, and certainly, you've brought up some concerns why there may be, need to be a deferral, and that's, I think, the point of it, so, this way nobody's totally in the dark on it. Vice-Chair Rawlins-Fernandez?

VICE-CHAIR RAWLINS-FERNANDEZ: I support that, Chair. Mahalo. The other part of the OHA rule that I was talking about, you just reminded me, is that it doesn't require it to be posted on the next agenda, it gives the Chair up to 30 days to post it. So, along

**GOVERNANCE, ETHICS, AND TRANSPARENCY
COMMITTEE**

Council of the County of Maui

October 1, 2019

with the flexibility of communicating with the Councilmember that transmitted the item or the matter, you know, this could also address some of the concerns that Chair King brought up, where we don't wanna, you know, jam pack the agenda and, you know, end up with long, much longer meetings with testimony on all the referral items. So, that's another, you know, idea for consideration if you wanted to include, instead of posted on the next regularly scheduled Council meeting, you know, have it scheduled on the Council meeting, you know, within the next 30 days or something like that.

CHAIR MOLINA: That's a consideration, too, okay.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

CHAIR MOLINA: Thank you. Member Kama?

COUNCILMEMBER KAMA: Thank you, Chair. But it doesn't preclude a Member from going up to another committee chair and saying, hey, my committee referred this to you, can you hear it at your next, and then they are going to have to look at their calendar and say, I've got this and this and probably not until this date, and then I can say, okay, cool. But, that's what I think should occur, is that if we've got, if you've got something that you have in somebody else's committee, you should go ahead and talk to that person and say, hey, can you do it, so and that way we don't have to spend so much time going forth and back and forth and back, and then you get an answer, you don't have to sit frustrated someplace wondering why it hasn't come up in their committee or on Council floor. So, that's just my...

CHAIR MOLINA: Good point.

COUNCILMEMBER KAMA: Thank you.

CHAIR MOLINA: And it's happened before on my previous tenure, you know, I've asked committee chairs for a consideration to move it up on the calendar and I know some of you asked, have asked for, you know, other items in this Committee to be brought up sooner than later. For example, the Bank of America, and after explaining the sensitivity or the urgency of getting it heard sooner than later, I agreed with your request. So, but anyway, but as it pertains to this, this is more with, related to the posting on the Council agenda items. So, but anyway, I think I've said a mouthful already. So, Members, we do have a, do we have a motion on the floor?

COUNCILMEMBER KAMA: So moved.

COUNCILMEMBER HOKAMA: Second.

**GOVERNANCE, ETHICS, AND TRANSPARENCY
COMMITTEE**

Council of the County of Maui

October 1, 2019

CHAIR MOLINA: We have a motion made by Member Kama, seconded by Member Hokama. Discussion? Any proposed consideration? Now this is the, Member Kama, if I may clarify, this is the proposal that was ...

COUNCILMEMBER KAMA: With the amendment ...

CHAIR MOLINA: With the modifications?

COUNCILMEMBER KAMA: Yes, from Chair [sic] Rawlins-Fernandez, yes.

CHAIR MOLINA: Member Rawlins, would you like to restate it for the record, because now we have a live motion on the floor? So, your proposed amendment?

VICE-CHAIR RAWLINS-FERNANDEZ: Sure. Okay.

COUNCILMEMBER HOKAMA: Wait, we get the motion already, right?

VICE-CHAIR RAWLINS-FERNANDEZ: Member Kama made the motion.

COUNCILMEMBER KAMA: She's just repeating for me.

CHAIR MOLINA: Yeah, when Member Rawlins mentioned the consideration, there was no motion on the floor at that time. So, now that we have a motion on the floor, I'd like Member Rawlins-Fernandez to repeat her amendments to the current resolution.

COUNCILMEMBER HOKAMA: Oh, I thought she made the motion first and I seconded it?

COUNCILMEMBER KAMA: That was --

VICE-CHAIR RAWLINS-FERNANDEZ: Oh, that was the previous one.

COUNCILMEMBER KAMA: --another one.

CHAIR MOLINA: That was the previous item, yeah.

VICE-CHAIR RAWLINS-FERNANDEZ: And we voted in affirmative. Okay.

CHAIR MOLINA: Okay.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay.

COUNCILMEMBER KAMA: I think he just wants to second your motion, that's why.

CHAIR MOLINA: Do you want a confirmation from Staff? Staff, there was no motion on the floor prior to this, right? I know Member Rawlins-Fernandez had just stated it. I am

**GOVERNANCE, ETHICS, AND TRANSPARENCY
COMMITTEE**

Council of the County of Maui

October 1, 2019

correct, yes. So, now we formally have a motion made by Member Kama, seconded by Member Hokama, and we have a proposed amendment that I would like Member Rawlins-Fernandez to read into the record.

VICE-CHAIR RAWLINS-FERNANDEZ: Yes, Chair. Okay, so it's, any item or matter initiated by a Councilmember, transmitted to the Council Chair or County Clerk for posting, referral or consideration by the Council that has not been posted. So, that was the first amendment that I had proposed by including, initiated by a Councilmember. Did you want to also include the 30 days?

COUNCILMEMBER KAMA: Yes.

CHAIR MOLINA: It's your amendment, go ahead.

VICE-CHAIR RAWLINS-FERNANDEZ: Oh, okay. The movant said she would like to include the 30 days, so that it would say, by the Council that has not been posted on the--okay, I have to work on that one, sorry. Okay, Council that has not, referral or consideration by the Council that has not been posted on the next regularly scheduled meeting shall be automatically posted on the following regular schedule. So, it shall be posted on the next--okay, can I work on it real fast? Sorry.

CHAIR MOLINA: Yeah, go ahead. Members, any other discussion while Member Rawlins-Fernandez is --

COUNCILMEMBER HOKAMA: Chair, quickly?

CHAIR MOLINA: --looking at her amendment? Mr. Hokama?

COUNCILMEMBER HOKAMA: By the time the dates go and the posting go out, the second Council meeting going be about 30 days, anyway. My thing is, you making a logistic issue for clerks and Chair's Office by saying, 30 days, because the key is to get it posted on the next appropriate Council meeting. The 30 days may be short of the next Council meeting or past 30 days, so, what good is the 30 days?

CHAIR MOLINA: So, you're recommending we strike that, take out that 30 days, then?

VICE-CHAIR RAWLINS-FERNANDEZ: Yeah...Chair?

CHAIR MOLINA: Okay, go ahead, Ms. Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: So, I understand. I think I misunderstood earlier. I thought it was that it must be on the next Council meeting, but the way you've written it would accomplish what I was trying to propose, which is, if it's not posted on the next regularly scheduled Council meeting, that it will automatically be posted on the following, and then that would basically accomplish the 30 day. Okay, so --

**GOVERNANCE, ETHICS, AND TRANSPARENCY
COMMITTEE**

Council of the County of Maui

October 1, 2019

COUNCILMEMBER KAMA: Okay, I'm good.

VICE-CHAIR RAWLINS-FERNANDEZ: --we'll just, I'll use that one amendment --

COUNCILMEMBER KAMA: Just the one amendment.

VICE-CHAIR RAWLINS-FERNANDEZ: --to --

COUNCILMEMBER KAMA: Yeah.

VICE-CHAIR RAWLINS-FERNANDEZ: --matters initiated by a Councilmember.

CHAIR MOLINA: Okay, thank you, Member Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Yeah? Okay.

CHAIR MOLINA: So, we have the motion, as amended by Member Rawlins-Fernandez. Any discussion? Chair King?

COUNCILMEMBER KING: Yeah, I want to speak against the motion. I think it takes the discretion away and it can lead to unintended consequences with having to put too many items on an agenda. It takes the discretion out from being able to balance out the agenda, as Councilmember Paltin commented on, and I just worry about having all day long Council meetings where, because things are required to be posted, where people can come out and testify all day long on 50 different communication issues.

CHAIR MOLINA: Thank you, Chair King. By the way, was there a second to Member Rawlins-Fernandez's amendment? Yeah, okay, I was correct.

VICE-CHAIR RAWLINS-FERNANDEZ: Chair?

CHAIR MOLINA: Staff, so it was Member Hokama seconded the proposed amendment, yes. Committee Chair *[sic]* Rawlins-Fernandez?

VICE-CHAIR RAWLINS-FERNANDEZ: A question. So, I think, when Member Kama made the motion, it was to include my amendment, is the question. Was it to include the, initiated by a Councilmember --

COUNCILMEMBER KAMA: . . . *(inaudible)* . . .

VICE-CHAIR RAWLINS-FERNANDEZ: --'cause that was her intention, yeah. So, there's only a main motion, there's no amendment to the main motion. There's no motion to amend the main motion, there's just one motion.

**GOVERNANCE, ETHICS, AND TRANSPARENCY
COMMITTEE**

Council of the County of Maui

October 1, 2019

CHAIR MOLINA: The initial motion was to put out what was on the resolution and then you came in to amend. So, that's, so we've amended the resolution that was first proposed.

VICE-CHAIR RAWLINS-FERNANDEZ: So, there's only a main motion?

CHAIR MOLINA: Well, main motion, now, as well, it hasn't, no vote has been taken on the amendment yet. So, there's, you have an amendment to ...

VICE-CHAIR RAWLINS-FERNANDEZ: Okay, so, there is a motion to amend the main motion?

CHAIR MOLINA: Which is your motion, yeah.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay, 'cause I thought --

CHAIR MOLINA: You're proposing to amend it.

VICE-CHAIR RAWLINS-FERNANDEZ: --Member Kama's motion was to include the amendment, so that, there is only a main motion.

COUNCILMEMBER KAMA: That was my intent, Chair. Oh...that was my intent when I made the motion, was to include, initiated by a Councilmember.

CHAIR MOLINA: Oh, okay. So, okay, I was under the impression --

COUNCILMEMBER KAMA: That was my ...

CHAIR MOLINA: --we were just working off the main motion that was on the resolution. So, all right, Members, any objections to Member Kama's intent with the main motion as proposed --

COUNCILMEMBER HOKAMA: No.

CHAIR MOLINA: --which was to include, again --

COUNCILMEMBER HOKAMA: No.

CHAIR MOLINA: --initiated by a Councilmember? Okay, so, no objections from the body. So, that's the understanding we have right now --

COUNCILMEMBER KAMA: Okay.

**GOVERNANCE, ETHICS, AND TRANSPARENCY
COMMITTEE**

Council of the County of Maui

October 1, 2019

CHAIR MOLINA: --as it relates to the main motion, and we're about to consider the amendment, as proposed by Member Rawlins-Fernandez. So, that's where we're at right now.

COUNCILMEMBER HOKAMA: Got it.

CHAIR MOLINA: No?

VICE-CHAIR RAWLINS-FERNANDEZ: No, there's just one, a main motion.

CHAIR MOLINA: Oh, okay, so ...

VICE-CHAIR RAWLINS-FERNANDEZ: There's no amendment. There's no --

CHAIR MOLINA: Okay.

VICE-CHAIR RAWLINS-FERNANDEZ: --motion to amend the main motion.

CHAIR MOLINA: Now that we've got clarification from Member ...

VICE-CHAIR RAWLINS-FERNANDEZ: Yeah.

CHAIR MOLINA: So, okay, alright.

COUNCILMEMBER KAMA: Yes.

CHAIR MOLINA: Okay, so for future considerations ...

VICE-CHAIR RAWLINS-FERNANDEZ: So, there will be just one vote.

CHAIR MOLINA: Yeah, okay. So, please, for everybody, please state to the Chair, clearly, exactly what you want 'cause, generally, the Chair will focus --

COUNCILMEMBER KAMA: Okay.

CHAIR MOLINA: --what's on the resolution, as initially proposed.

COUNCILMEMBER KAMA: So, this is what my motion, if I would've worded it.

CHAIR MOLINA: Okay.

COUNCILMEMBER KAMA: Any item or matter initiated by a Councilmember, and then you continue on, but that's just what we're adding to the resolution, as written.

CHAIR MOLINA: Okay, and that's --

**GOVERNANCE, ETHICS, AND TRANSPARENCY
COMMITTEE**

Council of the County of Maui

October 1, 2019

COUNCILMEMBER KAMA: And that's it.

CHAIR MOLINA: --recognized now as the main --

COUNCILMEMBER KAMA: Correct.

CHAIR MOLINA: --motion? Okay.

COUNCILMEMBER KAMA: Correct.

CHAIR MOLINA: All right, so, right now, any other considerations for amendments? So, I know Chair King stated you would not support the motion, right, which we thought was a new amendment so. Member Paltin?

COUNCILMEMBER PALTIN: I guess, I have a question.

CHAIR MOLINA: Okay.

COUNCILMEMBER PALTIN: Is this the appropriate time?

CHAIR MOLINA: Fire away.

COUNCILMEMBER PALTIN: So, what happens, like, if the next meeting is cancelled or there's a situation, like, the flag raising, or we know that there's something on that same day of the next meeting of the Council? Like, I mean, it might not be the flag raising, but it might be, like, a NACo conference, or whatever, kind of situation, that, you know, the following meeting might be, like, a shortened timeframe, or it might be cancelled, or a hurricane, or something like that, what's the consideration?

CHAIR MOLINA: So, you're talking you then have a special Council meeting or you have to reschedule for special circumstances? Well, again --

COUNCILMEMBER PALTIN: Yeah, special circumstances.

CHAIR MOLINA: --it would just depend on the date of, you know, it just, it's very broad, yeah, I guess, the next scheduled Council meeting so.

COUNCILMEMBER PALTIN: Oh, so if the meeting gets cancelled, then it's just pushed off?

CHAIR MOLINA: So, now, with this motion, the Chair has the flexibility to delay it for one meeting, and then if the Chair's intent is to, you know, not put it on the agenda for a second meeting, they would have to consult with the Member. And, I guess, that the Member could agree to it or not agree to it, and that's what we're looking at, incorporating this into a, as a rule. Committee Vice-Chair Rawlins-Fernandez?

**GOVERNANCE, ETHICS, AND TRANSPARENCY
COMMITTEE**

Council of the County of Maui

October 1, 2019

COUNCILMEMBER PALTIN: Oh, sorry.

VICE-CHAIR RAWLINS-FERNANDEZ: Sorry. I wanted to ...

COUNCILMEMBER PALTIN: Okay, and then I had another question.

VICE-CHAIR RAWLINS-FERNANDEZ: Yeah.

CHAIR MOLINA: Okay.

VICE-CHAIR RAWLINS-FERNANDEZ: I wanted, I just wanted to add on to what you were saying, Chair, that, and to the point that Chair King made, is that, in the language that you've proposed, it gives the Chair the option to speak with a Councilmember to ask if it would be okay to hold off on scheduling it. So, it, the Chair isn't absolutely required. The Chair, this language is just asking that the Chair communicate with the Councilmember who initiated the item or the matter, and if it ends up, you know something unexpected happens or if it ends up being a really full agenda, that the Chair would just ask the Councilmember if he or she would be okay with posting it, you know, three meetings away, or whatever the situation calls for. So, there's still that option that Chair Molina put in the language of his amendment. And, perhaps, instead of saying the following regularly scheduled Council meeting, maybe we can strike the word regularly, to just say, following the next, you know, scheduled Council meeting. Just an idea. Mahalo, Chair.

CHAIR MOLINA: Okay, would you like to propose that as an amendment then?

VICE-CHAIR RAWLINS-FERNANDEZ: Member Paltin --

CHAIR MOLINA: Okay, Member Paltin?

VICE-CHAIR RAWLINS-FERNANDEZ: --has a, wasn't pau.

CHAIR MOLINA: Oh, sorry.

COUNCILMEMBER PALTIN: So, that was very clarifying, but it would lead to my next question about the enforcement of it if there is no agreement between the Member and the Chair. What would the consequences be? I'd just like to know --

CHAIR MOLINA: Well, like everything else --

COUNCILMEMBER PALTIN: --prior to...

CHAIR MOLINA: --we currently have no consequences for any breaking of our own Council Rules.

**GOVERNANCE, ETHICS, AND TRANSPARENCY
COMMITTEE**

Council of the County of Maui

October 1, 2019

COUNCILMEMBER PALTIN: Okay, let's pass it then.

CHAIR MOLINA: I think, yeah, well, yeah, well, I mean, at this point, you know. But, again, we could look at, in a future GET meeting, at considering consequences for any rules that are broken by any Member but, for today's purposes, we'll just consider this. But, I certainly appreciate that point. Member Kama?

COUNCILMEMBER KAMA: But I think what this does, it almost forces us to be able to be patient and collaborative and thought-provoking, and helps us to create more dialogue between each other. So, while we may think about how do we enforce it, I think sometimes if we talk about stuff, we don't need to worry about enforcement, if I'm talking face-to-face with you and we're trying to resolve things between two of us. That's just my thought, Chair.

CHAIR MOLINA: Yeah, you bring up a good point, Member Kama. And this way, at least, it makes the Chair, if the Chair needs to defer it, then the Chair just reminds the Members, so, and it forces both to talk more so neither one is left in the dark, 'cause the Chair may assume, oh, it's okay, you know, and vice versa, the Member may think it's not okay or not even think about it and then wonder why, hey, you know, my item hasn't been referred to committee yet. So, this way, at least everybody's on the same plane with the same understanding, and that's all, what this is about, in my opinion. Okay, any other considerations, Member Rawlins-Fernandez?

VICE-CHAIR RAWLINS-FERNANDEZ: I move to amend the main motion by striking the second "regularly," the word, second word "regularly," so that it shall read, any item or matter transmitted to the Council Chair or County Clerk for posting, referral or consideration by the Council that has not been posted on the next regularly scheduled Council meeting shall be automatically posted on the following scheduled Council meeting.

CHAIR MOLINA: Okay, is there a second?

COUNCILMEMBER KAMA: I second.

CHAIR MOLINA: Motion made by Member Rawlins-Fernandez to amend the resolution with the stated amendments, and seconded by Member Kama. Any further discussion? Okay, seeing none, we'll vote on the...oh, sorry.

COUNCILMEMBER KING: Chair?

CHAIR MOLINA: Member King, Chairman King?

COUNCILMEMBER KING: Yeah, I just wanted to, I don't know if this will apply but I just wanted to amend it to say, any item transmitted by a Councilmember, I think you

**GOVERNANCE, ETHICS, AND TRANSPARENCY
COMMITTEE**

Council of the County of Maui

October 1, 2019

said, or any item or matter transmitted by a Councilmember to the Council Chair, committee chair or a County Clerk for posting.

CHAIR MOLINA: Okay.

COUNCILMEMBER KING: So, that would include the committee chairs obligation to post the next ...

CHAIR MOLINA: Okay, as an amendment --

COUNCILMEMBER KING: Yeah --

CHAIR MOLINA: --proposal? Okay.

COUNCILMEMBER KING: --as amendment to the motion.

CHAIR MOLINA: Is there a second to the proposed amendment to the motion?

VICE-CHAIR RAWLINS-FERNANDEZ: Chair, we have a motion to amend the main motion --

CHAIR MOLINA: Okay.

VICE-CHAIR RAWLINS-FERNANDEZ: --on the floor right now --

COUNCILMEMBER KING: Oh, that was already ...

CHAIR MOLINA: Okay, yeah, let's go ahead and --

VICE-CHAIR RAWLINS-FERNANDEZ: --so we have to take a vote on that.

CHAIR MOLINA: --okay, let's go ahead and make a decision on that --

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

CHAIR MOLINA: --and then we'll recognize your consideration, Chair King. Okay, any other discussion as it relates to the amendment made by Committee Vice-Chair Rawlins-Fernandez to take out the word regularly? Okay. Mr. Sinenci?

COUNCILMEMBER SINENCI: Sorry, Chair. So, can we read it in its entirety to include initiated by the Councilmember and receives permission in writing from the Member transmitting the item to delay posting? Are those also included?

COUNCILMEMBER KAMA: Yeah.

COUNCILMEMBER SINENCI: Okay.

**GOVERNANCE, ETHICS, AND TRANSPARENCY
COMMITTEE**

Council of the County of Maui

October 1, 2019

VICE-CHAIR RAWLINS-FERNANDEZ: You want me to to read it again?

CHAIR MOLINA: Would you like it read for, again, one more time, Mr. Sinenci? Chair is open to that if you want more...

VICE-CHAIR RAWLINS-FERNANDEZ: Chair?

COUNCILMEMBER SINENCI: Yeah, Chair, 'cause...thank you.

VICE-CHAIR RAWLINS-FERNANDEZ: No problem. Okay.

CHAIR MOLINA: Go ahead, Ms. Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Any item or matter initiated by a Councilmember transmitted to the Council Chair or a County Clerk for posting, referral or consideration by the Council that has not been posted on the next regularly scheduled Council meeting shall be automatically posted on the following scheduled Council meeting, unless the Chair receives permission, in writing, from the Member transmitting the item, to delay posting.

CHAIR MOLINA: Clear? All right, seeing no further discussion on the amendment, all those in favor of the amendments, signify by saying "aye."

COUNCILMEMBERS: Aye.

CHAIR MOLINA: All those opposed? Okay, Chair will mark it unanimous. The amendment flies nine, zero.

**VOTE: AYES: Chair Molina, Vice-Chair Rawlins-Fernandez,
 Councilmembers Hokama, Kama, King, Lee,
 Paltin, Sinenci, and Sugimura.**

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: None.

MOTION CARRIED.

ACTION: AMEND RESOLUTION.

**GOVERNANCE, ETHICS, AND TRANSPARENCY
COMMITTEE**

Council of the County of Maui

October 1, 2019

CHAIR MOLINA: Now, we were back to the main motion, as amended, and I believe Chair King --

COUNCILMEMBER KING: Yeah, I had a --

CHAIR MOLINA: --a consideration.

COUNCILMEMBER KING: --I would like the word, after Council Chair, comma, committee chair, or County Clerk.

COUNCILMEMBER SINENCI: Second.

CHAIR MOLINA: Okay, a motion has been made to add committee chair after Council Chair by Chairman King and seconded by Member Sinenci. Members, discussion?

COUNCILMEMBER KING: So...

CHAIR MOLINA: Chair King?

COUNCILMEMBER KING: I can speak to the motion. So, what that does is, if we're trying to get this, the items posted onto the Council Chair's agenda to be heard, then they next have to go to the committee and be heard, so this would require, once the committee chair receives it, that they have, that if they don't post it on the next meeting, that they post it on the follow meeting. And then, that way everything gets to the floor, I think that's the full transparency.

CHAIR MOLINA: Okay. Alright, thank you, Chairman King. Member Lee?

COUNCILMEMBER LEE: I'm not following that one. I can see the first amendment but this other one, can you expand on it, how exactly that referral would end up on a committee agenda --

COUNCILMEMBER KING: Right, so ...

COUNCILMEMBER LEE: --before the Council.

COUNCILMEMBER KING: No, it's not before the Council. It would just say, any item or matter transmitted to the Council Chair, committee chair or County Clerk for posting. So, basically, the Council is going to transmit, by referral, the item to the committee chair, to the committee, and then the committee needs to post it, if it's not posted on the next meeting, then it needs to post it on the following regular meeting.

COUNCILMEMBER LEE: Oh.

**GOVERNANCE, ETHICS, AND TRANSPARENCY
COMMITTEE**

Council of the County of Maui

October 1, 2019

COUNCILMEMBER KING: So, it would actually get, make sure that the items get to the floor, unless you have that discussion with the Member who transmitted it.

COUNCILMEMBER LEE: For me, I can't see that one --

COUNCILMEMBER KAMA: Me either.

COUNCILMEMBER LEE: --'cause we have a heavy Master Agenda and sometimes, like Housing and Zoning, you know, when the unilateral agreements aren't ready or when the committee reports aren't ready and, you know, tons of reasons for not scheduling come up. It's really hard to...and plus, we have to deal with, like, in my case, I have like, three different departments, so everything, it depends on working collaboratively with them when I schedule anything. So, for me, I can't see that working.

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

COUNCILMEMBER KAMA: I, yeah, I can't do this. My last Housing meeting took three recessed meetings. So, if I have to post, then I'll never get, and 201Hs are lengthy, they really are. So, I would not be able to support this amendment. Thank you, Chair.

CHAIR MOLINA: Thank you, Member Kama.

COUNCILMEMBER KING: So, Chair, can I ask --

CHAIR MOLINA: Any other discussion to the amendment?

COUNCILMEMBER KING: --you a question?

CHAIR MOLINA: Chair King, followed --

COUNCILMEMBER KING: Because I have the--

CHAIR MOLINA: --by Member Paltin.

COUNCILMEMBER KING: --issue, and I've had it just in the last couple of meetings, with the unilateral agreements not being ready, so I wasn't able to post. So, if that's the requirement, then how is the Chair going to post something if the unilateral agreements aren't ready?

CHAIR MOLINA: Thank you, Chair King. Any other comments as it relates to the proposed amendment from Chair King? I'm sorry...Member Paltin?

COUNCILMEMBER PALTIN: I just would speak against the motion because, you know, I gotta balance the previous things that were on the Master Agenda, which some of

GOVERNANCE, ETHICS, AND TRANSPARENCY COMMITTEE

Council of the County of Maui

October 1, 2019

them go back very far, and I need to also coordinate with the people because they've been on for maybe over a year that when they're ready, like, they might not even be ready, we gotta check in with them if it's still something even they want and then balance that with the new things, balance it with current events. And, for me, it wouldn't work out because, it, yeah, I mean, and then, too, with the theme and getting together with the departments, like, they might be on conference or whatever and not have somebody available. So, I wouldn't support that amendment.

CHAIR MOLINA: Chair sees that point, 'cause I think the items that you and Member Kama have, you have these additional items that could hinder or delay movement of the item and it's all in the hands of other people to complete the particular items. So, Chair was not aware of that variables, appreciate that. Member Rawlins-Fernandez?

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Okay, I understand the intent of Chair King's motion and I think, well, logistically, I'm not sure how it would work, just because, you know, we, committee work, you know, consists of a lot more time so that we can get everything decided on before it goes to Council for a first reading. So, I think, perhaps, in understanding the concern that Chair King expressed, that it can be a different rule. And, instead of it being required on the, you know, basically, it would be within 30 days, that there would be a proposed timeline, you know, maybe, within, you know, next six months, or something more along those lines that would be a little more realistic to get scheduled on our committees. And then, an idea that I'll be presenting later is us having, instead of, like three-hour committee blocks of time, that we would have a full day so that, you know, we wouldn't have to recess and reschedule meetings as frequently as we have been, and we'll talk story about that at the Chair's meeting. So, at this time, I won't be voting in favor of the motion, but I understand the intent and would be happy to work on another proposed rule to ensure that items in the committee are scheduled.

CHAIR MOLINA: Thank you --

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

CHAIR MOLINA: --Member Rawlins-Fernandez. Yeah, compromise, I guess, is the word there, too. And I want to state my appreciation for Chair King holding an upcoming Chair's meeting 'cause it's quite timely and a lot of this is still fresh on our minds, so I just want to thank you, Chair King, for that. So, any other discussion on the proposed amendment from Chair King, prior to the Chair calling for the vote? I'm sorry...Chair King?

COUNCILMEMBER KING: No, I just, I'll withdraw the motion, but I do want to, I'm going to, for all the reasons given here from Council chairs, I can't support the main motion because I have the same issues at all the Council, that committee chairs have, as far as needing the flexibility, and we have had meetings recessed, as well, so if we recess a

GOVERNANCE, ETHICS, AND TRANSPARENCY COMMITTEE

Council of the County of Maui

October 1, 2019

meeting to the next regularly scheduled meeting then, you know, what happens after that, you know, then, I'm not sure all the, of all the parameters being described.

CHAIR MOLINA: Okay, thank you, Chair. So, for the record, you'll be withdrawing the amendment. And who made the second on that? Mr. Sinenci, you'll withdraw the second? Okay. So, we're back to the main motion. Member Paltin?

COUNCILMEMBER PALTIN: So, I'm not sure if, like, this situation plays into what Chair King is talking about. Like, for Waikapu Country Town, when it went through second reading, like, I was expecting it to be on the Council agenda much sooner and it wasn't due to Chair King or me, it was the --

CHAIR MOLINA: Unilateral agreement.

COUNCILMEMBER PALTIN: --applicant that didn't have all their things together. So, is our motion on the floor take that type of situation into account when it's held up by something out of our control?

CHAIR MOLINA: Yeah, I don't believe this rule change would apply to that, if I'm correct. Yeah, there are some times extenuating circumstances, where your item cannot be heard. This would be more as it relates to the Chair, you know ...

COUNCILMEMBER PALTIN: If it's ready.

CHAIR MOLINA: 'Cause that's something out of the Chair's control, as well, so I believe this wouldn't apply to something like that. That's kind of ...

COUNCILMEMBER PALTIN: 'Cause I have a lot of unilateral agreements that the committee work is done, but they haven't fulfilled their end of the situation, so obviously, it can't be put on the agenda.

CHAIR MOLINA: Yeah, and, actually, it's more on the applicant --

COUNCILMEMBER PALTIN: Yeah.

CHAIR MOLINA: --because if they can't get, they're the one that's going to have to --

COUNCILMEMBER PALTIN: Yeah.

CHAIR MOLINA: --wait. We're not obligated to...

COUNCILMEMBER PALTIN: It's not in our hands, it's in their hands.

CHAIR MOLINA: Exactly. Mr. Hokama, followed to Ms. Rawlins-Fernandez.

**GOVERNANCE, ETHICS, AND TRANSPARENCY
COMMITTEE**

Council of the County of Maui

October 1, 2019

COUNCILMEMBER HOKAMA: And, real quickly, Chair, yeah. Council Chairs have posted it in the past but Council has delayed final action until the documents have been properly filed with State agencies, but it has been agendized and we've deferred it to the next meeting as unfinished business.

CHAIR MOLINA: Thank you for that, Mr. Hokama. Ms. Rawlins-Fernandez?

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. So, again, the last line of the language that you've proposed provides that safeguard for, you know, if the item isn't ready for second reading. So, specifically, for the item that Member Paltin brought up, the intent of it is just so that, to ensure communication with the Chair and the committee chair, that both are on the same page in holding the item until the item is ready for, you know, first, second reading, whatever it is.

CHAIR MOLINA: Right.

VICE-CHAIR RAWLINS-FERNANDEZ: Yeah.

CHAIR MOLINA: Okay, thank you. All right, Chair's going to end discussion and call for the vote, which is to amend the Council rule as it relates to agenda items. All those in favor, signify by saying "aye."

COUNCILMEMBERS: Aye.

CHAIR MOLINA: All those opposed?

COUNCILMEMBER KING: No.

COUNCILMEMBER SINENCI: No.

CHAIR MOLINA: Okay we will have seven "ayes" and two "noes," Chair King and Member Sinenci.

Council of the County of Maui

VOTE: AYES: Chair Molina, Vice-Chair Rawlins-Fernandez, Councilmembers Hokama, Kama, Lee, Paltin, and Sugimura.

EXC.: None.

- 62 -

GOVERNANCE, ETHICS, AND TRANSPARENCY COMMITTEE

Council of the County of Maui

October 1, 2019

name, by Alan Ditch. He was driving, exiting the parking lot. A gust of wind caused one of the gates to, basically, swing towards his car, damage his car. So, this is, basically, like I said, a subrogation claim where the insurance carrier is now seeking to be reimbursed for payments for the car repairs and the \$250 deductible that the their insured, Mr. Ditch, had to pay out. We had, when the claim first came into our office, we did send out a subsequent Maui Police Department investigator to confirm whether or not the claim that he's stating was valid. Based on his, the investigator's report, which is included in the reso and all the documents supporting this resolution, he came back, his opinion was that it was a valid claim, it wasn't fraudulent and based upon the amount of the repair damage and stuff, we believe that we do have some exposure to this particular matter in which we thought it would be a lot better to resolve this case, rather than having prolonged litigation, incurring more time and costs by the departments.

CHAIR MOLINA: Okay, thank you, Mr. Holiona. And, before I open the floor for questions, the Chair apologizes for not recognizing our Deputy Parks Director, Mr. Buck. I guess we take you so for granted, Mr. Buck, we just appreciate you're here. Mr. Buck, do you have anything to add to this matter?

MR. BUCK: Not at this time. I'll entertain any questions.

CHAIR MOLINA: Okay, thank you very much. Members, the floor is open for questions. Member Sinenci?

COUNCILMEMBER SINENCI: Thank you, Chair. I just wanted to ask the location, where the incident happened.

MR. HOLIONA: It occurred at the Maui Lani Parkway, the regional park off of Maui Lani Parkway, as you're going towards, you know, to the intersection with Kamehameha Avenue.

COUNCILMEMBER SINENCI: Okay. And then, a follow up. Does the gate normally have, like, a latch that it's latched to but the latch wasn't connected?

CHAIR MOLINA: Mr. Buck, or Mr. Holiona?

MR. BUCK: The gate that's involved in this incident is one of our newer design gates that actually has a foot bolt that goes all the way into the ground to latch it in. We don't know why, for whatever reason, that that bolt did not hold the gate in. And, of course, sometimes, when the wind does come up, gates are, have, do swing, and that's why we changed the designs a couple of years ago with their newer design to prevent the gates from swinging open or closing.

COUNCILMEMBER SINENCI: Thank you. Thank you, Chair.

**GOVERNANCE, ETHICS, AND TRANSPARENCY
COMMITTEE**

Council of the County of Maui

October 1, 2019

CHAIR MOLINA: Okay, thank you, Member Sinenci. Member Kama?

COUNCILMEMBER KAMA: So, if I understand this correctly, it was our fault. We should have not been negligent, to ensure, that's why we got the new gates, right?

MR. HOLIONA: Yes.

COUNCILMEMBER KAMA: Okay, so, Chair, I would just move to approve. Thank you.

COUNCILMEMBER SUGIMURA: Second.

CHAIR MOLINA: Okay, thank you. Whoa, that was fast. Any other discussion from the Members? Okay, alright, we have a motion to authorize settlement of this case. And Staff, correct me, also include the filing of the correspondence dated April 26 from the Corporation Counsel, and is it appropriate to include that filing into this motion? Okay. Motion made by Member Kama, seconded by Member Sugimura. Any discussion? Member Paltin?

COUNCILMEMBER PALTIN: Has any consequences occurred or is there any actions being made to ensure that this doesn't happen again, or is that the new design of the gate that was being talked about?

CHAIR MOLINA: Okay, I'll ask Department to comment on that, and if there is a need for executive session as it relates to the employee, inform us about that, if you deem it necessary. I guess...Mr. Buck?

MR. BUCK: As I said before, this particular gate, for whatever reason, was one of the newer gates, with the new design, to prevent it from, or swinging when the wind comes up. Again, we do not know why at that particular time of the incident, why the wind was able to, according to the claimant, for the gate to swing. We do know that in the morning, that the staff did open the gate, as per protocol. What happens during the day until the time the accident happened, there could've been many factors, people playing on the gate or, you know, whatever. And, so, we don't know for sure what really happened. Any time a failure to properly open or close a gate, does result in disciplinary action of some sort against the employee who was responsible at that time.

COUNCILMEMBER PALTIN: So, the current gates now aren't in the locked, open position and anybody, at any time, can open and close the gates?

CHAIR MOLINA: Mr. Buck?

MR. BUCK: I would have to get back to you, but I'm sure we leave them open but they're kind of in a locked position. We do have some gates, the older gates, that they were actually tied to another pole.

GOVERNANCE, ETHICS, AND TRANSPARENCY COMMITTEE

Council of the County of Maui

October 1, 2019

COUNCILMEMBER PALTIN: So, for me, I'd just like to see this addressed so that, you know, people can't just open and close the gates at any time. I think they should be locked in the open position during open hours and locked in the closed position during closed hours and if there needs to be special circumstances, they should be addressed. You know, what's preventing someone from just swinging it at somebody as they're driving through?

CHAIR MOLINA: Okay, good point. I'm sure the Administration will take your suggestions under consideration. Thank you, Member Paltin. Mr. Sinenci?

COUNCILMEMBER SINENCI: Thank you, Chair, for indulging me. I just want to ask questions. Were there multiple bids to the specific repairs to the truck, and is it about the same?

CHAIR MOLINA: Mr. Holiona?

MR. HOLIONA: Thank you. As far as I understand, the decision as to where the vehicle was going to be repaired was up to the insurance carrier. The records they presented us were the car repair bills from that, for the repairs. As to whether or not other bids were, you know, accepted, that, I do not know.

COUNCILMEMBER SINENCI: Okay, thank you.

CHAIR MOLINA: Thank you very much, Member Sinenci. Alright, Members, Chair is going to call for the vote on the resolution to authorize settlement of this case. All those in favor, signify by "aye."

COUNCILMEMBERS: Aye.

CHAIR MOLINA: All those opposed? Thank you. The Chair will mark it seven "ayes," with two excusals, Chair King and Member Hokama.

**VOTE: AYES: Chair Molina, Vice-Chair Rawlins-Fernandez,
 Councilmembers Kama, Lee, Paltin, Sinenci,
 and Sugimura.**

**GOVERNANCE, ETHICS, AND TRANSPARENCY
COMMITTEE**

Council of the County of Maui

October 1, 2019

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmembers Hokama and King.

MOTION CARRIED.

ACTION: ADOPTION OF RESOLUTION.

CHAIR MOLINA: Thank you very much Mr. Holiona, and Mr. Buck, and Ms. Gasmen --

MR. HOLIONA: Thank you.

CHAIR MOLINA: --and Mr. Kushi. Alright, this concludes our agenda items for today. Thank you very much, Members, for your very --

COUNCILMEMBER SINENCI: Chair?

CHAIR MOLINA: --hard work. We went a little bit over time but...Mr. Sinenci, yes, please add to this discussion.

COUNCILMEMBER SINENCI: Thank you, Chair. Just wanted to remind the Members, we had rescheduled our afternoon meeting to next week Monday at nine o'clock so that we could go through the East Maui water lease EIS, which we'll be bringing it up next Monday morning. Thank you.

CHAIR MOLINA: Thank you for that reminder for the next EAC [sic] meeting under your leadership, Mr. Sinenci. Alright, it's 22 minutes after the hour of noon. Thank you very much, Members, and everyone for your participation. The GET meeting for October 1, 2019 is now adjourned. . . . *(gavel)* . . .

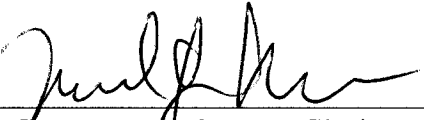
**GOVERNANCE, ETHICS, AND TRANSPARENCY
COMMITTEE**

Council of the County of Maui

October 1, 2019

ADJOURN: 12:22 p.m.

APPROVED BY:

A handwritten signature in black ink, appearing to read 'Michael J. Molina', is written over a horizontal line.

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

get:min:191001:alp

Transcribed by: Annette L. Perkett

**GOVERNANCE, ETHICS, AND TRANSPARENCY
COMMITTEE**

Council of the County of Maui

October 1, 2019

CERTIFICATE

I, Annette L. Perkett, 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 21st day of October, 2019, in Haiku, Hawaii.

A handwritten signature in black ink, appearing to read "Annette L. Perkett", written over a horizontal line.

Annette L. Perkett