

GOVERNANCE, ETHICS, AND TRANSPARENCY COMMITTEE

Council of the County of Maui

MINUTES

Council Chamber

February 25, 2020

CONVENE: 1:30 p.m.

PRESENT: Councilmember Michael J. Molina, Chair
Councilmember Keani N.W. Rawlins-Fernandez, Vice-Chair (arrived
at 1:37 p.m./left at 4:37 p.m.)
Councilmember Tasha Kama
Councilmember Kelly T. King
Councilmember Alice L. Lee (arrived at 1:50 p.m.)
Councilmember Tamara Paltin
Councilmember Shane M. Sinenci
Councilmember Yuki Lei K. Sugimura

EXCUSED: Councilmember Riki Hokama

STAFF: Lesley Milner, Legislative Analyst
David Raatz, Supervising 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

OTHERS: Mark Hyde
Mike Moran
Jasee Law
Plus (2) other people

PRESS: *Akaku Maui Community Television, Inc.*

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CHAIR MOLINA: . . . *(gavel)* . . . The Governance, Ethics, and Transparency Committee meeting for Tuesday, February 25, 2020 is now come to order. It is 1:30 p.m. We have bare quorum for the opening of this meeting. Members, as I mentioned to you last week, we have two meetings today that are occurring simultaneously. We're going to open up first with the meeting that was scheduled for today, which is not the recessed meeting from last week. We're going to open up with this meeting; then we're going to recess; and then when we reconvene, we'll reconvene with the recessed meeting of February 18, 2020.

COUNCILMEMBER SUGIMURA: . . . *(inaudible)* . . .

CHAIR MOLINA: Do you need me to repeat it, or is that as clear as mud?

COUNCILMEMBER KAMA: No, no, no. She's only joking.

CHAIR MOLINA: Okay. Well, for the record, for this opening, we have six Members in attendance - Members Molina, Sinenci, King, Paltin, Sugimura, and Kama. So, it is 1:31, we will now recess the meeting of February 25, 2020 until 2:00 p.m. today. Meeting in recess. . . . *(gavel)* . . .

RECESS: 1:31 p.m.

RECONVENE: 2:45 p.m.

CHAIR MOLINA: . . . *(gavel)* . . . The Governance, Ethics, and Transparency Committee meeting for Tuesday, February 25, 2020 is now back in session. Thank you, Members. We had a bit of an extended meeting for the, or discussion on the recessed meeting of February 18th, but thank you for staying here. And for the record, we have eight Members in attendance with one excusal - Mr. Hokama. So, we will begin the process of public testimony for the February 25, 2020 meeting. Basic testimony rules, you'll be given three minutes to testify. When you see the yellow light that means you have 30 seconds to conclude your testimony; and once you see the red light, it's time to stop your testimony. Please state your name, full name for the record, and if you are a registered lobbyist, please inform the Committee of that as well. So, I will ask, Ms. Milner, can you announce the first of our two testifiers that have signed up?

MS. MILNER: Our first testifier is Mark Hyde. He's here to testify on GET-10(5).

. . . BEGIN PUBLIC TESTIMONY . . .

CHAIR MOLINA: Good afternoon, Mr. Hyde.

MR. HYDE: Good afternoon. Thank you, Chair and Councilmembers. My name is Mark Hyde. You know, the approach that we've taken to the County Manager

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proposal before you has always been to make it the best possible proposal for deliberation and decision by the electorate. And the pathway to get here has taken us eight years. It began with the Charter Commission in 2011-2012 which decided that the issue is so complex that it needed to be studied by a separate group. And that was a recommendation of the Charter Commission. Five years ago, that was realized by the Council led by Mike White who created a citizen-populated Special Committee on Governance. And that committee met multiple times during the day and night, several times before standing-room-only crowds beginning in late 2015 and continuing through the first half of 2016. That group took hours of public testimony, and ultimately the majority, including respected citizens Kimo Haynes, and Ray Phillips, and Jonathan Starr, and Tamara Paltin, Madge Schaefer, and Kehau Filimoeatu recommended a proposal to the then PIA Committee in June, July 2016 calling for a County Manager form of government whereby the Manager would report to the Council while retaining a largely ceremonial-elected mayor. That proposal did not get out of Committee. But listening to the extensive debate about it, several of us did not just throw in the towel, we continued on. And we listened to those complaints, and we realized that really what's needed is more than a ceremonial Mayor. The County wants an elected, powerful Mayor. And the current proposal provides for that. And it retains a strong Mayor while providing for a professional Manager reporting to the Mayor while preserving the balance of power between local branches of government. Now, at the last GET Committee meeting, Chair Molina questioned whether annual goals assigned by the Mayor to the Manager could be made public. Absolutely, and in written testimony, I have suggested language to accomplish just that. Councilmember Lee expressed concern about Council involvement in Manager selection. An excellent point, and in written testimony I have suggested changes to make it clear that the final Manager selection is to be made by the Mayor alone, with the Council having the singular duty of reviewing and approving the terms of any contract between the County and the Manager. They have to work together collaboratively. Councilmember Hokama expressed concern about a Manager asserting undue influence over governance, but with a Manager reporting to and hired and fired by the Mayor, that's not likely. This brings me to the final point, if I may just conclude the thought, Chair. I think it's time to take this question to the people. The suggestion that it should be deferred to the next Charter Commission, I think would be very counterproductive to the work that's been done to date and heedless of eight years of citizen and Council time spent on getting it to where it is now. The proposal is ripe, it's reasonable, and I believe it's ready. Thank you very much.

CHAIR MOLINA: Thank you very much, Mr. Hyde. Committee Members, questions for Mr. Hyde regarding his testimony? Member King?

COUNCILMEMBER KING: Thank you, Chair. I'm not...I was looking through...and I don't know if I need to refresh, but I didn't see the testimony for...with the changes. But, Chair, when we get to this item, can we...are there...would there be any objections to having Mr. Hyde be a resource --

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CHAIR MOLINA: Members --

COUNCILMEMBER KING: --for this item?

COUNCILMEMBERS: No objections.

CHAIR MOLINA: --any objections? Okay. So ordered. We'll have Mr. Hyde as a resource when we get --

MR. HYDE: Thank you.

CHAIR MOLINA: --to that item.

COUNCILMEMBER KING: Okay.

CHAIR MOLINA: Thank you.

COUNCILMEMBER KING: Thank you.

CHAIR MOLINA: Committee Members, any other questions of Mr. Hyde regarding his testimony? Seeing none, thank you, Mr. Hyde.

VICE-CHAIR RAWLINS-FERNANDEZ: . . . *(inaudible)* . . .

CHAIR MOLINA: Oh, I'm sorry. Committee Vice-Chair Rawlins-Fernandez?

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Aloha, Mr. Hyde. Mahalo for being here, and mahalo for your work on this for many, many years. My question is, do you have the amendments that Member King was referring to? And if you do, and since you'll be serving as a resource for the Council, would you mind handing that to Staff? And perhaps we can get copies of that.

MR. HYDE: Yeah, I sent it by e-mail. I'm pretty sorry. But I do --

VICE-CHAIR RAWLINS-FERNANDEZ: Oh, okay.

MR. HYDE: --have an extra copy here.

VICE-CHAIR RAWLINS-FERNANDEZ: We have it on Granicus?

CHAIR MOLINA: Staff, is that available on Granicus? It is? Okay.

MR. HYDE: And incidentally, I also sent it to David Raatz. I had no authority to do that. I mean he's a County attorney. I'm...I have been an attorney. This is my language. Obviously, it would have to be massaged by appropriate counsel.

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VICE-CHAIR RAWLINS-FERNANDEZ: Okay. Mahalo, Mr. Hyde. Mahalo, Chair.

CHAIR MOLINA: Thank you, Ms. Rawlins-Fernandez. Seeing no other questions, thank you very much, Mr. Hyde.

MR. HYDE: Thank you.

CHAIR MOLINA: Okay. Ms. Milner, please announce our next testifier.

COUNCILMEMBER KING: They put a bunch of testimony together, yeah.

MS. MILNER: Our next testifier is Mike Moran, testifying on all of the items today, GET-10(6), GET-10(5), GET-10(1), and GET-10(11), testifying on behalf of the Kihei Community Association.

CHAIR MOLINA: Okay, thank you. Good afternoon, Mr. Moran.

MR. MORAN: Thank you, Chair. A sigh of relief, everyone. I will certainly not take three minutes on each of the items. I really...KCA is in support of all four of the items. We commend the individual Councilmembers who brought these things up, and we, too, feel it's up to the citizens. Yes, you as Council...or as elected Councilmembers are asked to represent the community. But at some point, we feel it's good for the community to be able to participate directly. We do this by offering testimony, but more importantly when it comes time to voting we feel that that should be an opportunity for the voting public to participate. And so, I'll just take them one by one. Ten-six, the term of elected officials commencing closer to election date. We see this as an efficient action. There is always that lag from the November, generally the first week in November the elections is made. The decisions are made, and then there's a gap in-between. Now we see the practicality, you can't...the day after Election, you can't make the quick switch and get everybody out. But to have to wait almost two months seems kind of inefficient that if we can use that term "lame duck." People sitting around and the new people are ready to go, we feel this is a reasonable step to make it a halfway quicker to start in one month rather than two months. So, we're in support of taking that step. And if it doesn't work, if we pass this, and no-go, well, then we can always change it back. But I think it's good to go for this change and make our government more efficient. On 10(5) with the Managing Director issue, I think everybody in our community is well-aware of it. Mr. Hyde, of course, has spearheaded it and dedicated a good part of his volunteer life to doing it. But we, too, participated. We went to those meetings and listened to the community, and not only our own community in South Maui, but the...at least our island community. I don't want to say we got the whole County, but we heard the island, and that seemed to be the will of the people was, yes, let's get this. We worked with...vetted it to death. Now, let us have an opportunity. And the opportunity was ripped away from the voters by saying, no, we're not going to proceed. So, maybe this time it will get to the voters to

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be able to make this decision if they want to make this change. So, we see this, too, as efficiency. On 10(1), we had supported the expansion of having elected Council...Council has approved the major County department directors. Previously, we saw the need for this, and so did the Council. So, you did...the then-Council did agree to do this. And then we ran into this snag which today kind of sounds like what we see going on in Washington, D.C. Oh, we have a way to get around the Legislature. We'll make these temporary guys that we can put in without the Legislature commenting on it. So, we'll have a workaround that was almost...it might be called the loophole. So, maybe it's time to close the loophole. If the Council says that Director is not satisfactory, let's not put him in for a time with the kind of fighting against what the Council already decided. So, maybe close that loophole and say no. If the Council said this person is not to be a Director, they shouldn't be in for an indeterminate length of time. And the last item, 10(11), the Charter Commission, we support this as well. We feel it's...to get a varied perspective on who is going to sit on this Charter Commission, we think this is a good way to proceed. That when we have nine Councilmembers working together to say, you know, we'll make a selection from the community rather than have the one entity from the Mayor making this decision. So, we see this as, too, as a positive step forward and making our...the result more efficient for our community. So, we know this is only the first step as all have a long way to go. But we wanted to participate in government and give our input today. Thank you very much for hearing us.

CHAIR MOLINA: Okay, thank you very much, Mr. Moran, for your testimony. Members, any questions for Mr. Moran regarding his testimony on any of the agenda items? Seeing none, thank you very much.

MR. MORAN: Thank you very much.

CHAIR MOLINA: Okay. Ms. Milner, please announce our next testifier.

MS. MILNER: It looks like we have one more testifier in the Chambers, Jasee Law.

MR. LAW: Aloha --

MS. MILNER: I don't know which item he's testifying on.

MR. LAW: --auinala.

CHAIR MOLINA: Aloha auinala.

MR. LAW: My name is Jasee Law from Kula. I wish Mr. Hokama was here because he's big on rules; but Mr. Molina, you're doing a pretty good job, too. It's funny this comes up, that people think I'm just like hanging around, but I think I'm here for Akua sent me over here to keep an eye on you guys. I was around when they was talking about this, and I don't know if anybody remembers my...well this is GET-10(5). I'm still on the

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fence on that one. I'm not sure. It's funny that George Washington's birthday was February 22nd, and he said that he didn't want to be the king because too much power corrupts too much. So, you gotta be careful with that. So, Mr. Molina, I don't know if you got my letter, but Managing Director Baz was down here yesterday. I'm sure he's on their TV watching. "Hey, Mr. Baz." 'Cause the reason I mention Mr. Hokama is 'cause he said, he made some comments about the 7th floor is the Council's floor - 7th and 8th floor. So, I'm not sure why Mr. Baz was down here telling me that I'm not supposed to be sitting outside during lunchtime. So, maybe you guys can have a ho'opo'o [sic] thing and figure that out. So, some people think I'm just here to hang around, and I won't mention the H-word, but loitering was mentioned. And I think they should pa'a kawa'a because I think your meetings are very interesting, Mr. Molina. Thank you for your time.

CHAIR MOLINA: Thank you, Mr. Law. Committee Members, questions for our testifier? Seeing none, thank you very much, Jasee. Do we have any more testifiers in the gallery here, Ms. Milner?

MS. MILNER: There are no more testifiers in the gallery.

CHAIR MOLINA: Okay. And do we have any testifiers out in Lanai, Molokai...well, let's check with our offices out in...well, Hana, my understanding Hana Office is closed today?

MS. MILNER: Hana Office is closed, and I've e-mailed with the other offices, and they have no testifiers.

CHAIR MOLINA: Okay. Members, you heard that? All of our other offices, there are no testifiers on any of our agenda items today. With that said and as well as no one here approaching in Wailuku to testify here, if there are no objections, Chair will close public testimony for our agenda items today.

COUNCILMEMBERS VOICED NO OBJECTIONS.

. . . END OF PUBLIC TESTIMONY . . .

CHAIR MOLINA: Okay. All right. Members, so ordered. It is almost 3:00. Members, you ready for a break? All right. Let's take a short break. Let's come back at 3:10. Okay. Meeting in recess. . . . (gavel) . . .

RECESS: 2:59 p.m.

RECONVENE: 3:18 p.m.

CHAIR MOLINA: . . . (gavel) . . . The GET meeting for Tuesday, February 25, 2020 is now back in session.

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**GET-10(6) AMENDMENTS TO THE REVISED CHARTER OF THE COUNTY OF MAUI
(1983), AS AMENDED (CHANGING COUNCIL AND MAYORAL TERMS TO
START ON THE FIRST MONDAY IN DECEMBER FOLLOWING A GENERAL
ELECTION) (CC 19-28)**

CHAIR MOLINA: All right, Members, we've completed public testimony, so we are on our first agenda item for today which is a proposed Charter amendment which has to do with changing Council and Mayoral terms to start on the first Monday in December following a General Election. This proposal was submitted by Member King. Member King, I'll give you the floor. Oh, I'm sorry. Did we close...we closed public testimony?

VICE-CHAIR RAWLINS-FERNANDEZ: No objections.

COUNCILMEMBER KING: No, we didn't.

CHAIR MOLINA: We didn't officially. Oh, I'm sorry. Okay --

COUNCILMEMBER KING: That's okay.

CHAIR MOLINA: --well, for the record, we will close public testimony, if there are no objections.

VICE-CHAIR RAWLINS-FERNANDEZ: No objections.

COUNCILMEMBER KING: No objections.

CHAIR MOLINA: All right. So ordered. Okay, Ms. King, you have the floor.

COUNCILMEMBER KING: Okay. So, we're on the Charter amendment that...to establish that Council and Mayoral terms will start on the first Monday in December following a General Election. And this is to...this actually would put us in line with Hawaii County and Kauai County, and eliminate that whole two-month gap between the election and the start of the following term. And the way this outlines is that it would go into effect the following term after...the following year after our term after it gets...if it gets passed on the ballot. Then that current term would still be for one year.

CHAIR MOLINA: So, 2022, I guess, yeah, that might be...

COUNCILMEMBER KING: So, upon adoption of the 2020 amendments, the then-current Councilmembers will continue serving until January 2, 2021. So, if you are in your...everybody who's in their seat would stay a Councilmember until 20...until January 2, 2021. And then the January 2, 2021 term would end on December 5, 2022. So, it would be short one month from what it would normally be.

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And then the next people elected would have the full two-year terms. So, it...for me, Chair, I don't think it really...it doesn't really change anything because a lot of times nothing happens that last month anyway. And it would just put us in line with Hawaii County and Kauai County.

CHAIR MOLINA: Okay, thank you. Oahu County is January, like Maui?

COUNCILMEMBER KING: Oahu still...still is on the January --

CHAIR MOLINA: January.

COUNCILMEMBER KING: --schedule. So, they need to get in line with their neighbor islands, I guess.

CHAIR MOLINA: Okay, good. Just one quick question before I open the floor for the rest of the Members. Any issues or any comments came from the Clerk's Office, the Elections Office, to ensure that the elections could be certified by that date? 'Cause...well, under the present system, it's...they have 'til January. Elections are the first Tuesday in November. Now, if we move things up to December, I don't know if have...have you had any feedback?

COUNCILMEMBER KING: Well, we're not moving things up to December for that year --

CHAIR MOLINA: Okay.

COUNCILMEMBER KING: --for this next year, so it would still, you know, the election's in November, the Councilmembers are still serving 'til January 2nd. So, they understand. But you're talking about the following term?

CHAIR MOLINA: Yeah.

COUNCILMEMBER KING: I don't know if we...so, we have the same amount of time after the election as Kauai and Hawaii which has not had a problem certifying their election so I...

CHAIR MOLINA: Maybe we can get comments from Ms. Kaohu at a later point on this, yeah, just to see what their take is on it.

COUNCILMEMBER KING: Okay.

CHAIR MOLINA: And possibly also if there's any challenges in an election too, how that would impact that process maybe. So, but good. Okay, the floor is opened up for questions to Ms. King or Corporation Counsel. Ms. Rawlins-Fernandez?

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VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. I think this proposal is awesome. I love it. My question is for the new Section 15-6, the transitional provision for terms of office for Council and Mayor. Is there a way to put like a...if this passes, then this section will no longer be needed after the transition is made. Is there a way to sunset the section?

COUNCILMEMBER KING: The transitional section provision?

VICE-CHAIR RAWLINS-FERNANDEZ: Yeah.

COUNCILMEMBER KING: I guess I'll ask Mr. Kushi since he signed off on this. Is that automatically...is the transitional...since we print the Charter every term, is the transitional provision dropped after the...after it's no longer needed from...in the next Charter?

MR. KUSHI: Mr. Chair?

CHAIR MOLINA: Mr. Kushi?

MR. KUSHI: I'm not sure about sunseting it or deleting it from any published Charter...I mean republished Charter provisions. But by the terms of its...by its own terms, I don't see why you need to sunset it because by its own terms, it says, you know, this only applies to those certain years and beyond. And I would strongly leave it in because then it explains or clarifies the short-term. And it clarifies that the start date, and therefore the end date, is not...is in conflict with the existing Charter. But it still be deemed a full term. So, I'd leave it in.

VICE-CHAIR RAWLINS-FERNANDEZ: Chair? But after...

CHAIR MOLINA: Ms. Rawlins-Fernandez?

VICE-CHAIR RAWLINS-FERNANDEZ: So, I understand. And that's the purpose of putting the transition section in. But after January 2023, wouldn't it be cleaner to not have the provision?

MR. KUSHI: Yeah, I've seen previous charters, like the City and County of Honolulu, when they did the staggering terms, and they referenced the early 2001, and it's still in there, you know. So, and I think for historical purposes, anybody researching it would then...can rely on that transition provision. So, I don't see a problem leaving it in. I may see a problem with taking it out. And somebody brand new, without the history, reading the Charter, per se, in terms of full terms. 'Cause when I initially reviewed this, that's my...I had a problem with that, you know. But I think the transition provisions take care of that.

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VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo. So, just for clarification. You had a problem with it, in the future, not being there?

MR. KUSHI: Mr. Chair, without the transition provisions, which I'm not sure who drafted that, but apparently, I signed off on it, without that provision, if you look at the existing Charter terms, it starts January 2nd of the January after the Election. But then you're changing it to December 5th of that same election year. If you count, it's not two full years. It's one month short. Therefore, my concern was, whether that short year would be considered a consecutive term? If it's not considered a full consecutive term, then there's a break. Then a Member could use that break to serve ten more years. I mean, stretching it out. That was my concern. But this takes care of it.

VICE-CHAIR RAWLINS-FERNANDEZ: Okay, thank you. Thank you, Chair.

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

COUNCILMEMBER KAMA: Thank you, Chair. I'd like to know why we are proposing this, or the maker?

CHAIR MOLINA: Okay, I'd like to recognize Member King.

COUNCILMEMBER KING: Okay, yeah, as I said earlier, part of it is to get us in line with Hawaii County and Kauai County, and then the other part of the reason is to shorten that two-month gap between the election and the start of the next year.

COUNCILMEMBER KAMA: But I still have a why. I mean I get that you want to line up with other counties.

COUNCILMEMBER KING: Right.

COUNCILMEMBER KAMA: I don't necessarily feel I have to line up with other counties. I think Maui is unique in its own self, so we don't...I mean if we want to line up, we can line up. But if we don't, we don't have to. I don't feel like we have to. That's one. Then the other thing is, yeah, you're shortening the time, but why? Because I will tell you when I got elected in November, I didn't know a whole lot about this County, or who did what, or who was anybody in this County. And I used those two months to get appointments with everybody who was here. And I'll tell you the people that made appointments with, they weren't here after two months. So, I had to redo it all over again. But it's an opportunity for new legislators to come in and get to learn about the County and who's who, and if you take that away, it's like...so I'm just asking why.

COUNCILMEMBER KING: Well, it's, you know, for me personally --

COUNCILMEMBER KAMA: Yeah.

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COUNCILMEMBER KING: --it's been humbug starting on January 2nd. You know, you're coming back after a long break and the holiday break. So, a lot of people don't do a lot in that period anyway. So, I'd rather...so for me, I'd like to see, and the people that I've talked to, shortening that period and getting to work at the beginning of December, you know, getting started at the beginning of December and giving ourselves two to three weeks before we take that holiday break. To me that would...I mean I just...I see it as beneficial. And I also, maybe because of my membership in HSAC that, you know, we've got this crossover time when some of us are still Councilmembers and some of us aren't, you know, that was to me the benefit of lining it up with our other neighbor islands. And, you know, I think...I actually think that Oahu is going to be looking at this very shortly as well.

COUNCILMEMBER KAMA: And I think the other thing was when people are moving out and people are moving in all at the same time. I mean I remember having those kinds of issues when we all first started, at least I did. You know, I mean it's like okay, so we got to get in, but we can't get in until people get out. And I don't think, you know, that one...and that's only me. And, you know, everybody could be different too. And it's...

COUNCILMEMBER KING: But that won't change. No matter what the date is that we switch, people are going to be moving out and moving in on the same day.

COUNCILMEMBER KAMA: Correct.

COUNCILMEMBER KING: So...

COUNCILMEMBER KAMA: But at least we have more time to move out.

COUNCILMEMBER KING: Well, not really because...

COUNCILMEMBER KAMA: And move in. We had...we have two months from Election until you actually move in January 2nd.

COUNCILMEMBER KING: But you can't move out because you're still working.

COUNCILMEMBER KAMA: Correct. Yeah.

CHAIR MOLINA: Okay. I'm going to jump in, folks.

COUNCILMEMBER KAMA: Oh, sorry.

CHAIR MOLINA: So, I'm sorry.

COUNCILMEMBER KAMA: Okay. Thank you, Chair.

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CHAIR MOLINA: Let's try get another Member. But we'll continue the discussion. Member Sugimura, questions for either Ms. King or Corporation Counsel?

COUNCILMEMBER SUGIMURA: Yes. So, I appreciate Ms. Kama's comments because as you know, when you get elected, there's, as she said, and I did too use the time to meet with departments and learn. And besides that, yeah, moving the offices is kind of huge. It's not just let's pick up a pencil and walk away. It's...it involves a lot of things. But I just want to say on the work-wise on what happened, my first term during the month of December, it was used to still continue working. I don't know, maybe people went on vacation. But we were still working. And I think it's still...we still continue our responsibility 'til the new term started. So, it's not like we, you know, pack up our bags and go on vacation as we go through this transition. So, yeah, I don't understand why we would need to change the date. I think it looks like, to me, the January 2nd transition works. Thank you.

CHAIR MOLINA: Thank you, Ms. Sugimura. Members, questions for Ms. King? Okay, we'll have Member Paltin, followed by Member Rawlins-Fernandez.

COUNCILMEMBER PALTIN: Thank you, Chair. I just was...I could see the reason for this, like you don't want a lame duck Council, like going against and doing something detrimental right before another Council takes effect. But I was wondering, like suppose the first Monday is December 1st or something, or what if the Election certification deadlines run right up until then. Like, would maybe second or third Monday also be a possible amendment? And then if the term start on the...whatever the date is, that it could be amended to or whatever, would that then be the inauguration? And then should we talk to the inauguration folks about, you know, the time involved in putting that together? Or would we be able to just start without the inauguration, and then just like move in? But as to Councilmember Kama's point, I would think like then if you move into your office, then you can have the meetings with the folks in your office. But I mean, just saying.

CHAIR MOLINA: We got a good laundry list of questions. Let me ask Councilmember King if she can respond to it, followed by --

COUNCILMEMBER KING: I'm not...

CHAIR MOLINA: --Chair Lee.

COUNCILMEMBER KING: I'm not sure if that...what the actual question was.

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

COUNCILMEMBER PALTIN: If it's possible. Like what if the first Monday is December 1st, and they don't have the Election certification deadline by December 1st or whatever,

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whatever the date is. What if you amend it to like, say, the second Monday or the third Monday? Or, I mean the date certain that the Election certification deadline is.

COUNCILMEMBER KING: We could amend it to after the certification. This was modeled after the other counties because everyone has the same certification deadline for their elections. But, you know, to your point earlier, that was one of the things that I experienced was we did have some lame duck activity after the election. And, you know, it was noted by the public that there were actions that were taken to do something or undo something after these people were, the new people, were elected. So, the point of trying to shorten that period to make it...to get the, you know, the people that were elected into office at the earliest point that they could be in office. But I don't...you know, this was created with the help of our OCS attorney and so all those dates were considered. And we can ask him to come up here and maybe answer some of the questions about the certification dates.

CHAIR MOLINA: Okay. Staff can make contact with I guess --

COUNCILMEMBER KING: Mr. Raatz.

CHAIR MOLINA: --Mr. Raatz, yeah. In the meantime, yeah, Member Paltin, does that conclude your line of question for now?

COUNCILMEMBER PALTIN: Yes.

CHAIR MOLINA: Okay. I'm going to recognize Chair Lee, and followed by Member Sugimura.

COUNCILMEMBER LEE: Thank you. I just have comments. I do...what happened?

CHAIR MOLINA: I bypassed Member...I forgot Member Rawlins-Fernandez was next in line. So, but...

COUNCILMEMBER LEE: Do you want to go?

CHAIR MOLINA: I'll leave it to you guys to decide.

COUNCILMEMBER LEE: Okay.

CHAIR MOLINA: Sorry about that.

COUNCILMEMBER LEE: She said I can go.

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

VICE-CHAIR RAWLINS-FERNANDEZ: I did.

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CHAIR MOLINA: My apologies.

VICE-CHAIR RAWLINS-FERNANDEZ: Go ahead, Chair Lee.

COUNCILMEMBER LEE: Okay, so thank you. I will not be supporting this resolution. I have concerns that, first of all, you may have a lame...so-called lame duck group, but on the other hand, you may have important business that requires first or second reading and...in December to finish off the year. That's one. Secondly, I don't see a need to follow the other counties necessarily. It's really up to them, what's convenient for them. Third, we need to check the challenge period. It's not only certification. There's a period where you can be challenged. And it's not within five days. It's probably more like 30 days. But that needs to be checked by the County Clerk and then that should be the guiding, you know, whether...that's very important because if somebody is challenged and the challenge is upheld, then that person is not going to be sitting as a Councilmember. So, you know, we have to be cognizant of all these rules, and regulations, and possibilities that can come up to disrupt the, you know, an early schedule of taking office. Thank you.

CHAIR MOLINA: Thank you, Chair Lee. Those certainly are some valid points. Member Rawlins-Fernandez, and Member Sugimura, if you don't mind, I'll have Member Rawlins-Fernandez, and we'll come back to you. Go ahead.

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. Okay. So, I support this Charter amendment. The State Legislators, upon election, they take their office the very next day. When I won the election, I was ready to take the office the very next day. But I had to wait, and I had to watch as the Council did things that I wouldn't be able to undo after I got onto the Council. And I watched as, and I testified against some of the things that were happening. I watched as a majority met at bare quorum to take those actions. And it was unfair and quite a disservice to the community. I don't think that's fair to the voters. There was a reason that, you know, the Councilmembers that were voted on were voted on. And it was all over, you know, the news. It was in the newspaper about how all the actions that were being taken. It was noticed. People all were watching. And, you know, it's frustrating. And I think, you know, this amendment honors the community's vote more because they voted on certain people for a reason, and they wanted to see action being taken immediately. The City and County of Honolulu did have a challenge and, you know, they continued their work. And then that challenge resulted in an overturn of that...of the person who was announced the winner the night of the election. So, you know, it's resolvable if those kinds of situations come up. And then I guess this is a deciding factor since it's being discussed, but moving offices, I think it would be easier to move offices before the holidays. It was much more of a challenge to move like right during, like Christmas time, especially for those that don't live on Maui. It would be easier. But that's...it doesn't carry too much weight, you know, the logistics of moving offices doesn't carry too much weight in my decision to support this. But since it was something that did come up, you know, I'm giving my two cents on that. And, you

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know, I don't...my comments about the previous Council, you know, it's just a matter of differing priorities. I don't want any of the, you know, previous Councilmembers to take offense to that because I really enjoy working with everyone that's on the Council. But, you know, yeah, we just, you know, we just have different priorities and that's okay, you know. And but I just...that was my observation. Mahalo, Chair.

CHAIR MOLINA: Thank you, Ms. Rawlins-Fernandez, and you gave more than two cents. You gave two dollars from your comments. But very good, appreciate your points. I'm going to recognize Member Sugimura, and, Member Paltin, if you could hold off. I've got Mr. Raatz here, that I'd like him to give some comments. And after Mr. Raatz's comments, I'm going to go to you, Ms. Paltin. So, Member Sugimura, oh, you want to...you'd like to yield to Mr. Raatz? Okay, Mr. Raatz, I believe it was, Member King, you had brought up some questions?

COUNCILMEMBER KING: Oh, yeah, the issue of certification of the election and how that works with the other counties who have the same date that we're looking at.

CHAIR MOLINA: Mr. Raatz?

MR. RAATZ: Thank you, Chair. Staff did look at the other counties' charters when working on this assignment. We didn't see in our research that there had been any problems in certification in our research of Maui County elections. From what we could tell, certification had taken place in a time period where it wouldn't impede Councilmembers taking office. Of course, we can't guarantee future elections. There potentially could be issues, but our research didn't indicate that the timing would be a major concern.

CHAIR MOLINA: Okay, thank you, Mr. Raatz, for your assessment. Ms. Sugimura, followed by Ms. Paltin.

COUNCILMEMBER SUGIMURA: I'll yield to other Members.

CHAIR MOLINA: Member Paltin?

COUNCILMEMBER PALTIN: Thank you. I just...does this only do that one thing? Or was this also taking out the part about consecutive...I mean...

COUNCILMEMBER KING: It's a different Charter...

CHAIR MOLINA: Ms. King?

COUNCILMEMBER KING: I'm sorry. That's a different Charter amendment.

COUNCILMEMBER PALTIN: Oh, okay. I was looking through it and...

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COUNCILMEMBER KING: This is, yeah no, this one's just addressing the timeframe and it did come from members of the public who wanted to see that...

COUNCILMEMBER PALTIN: Oh, so we don't have the consecutive one yet?

COUNCILMEMBER KING: We do, we...well, not...it hasn't come into the Committee yet but --

COUNCILMEMBER KAMA: Never come yet.

COUNCILMEMBER KING: --it's been submitted.

COUNCILMEMBER PALTIN: Okay, sorry I thought it was on there and I was like, I can't find it.

COUNCILMEMBER KING: Yeah, it's hard because if you have people who like one and not the other, then the whole thing dies so it's easier to split it up.

COUNCILMEMBER PALTIN: Okay, thank you.

CHAIR MOLINA: Thank you, Member Paltin. Member Kama, followed by Chairman Lee.

COUNCILMEMBER KAMA: Thank you, Chair. So, is there anything in the rules that says that after the election, if you didn't get reelected that you have to vacate your office by a particular time?

CHAIR MOLINA: Okay, so who'd like to answer, either Ms. King or Mr. Raatz?

COUNCILMEMBER KING: Well, I guess, you know, you take office on the day that it says in the Charter. Right now, it says January 2nd. And technically the person who comes before you in that same office is in office until noon on that day.

COUNCILMEMBER KAMA: Okay.

COUNCILMEMBER KING: And so, that's why the inauguration happens at 2:00 p.m. usually 'cause it's after, you know, there's...but as far as logistically, it just depends on the person who's vacating the office when they want to leave or, you know, when they're willing to leave.

COUNCILMEMBER KAMA: Oh. Okay. So, another question was, why, in their infinite wisdom, did the writers of this Charter, decide to do it the way they did? Have an election November and then the inauguration in January. Do we have that?

CHAIR MOLINA: Well, let's ask Mr. Kushi if he's aware of any. I mean not...or is that a historian, maybe. Or maybe Mr. Raatz might have some...do we have any history as

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to...I know if Mr. Hokama was here, I'm sure he'd have a few thoughts. Or, maybe what we can do, if you like, the Committee can --

COUNCILMEMBER KAMA: Please.

CHAIR MOLINA: --have a question addressed to whomever, I guess --

COUNCILMEMBER KING: Who would we address?

CHAIR MOLINA: --whether it be the Clerk's Office, or if Corporation Counsel. Chairman Lee?

COUNCILMEMBER LEE: I would prefer that we direct all questions regarding elections to the Clerk's Office. And so, one of the questions I would have is, when, by law, is the certification, yeah, announced? And then secondly, the details on the challenge period, because if you operate with someone who is rejected, you have a eight, eight, you know, you have a four-four, you know, situation. Any even number, you can't do business. So, we need to know that information, okay. Thank you.

CHAIR MOLINA: Okay, we'll have those questions forwarded. Questions, Member Paltin?

COUNCILMEMBER PALTIN: But the Tommy Waters situation, that was Oahu and they have the same January 2nd date as us. So, it...I mean it could happen even to us, or it could happen --

CHAIR MOLINA: Good point.

COUNCILMEMBER PALTIN: --to December. But I mean just...so it's not necessarily a reason to not do it because it could still happen in January 2nd as well.

UNIDENTIFIED SPEAKER: Yeah.

CHAIR MOLINA: Yeah. Thanks for refreshing our memories about that, Member Paltin, yeah.

COUNCILMEMBER KING: Chair?

CHAIR MOLINA: Member King?

COUNCILMEMBER KING: I don't think we...should I make a motion because we're deliberating, but we don't have a motion on the floor.

CHAIR MOLINA: Okay, well, the Chair is open to that consideration. If you guys want to move, I know there's some questions that may still need to be answered. But of course, should it move out of Committee, we can get some of these questions answered should it get to Council. So, the floor is open.

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COUNCILMEMBER KING: Okay, I'd like to move that we pass the resolution, Proposing an Amendment to the Revised Charter of the County of Maui (1983), as Amended, to Establish that Council and Mayoral Terms will Start on the First Monday in December Following a General Election.

VICE-CHAIR RAWLINS-FERNANDEZ: Second.

CHAIR MOLINA: Okay. Motion has been made by Member King so to pass the proposed Charter amendment changing Council and Mayoral terms to start on the first Monday in December following a General Election, and it's been seconded by Committee Vice-Chair Rawlins-Fernandez. Member King, you have the floor for discussion.

COUNCILMEMBER KING: Okay. Well, I think we've already kind of gotten into discussion, but I did want to ask Mr. Raatz on the...if he has a date of the challenge period, if he has --

CHAIR MOLINA: Mr. Raatz?

COUNCILMEMBER KING: --knowledge of what the challenge period is after the election.

MR. RAATZ: Thank you, Chair. I'm sorry I don't actually have that at my fingertips. We can try to look that up quickly for the Committee if you'd like.

CHAIR MOLINA: Ms. King, should we call Ms. Kaohu from the Clerk's Office?

COUNCILMEMBER KING: We can. She's fairly new so, but, yeah, we'd be happy to hear --

CHAIR MOLINA: If she's listening in.

COUNCILMEMBER KING: --from her as well.

CHAIR MOLINA: Chair Lee?

COUNCILMEMBER LEE: The person to give the most accurate answer is Mr. Nishita. Yeah, we can...so why don't we just send him a letter. I mean there's no particular rush about this, right?

CHAIR MOLINA: Yeah, now that he works for the Administration, we'd have to make a formal request.

COUNCILMEMBER LEE: That's...yeah. Takes a little longer, but we want accuracy, right? Yeah.

CHAIR MOLINA: Of course.

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COUNCILMEMBER SUGIMURA: Good point.

CHAIR MOLINA: Okay, Chair will take that into consideration. So, okay, the motion is still on the floor for discussion. Member King, are you done with your first turn?

COUNCILMEMBER KING: Yeah, I think so. I think the points have been made, you know, for it, and if...I guess Councilmembers should remember that we're not voting for or against this. We're voting for or against putting this on the ballot and letting the people who elect us decide when the term should start.

CHAIR MOLINA: Okay, thank you for that, Member King. I saw both hands go up simultaneously. Who should I give it to, Member Paltin or Committee Vice-Chair Rawlins-Fernandez?

COUNCILMEMBER PALTIN: I'll yield because I think that was what my...about that we're not voting on it, we're voting to put it to the voters. That was...so I don't need to say that again.

CHAIR MOLINA: Okay, thank you, Member Paltin. You guys are so nice to each other today I think, okay. All right, Committee Vice-Chair Rawlins-Fernandez?

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. It's probably because of all the ice cream you gave us. It made us even sweeter. Perhaps you should consider giving us ice cream every time before meetings. Okay. So, I will be voting in favor of this motion. I understand the need for the dates on the certification and the challenge period. But as Member Paltin correctly pointed out, with the Honolulu...City and County of Honolulu having the same inauguration date as us, it could already...the concerns about certification and the challenge period could also happen with the January 2nd start date, as we've seen in the...Honolulu. So, I don't see that as a reason for me to have to wait. We can get that information by first reading. And I think that's all the points, yeah. So, you know, and I'm in this seat now and I'm, you know, willing to end my term earlier if I lose the election. Again, because the election is the community basically saying who it is that they want to do the work for them. And I...if I'm not serving the community the way that they want to be served, then, you know, I should vacate, you know, sooner so that the person that they want to be in the seat is in the seat doing the job. Mahalo, Chair.

CHAIR MOLINA: Mahalo, Member Rawlins-Fernandez. Member Kama?

COUNCILMEMBER KAMA: Thank you, Chair. Thank you for that reminder, Tamara, because you're right. So, I have no idea how many amendments we're going to send to the ballot box. And my concern is if there's too many, and if they don't understand the first one or two, then the rest are all noes. That's my concern because we are probably going to have a lot unless this body decides to prioritize what's important to

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us and prioritize how many we're going to put on that ballot. So, therefore, that's my concern, and I have other amendments that I know are going to come up that I have...are priorities to me. So, I will not be supporting this. Thank you.

CHAIR MOLINA: All right. Thank you, Member Kama. Member Sugimura?

COUNCILMEMBER SUGIMURA: I would like to ask you to defer this so that we could get the information that we're asking for. And if you would take that into consideration as the Chair and understand that, you know, some of our Members are asking for additional information to make a decision. Thank you.

CHAIR MOLINA: Member Sugimura, we do have a motion on the floor. So, I don't think it would be appropriate for me to call for a deferral because we have a live motion on the floor. I'm not sure what parliamentary procedures and how that applies to it, but I think from my limited experience, I would honor the motion on the floor first. And depending on what happens with the vote, like if we...certainly if we have, say...I'm just guessing, if we have, say, a four-four deadlock, then I guess it could be...a recommendation for deferral could be considered, or a filing. But at this point, we have a live motion on the floor. So, we'll see what happens when the vote is conducted. Anybody else? Oh, sorry, Member Sinenci, followed by Committee Vice-Chair Rawlins-Fernandez.

COUNCILMEMBER SINENCI: Thank you, Chair. Just a clarification. You know, if it passes and then we still have two readings in Council for this for amendments?

CHAIR MOLINA: Yeah, I believe it's two Council readings for Charter amendment proposals, right. And you need a majority, six votes. Out of Committee, I believe it's just a simple majority, yeah. But at Council level, we need minimum of six votes for it to advance.

COUNCILMEMBER SINENCI: Thank you for that clarification. So, we could technically get some of this information prior to passing.

CHAIR MOLINA: If that is the pleasure of the body, certainly, depending on the vote again.

COUNCILMEMBER SINENCI: Thank you.

CHAIR MOLINA: Okay. All right, Committee Vice-Chair Rawlins-Fernandez?

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. I was just informed that our constituents are watching and one of them called my office to let me know that the Governor also gets sworn in on the first day of December. So, mahalo for the community being active in watching our meetings and providing input. So, I wanted to dovetail off of what Pro Temp Kama's question was regarding the number of Charter amendments that we plan to put on the ballot. I don't believe there's any rules on the

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maximum amount of amendments that we could put on the ballot. But I don't know if there was a plan...Chair, if you had a plan to, you know, I don't want us to not vote on certain proposals because we're afraid that the proposal that we want, we're prioritizing or, you know, put forward ourselves, may not make the cut, right. And so, I want all Councilmembers to be free to vote how they really feel and not have that factored in when deciding if that is a priority for them or not, because it'll be on the ballot, and we should be allowing the community to vote on it. And I believe that, you know, our community members are smart, and they can figure it out, you know, even if there are ten Charter amendments on the ballot. And as we, you know, heard from Mr. Nishita before he left the Clerk's Office, is that he already put funding in the budget so that we can send mail information about all the Charter amendments that are on the ballot so that the public will have access to more information so that they can make an informed decision on these Charter amendments. So, Chair, I don't know if you could provide us some of your mana`o on, your thoughts on how we'll be handling the Charter amendments if we're going to have a cap of, you know, five. And 'cause I think the Members would like to know that so that they can freely vote on things. Or, if we're going to vote on all of them, and then at the end prioritize up to a certain number, because I would like to be able to vote freely. And then maybe at the end, you know, prioritize the ones that we voted to move forward. And if we decide that, you know, it's too much, then at that time then we, you know, we cannot put those on the ballot. But I don't want anyone to feel like they can't vote on something because it's not a high enough priority for them and they're worried that their priorities won't get onto the ballot. Sorry, that was super long-winded.

CHAIR MOLINA: No, no, that's okay. And you certainly, you're a good Vice-Chair because you hit your Chair with a hard question. No, I'll tell you how I want to approach this. I understand there's a number of Charter amendments being proposed by you. And that's a good thing. And my intent as your Chair for this Committee is to hear all of them. Now, whether a vote will be taken, I cannot tell you. But I will make the commitment to at least have it heard once in the time that we have. Some may come to a vote, some may not. But the one good thing about this year is we have a Charter Commission that will be coming up. So, things...so proposed Charter amendments that may have not made the proverbial cut for a vote here at the Council level, can be considered by the future Charter Commission which will go into action in 2021. So, that is pretty much how I'm going to operate. I mean if we can take a vote on every single one, so be it. But if not, there's some Charter amendments that can be forwarded to the Commission for consideration. Chair Lee?

VICE-CHAIR RAWLINS-FERNANDEZ: Chair?

CHAIR MOLINA: I'm sorry. Go ahead, Ms. Rawlins-Fernandez.

VICE-CHAIR RAWLINS-FERNANDEZ: Sorry. I just wanted to quickly thank you for scheduling these as soon as possible so that we can hear everyone's proposals. So, mahalo for scheduling them.

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CHAIR MOLINA: No, thank you for bringing these. Because there's been a...there's going to be a number of Charter amendments, I'm going to only ask from all of you to consider meeting in an off-week so we can hear, at least hear the proposals. So, I am already looking at consulting with the Council Chair about a date in the month of March, an all-day meeting, from 9:00 to 4:30 to consider as many Charter amendments. So, I would ask if all of you could be made available. And I will give you more than ice cream for lunch, okay. All right, thank you. Chair Lee?

COUNCILMEMBER LEE: Thank you. You're so generous. I just want to say that I don't think any of us are afraid of any proposals. But it's very logical for Members, some Members, to think that if there are too many proposals, it'll tend to confuse the public. Not that they're not intelligent. They are intelligent. But we need to be intelligent, too, by proposing Charter amendments that, you know, have a realistic chance of being passed. So, you know, we have to...we should at some point prioritize, you know, what's the most important and then come to terms with a number that's reasonable. You know, we can submit 50, for instance, yeah. Now, is that realistic? I don't think so. So, at some point we will. And that's why I'm glad you're having an all-day meeting because then we can flesh all these things out. And yeah, it's up to the public if they want to pass it or not. But on the other hand, I don't think they would appreciate 50 proposals, you know. So, anything within reason is something good and that we should consider. Thank you.

CHAIR MOLINA: Okay, Members. I'm going to call for the vote. I know we kind of maybe straying off a little bit away from the current proposal. But thank you for bringing it up. At least you know where your Chair stands.

VICE-CHAIR RAWLINS-FERNANDEZ: Point of information.

CHAIR MOLINA: Yes, go ahead, Ms. Rawlins-Fernandez. The point is recognized.

VICE-CHAIR RAWLINS-FERNANDEZ: The last day to file a challenge is November 23rd.

CHAIR MOLINA: November 23rd, for any election?

VICE-CHAIR RAWLINS-FERNANDEZ: Yes. Mahalo.

CHAIR MOLINA: So, that's roughly about three weeks from the election in most cases. Okay, Chair Lee?

COUNCILMEMBER LEE: That's only to file it. That's not to resolve it. Thank you.

CHAIR MOLINA: Okay.

COUNCILMEMBER KING: Chair?

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CHAIR MOLINA: Yes, Member King?

COUNCILMEMBER KING: The resolution could take six months. So, the date of December versus January I don't think is pertinent to that issue of resolving it. And we saw that happen on Oahu where they actually had to pick a temporary Councilmember until they had another election. But I also wanted to say that I really appreciate you hearing these early so that, you know, should we have...I don't think we're going to have 50 Charter amendments, but you know, should we have eight or ten, we have the opportunity to inform the public as we pass these. What gets really confusing is when the public hears nothing about these, the Charter amendments, and all of a sudden there's five or six of them on the ballot. And people have to try to determine, but that usually happens if we back it up to the last day that we're allowed to pass Charter amendments. So, I think the way you're doing it is allowing us to freely decide on the merits of each Charter amendment. And we should give the public the opportunity to vote on each Charter amendment that we think is valid. And, you know, I have full faith that we can...this is a...this Charter amendment we're discussing right now is not real complicated. And I don't think it's difficult to explain it to the public. They can decide, do you want the two-month lapse in between the election and the start? Or, do you want it to be shortened to one month? That, that's not a complicated issue. We will have a few complicated issues. But we're going to have, you know, if we can get...get starting them passed in March and April, or anytime even before June, we're going to have much more time to publish the Charter amendments, explain to people what they mean. And there will be people in the public taking up, on various Charter amendments, the, you know, the rally to vote one way or another. I have no doubt about that. That's why we're doing...that's why we do Charter amendments, because we know there are people in the public who want to see these changes and want to be able to vote on them. So, you know, I'm willing to accept any Charter amendment that doesn't get passed because the public doesn't pass it, or it gets passed. But I don't think we should hold it up based on, you know, a number that we're trying to stay under because that gets...that ends up being territorial.

CHAIR MOLINA: Yeah. Good point. Well, I think what I'm going to do on my part is make a request out of the Clerk's Office to provide us over the last, say, ten elections how many Charter amendments were on the ballot, just for our own information so we can kind of look and see what a reasonable number is. But then, again, it's hard to gauge. Every Council is different. Some may want to put 50 on there. Some may want to put 2 or 3. So, it depends on what the issues are as well. So, okay, I've said enough, so Chair's going to call for the votes. All those in favor of the proposed resolution to place, to move out of Committee, the proposed charter amendment changing Council and Mayoral terms to start on the first Monday in December following a general election, signify by saying "aye."

SEVERAL COUNCILMEMBERS VOICED AYE.

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CHAIR MOLINA: All those opposed?

COUNCILMEMBER KAMA: No.

COUNCILMEMBER SUGIMURA: No.

CHAIR MOLINA: Okay. Ms. Milner, Chair wants to call for a roll-call vote.

MS. MILNER: Member Sinenci?

COUNCILMEMBER SINENCI: "Aye."

MS. MILNER: Chair Lee?

COUNCILMEMBER LEE: No.

MS. MILNER: Member King?

COUNCILMEMBER KING: "Aye."

MS. MILNER: Member Rawlins-Fernandez?

VICE-CHAIR RAWLINS-FERNANDEZ: "Aye."

MS. MILNER: Member Paltin?

COUNCILMEMBER PALTIN: "Aye."

MS. MILNER: Member Sugimura?

COUNCILMEMBER SUGIMURA: No.

MS. MILNER: Member Kama?

COUNCILMEMBER KAMA: No.

MS. MILNER: Chair Molina?

CHAIR MOLINA: "Aye."

COUNCILMEMBER SUGIMURA: What happened?

COUNCILMEMBER LEE: Three noes.

COUNCILMEMBER KING: Five to three.

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MS. MILNER: Five to three. Sorry, Chair.

CHAIR MOLINA: Five-three in favor. Okay. And one excusal, Mr. Hokama. So, the measure advances to Council by a five to three vote with one excusal, Mr. Hokama.

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

NOES: Councilmembers Kama, Lee, and Sugimura.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmember Hokama.

MOTION CARRIED.

ACTION: FIRST READING OF RESOLUTION.

CHAIR MOLINA: Thank you for that spirited discussion, Members. All right. Members, it looks like we're not going to complete our agenda today.

**GET-10(5) AMENDMENTS TO THE REVISED CHARTER OF THE COUNTY OF MAUI
(1983), AS AMENDED (ESTABLISHING AN OFFICE OF THE MANAGING
DIRECTOR AND PROVIDING FOR THE APPOINTMENT OF THE
MANAGING DIRECTOR AS THE COUNTY'S CHIEF OPERATING OFFICER)
(CC 19-28)**

CHAIR MOLINA: However, we do have...the Chair wants to touch upon the second item on our agenda, which is the proposed Charter amendment establishing an Office of the Managing Director and providing for the appointment of the Managing Director as the County's Chief Operating Officer. As you know, Members, we previously met on this item I believe back in January. So, this is the second meeting, and I'm optimistic that we possibly could take action on this 'cause I think this has been really worked on. But we'll see where we go. So, Chair King, this was your proposal. You have the floor.

COUNCILMEMBER KING: Okay. Chair, would you like me to start out with making a motion on the Charter amendment since we did have a rather full discussion previously?

COUNCILMEMBER SUGIMURA: No.

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CHAIR MOLINA: Well, if Members still have some questions, issues first, I'd like to give the body at least that opportunity first if --

COUNCILMEMBER KING: Okay.

CHAIR MOLINA: --you don't mind. And so, Members...all right. I see Member Sugimura, you indicated you prefer to have some questions for...

COUNCILMEMBER SUGIMURA: I'll wait if the maker of the Charter amendment wants to explain details.

CHAIR MOLINA: Okay. Hang on. We got Chair Lee.

COUNCILMEMBER LEE: Don't we have resource people here?

CHAIR MOLINA: Yeah, we have Mr. Hyde.

COUNCILMEMBER LEE: Can we have him come down?

CHAIR MOLINA: Sure. Come on down, Mr. Hyde. We can either choose the lectern, or if you prefer having a seat.

COUNCILMEMBER KING: If you want to sit over at the Administrative.

CHAIR MOLINA: We might keep you standing for a while, so.

MR. HYDE: I think better on my feet.

CHAIR MOLINA: Okay.

MR. HYDE: If you don't mind.

CHAIR MOLINA: That's a good one. Okay, Ms. King? Or sorry, was it Ms. Lee that asked? Ms. Lee, go ahead.

COUNCILMEMBER LEE: Mr. Hyde, thank you for working so hard on this. I'm not quite at, you know, at the point where I can fully support it. But what were your last changes again? Could you repeat them, please?

MR. HYDE: Yes, they're really just two. And in the submission that you have, I can read it if you'd like if that would be helpful. Mike, would that be helpful?

COUNCILMEMBER LEE: Summary. Just a summary.

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MR. HYDE: Okay. Chair Molina asked would it possible, this is the Transparency Committee, would it be possible to create transparency to have the Mayor post the Manager's goals so the public can see them. Absolutely, so that I've written language that would require the Mayor to post those goals within 15 days after assignment to the Manager. These are annual goals. In addition, that at the year end when the goals and objectives and the Manager is evaluated by the Mayor, that an abstract of the evaluation by the Mayor of the achievement of the goals would likewise be posted for all to see. I couched it as an abstract because there could be a whole bunch of things in that evaluation that wouldn't be appropriate for the public. But if it was something like, you know, create a customer service module within your organization of the County government. And then, you know, they could see either green light, yellow light, red light, you know, something like that. Do we get the picture? So, that was kind of simple. Yours was a little more difficult. But when I went back, yours being that you raised the question of the balance of power in that the language was a little mushy in the Council's role in selection of the Manager candidates versus the Mayor. And I went back to look at the wording, and I agree completely that the Mayor must select the Manager. So, that was what I set out to do. They have to work together, period, end of report. So, I clarified that language. Put that power in the Mayor's power to select the Manager, and to chair the search committee, and to make the final selection. Then I carved out from the Council's power anything having to do with selection. And again, the committee is renamed under the Mayor as the search committee, not the selection committee, the search committee. So, those are helping him get his...his or her job done. So, the only role the Council will play now in the revised language that I provided will be--I'll read it to you--to review and approve the terms and conditions of any contract, or amendment thereto, between the County and the Managing Director. So, it seems to me that while you want the Mayor to make the choice, if the Mayor were to give away the store to get a particular Manager, the Council might say, well, wait a minute, no. Well, we don't want to approve a ten-year contract for somebody. We don't want, you know, all those things. You got, the Council has the governor [sic] kind of on the purse in the general terms and conditions to make sure that you're comfortable with the relationship as it is defined in words. And so, those are the only two changes that I came forward with.

COUNCILMEMBER LEE: Okay, so the only difference... 'cause we approve the Managing Director now, right?

MR. HYDE: Yes.

COUNCILMEMBER LEE: But Mayor nominates. So, the only difference is that we would...we wouldn't approve the Managing Director, but we would participate in the search for one?

MR. HYDE: You know, you've raised an interesting question. You know two years ago, or 2016, you passed a resolution that gave the Council oversight of a variety of directors that currently, or previously you did not have oversight over. And that still remains in

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the Charter. So, you've actually pointed out another good point. My sense is that if you leave that in place, then absolutely, you're absolutely right. Just as with everybody else, you get to bless or not bless these people. When we were looking at this, the thinking was that when you bring in a new relationship of a County Manager who can hire these people, would you...would the Council want to hang on to, at least in the beginning until there's perhaps another Charter change, to make sure that that Manager is not...you know, doing the right thing, hiring the right kind of people? So, this would retain that. You're right. So, there is tension. I have to agree. There's tension between that ongoing provision that's not touched in here and the provision that says the Mayor hires the Manager. And that clarification probably should be teased out. Or, you could simply make the decision that, yes, he gets to pick, he or she gets to pick the Manager. However, we get, you know, you can say we get to still decide if we want to put the stamp on that. And integrate that language with the contractual stuff.

CHAIR MOLINA: Chair Lee, does that answer your question so far?

COUNCILMEMBER LEE: Yes. Yeah, he's done a great job. Thank you.

CHAIR MOLINA: Okay. And, Mr. Hyde, just wanted to before I recognize other Members on the floor for questions just to follow up Chair Lee's line of questions. Supposedly there's this ad hoc selection committee. Who would be appointing the three resident members? Would the Council have a say with the appointment of those, or is it just strictly the Mayor?

MR. HYDE: No, what the provision says currently, and I can tell you why it says what it says, is that the way in which the citizens would be selected is to be resolved by the Council by resolution at a later date, rather than baking it into the Charter. And the thinking behind that was that perhaps this needs to be more fluid and subject to change. If you bake something into the Charter, the only way you could change it is to have a Charter amendment. And that may not be such a great idea.

CHAIR MOLINA: So, the way it's worded it's more to provide more flexibility I guess instead of having a...

MR. HYDE: That's the thought. Now, if you felt like, well, you know, we don't want to leave it 'til later. We want to bake in the Charter. I mean there are 15 different ways you could do it. And I can, you know, I can tell some to you right now that have occurred me. You know, the Council Chair gets to pick one and the Mayor gets to pick one from a list that's created by the committee that already boils up folks for...what's the name of that? The public...the way that you recruit people to fill in the different commissions and committees --

CHAIR MOLINA: Boards and commissions.

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MR. HYDE: --just like you did. You just say who would like...

CHAIR MOLINA: Applications process...

MR. HYDE: Yeah, application. Who would like to serve on the search committee? And then, so they get those applications. Gladys Baisa or her successor goes through them. Council Chair picks one, the Mayor picks one, and maybe the...I'm trying to think of the correct person in the Administration who's responsible for...the HR, basically, perhaps could pick one for balance. I mean that's just one way it could work. And you could probably bake that in. Would that be reasonable? I think it'd probably be reasonable.

CHAIR MOLINA: Okay. And then we talked about the Mayor, you know, nominating the Managing Director. What about the removal? Would...as far as the removing, would the...can the Council...could the Council act, under this proposal, could the Council act to remove the Managing Director instead of just the Mayor initiating the process?

MR. HYDE: No.

CHAIR MOLINA: Is there a mechanism in there? It's just strictly the Mayor having...

MR. HYDE: The Mayor.

CHAIR MOLINA: Much like our boards and commissions, if we want to remove a member from a board or commission, the Mayor has to initiate that.

MR. HYDE: Absolutely. I think that's the right solution.

CHAIR MOLINA: Okay.

MR. HYDE: Now, I believe there's a provision in here that if the Mayor wants to remove the Manager, it has to come to the Council for review. And there's a super majority that's required if you want to reject that removal which would obviously put the Mayor and the Manager in a very awkward situation. But as you...you've already seen that one play out.

CHAIR MOLINA: Thank you. All right, Members, the floor is open for --

COUNCILMEMBER KING: Chair?

CHAIR MOLINA: --Mr. Hyde. Okay, Ms. King --

COUNCILMEMBER KING: Okay.

CHAIR MOLINA: --followed by Ms. Sugimura.

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COUNCILMEMBER KING: So, I just wanted to clarify. I've got...so the amendments that Mr. Hyde spoke about, they're being prepared by OCS because I've got the documentation, but a lot of it is superseded by why these amendments were made and, you know, which Councilmembers had those concerns. So, I'm trying to clarify. There are actually three amendments, two of them are to Article 7 on Page 9, and one of them is to Article 3 on Page 2. But the other thing I wanted to add is that the...when Chair Lee asked about the, you know, what does this do, that part of what it does is it allows the contract to be made with the Managing Director that doesn't have to coincide with the term of the Mayor. That's one important thing so that that...the turnover isn't necessarily every four years when the Mayor leaves. The Managing Director can also keep directors in office if they're doing a good job beyond that four-year term. And that's part of what has been happening every four years. We have this turnover and we have all new people rather than...I mean there's not...there's maybe a...couple of people that are held over. But that was...always seemed to be one of the benefits of this proposal is the potential of longevity once you get somebody who's good who could keep their job and stay in. And then it would be up to...if the next Mayor didn't feel like, well, they're not following my vision or they're not working out, then it would be up to that Mayor to, you know, let that person go if it was sooner than the end of the contract date. So, that was part of it. And then it does say in this proposed amendment that under the duties of the Mayor, one would...number...the new number two would be to hire the Managing Director through an ad hoc search committee chaired by the Mayor in accordance with a process defined by ordinance. So, the Charter actually says, you know, that there...that the Council needs to pass an ordinance to define how they're going to pick that ad hoc committee. And then that way if it doesn't seem to work out, we can change the ordinance. You know, the Council can change the ordinance much easier than the Council can put out a Charter amendment and have that voted on by the general public.

CHAIR MOLINA: Good point. Thank you. Thank you, Member King. Member Sugimura?

COUNCILMEMBER SUGIMURA: Thank you. So, nice seeing you here again, Mr. Hyde, and thank you for all the years that you've been working on this. In relationship to what Ms. Lee spoke about and what your answer was, I looked at the...our existing Charter and yes, it does say that for like the departments that are appropriate, Section 8-4.2, Director of Finance. The Director of Finance shall be appointed by the Mayor with the approval of the Council and may be removed by the Mayor. So, therefore, I looked in your draft document to see if it's included, and I don't see it. So, it says, 8-4.2, which is changed to 8-3.2, Director of Finance. The Managing Director, with the approval of the Council, shall appoint and may in consultation with the Mayor, may remove the Director of Finance.

MR. HYDE: Correct. Yeah, I think...see, when you have a Managing Director, the Managing Director, with the exception of Corporation's [sic] Counsel and Prosecuting Attorney,

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would hire the other directors. That creates the structure underneath the Manager. So, yes, the Mayor would no longer be removing directors. That would be the obligation of the Manager who's responsible for most of those operations. Now, it's also in consultation with the Mayor. If the Manager wants to remove X or Y, you'd go...the Manager has to go to the Mayor and say, I want to remove X or Y, and here are the reasons why and confer with the Mayor about that so they have a dialogue. And obviously, if you...I'm sorry. Am I not answering your question?

COUNCILMEMBER SUGIMURA: No, thank you.

MR. HYDE: Okay.

COUNCILMEMBER SUGIMURA: So, the other part is then, let's say, the Managing Director is not performing satisfactory.

MR. HYDE: Yes.

COUNCILMEMBER SUGIMURA: And all these directors that he hired, what happens to them?

MR. HYDE: Well, they would remain in place. And the Mayor would fire the Manager, work the Manager out, bring a new Manager in. But just because if you have a bad Manager, doesn't mean you have bad directors. And in fact, you know, one of the benefits of this system is that when a new Mayor comes into office on January 1 or 2, there's a full, you know, table of people ready to work. In fact, they had been working, presumably, on the job for a long period of time. So, you don't want to fire the Manager and have everybody go. I mean that was sort of...that wouldn't be a bad...that would be a bad system.

COUNCILMEMBER SUGIMURA: So, the Managing Director, if he doesn't work out, he goes and everybody else can stay.

MR. HYDE: Yes.

COUNCILMEMBER SUGIMURA: The departments I guess that are appointed by commissions are not affected by this?

MR. HYDE: Correct.

COUNCILMEMBER SUGIMURA: And then, in Section 6-5, Office of the Managing Director, it says under paragraph three, it talks about the terms of the Managing Director's appointment shall be established by contract. So, can you describe what the contract is, and how much would it cost the taxpayers, and what would the impact be in terms of all the other department heads that you're proposing the Managing Director then hires?

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MR. HYDE: The contract would be subject to negotiation between the Mayor and the Manager. And the Council would have oversight over that. So, it's...I can't say that the contract would be one year, or two years, or three years, or evergreen, or that the Manager would be paid X salary, or X plus Y salary because that's all subject to negotiation in the future. And there's a process by which organizations determine, you know, what an appropriate compensation is for a given manager. If a manager, for instance, has worked for a town of 10,000 people, and been on the job for two years, you pay them X. If you've got a Manager potentially who's worked for a large city or town and has 10 years or 20 years experience under their belt and a lot of tools to bring to the job, you might pay him X plus Y. So, you know, that all has to kind of fit together. In the context of information about, you know, what are standard practices in the industry, and there are databases that are available that could be researched to determine what is a reasonable compensation to be paid for a particular person given their background, experience, and a whole host of things. And I know Mike White was able to get access to some of that from the ICMA, and they have databases like that that would help guide discretion.

COUNCILMEMBER SUGIMURA: And what about golden parachutes?

MR. HYDE: You don't have to have one.

COUNCILMEMBER SUGIMURA: So, it can be negotiated anyway, and that we wouldn't have any liabilities like the coaches at, you know, the UH football players or, you know, what we see with sports and --

MR. HYDE: Right.

COUNCILMEMBER SUGIMURA: --other contracts that the State has?

MR. HYDE: That's correct. And, you know, those are very unusual circumstances and you're competing for, you know, football coaches and there's been a couple of disasters at the University of Hawaii, let's face it.

COUNCILMEMBER SUGIMURA: Oh, excuse me. So, the other, and this will be my last question. What is the budget that you're looking at to pull this all together?

MR. HYDE: I am not looking at a budget to pull it all together. I think that is going, again, depend upon negotiations with the Manager and...

COUNCILMEMBER SUGIMURA: So, it's an open-ended...if this is passed then by the...if the Charter passes, there'll be no known parameters or budget that the Councilmembers would have to pass, or to stand by and explain to the electorate that this is going to cost us this. Whereas, as today we know exactly how much the Mayor makes, all the directors, and all the deputies which are being affected by this.

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MR. HYDE: No, I understand. You have a Salary Commission, and the Salary Commission...

COUNCILMEMBER SUGIMURA: Would be involved in the contract?

MR. HYDE: Well, I think the Salary Commission would be helping to set the parameters for hiring in looking at that.

COUNCILMEMBER SUGIMURA: Oh, that's not included in your document, the Salary Commission.

MR. HYDE: Well, maybe the Salary Commission doesn't help you with the Managing Director. I mean they do that right now, I assume. Now, the...

COUNCILMEMBER SUGIMURA: Thank you, Chair.

CHAIR MOLINA: Okay, thank you, Member Sugimura. Before I recognize whoever else has a question, now under this proposal, the Managing Director appoints, well, yeah, appoints all department directors except Corporation Counsel and Prosecuting Attorney. Can I get a further explanation on that?

MR. HYDE: Why those two --

CHAIR MOLINA: Yeah.

MR. HYDE: --are excluded? For one thing, you want to have independent legal counsel reporting to the Mayor so that in the management of the Manager, you have that one-on-one relationship with your general counsel, if you will, as opposed to giving that to the Manager. I just think it's sort of a check and a balance, if you will.

CHAIR MOLINA: I see. I see.

MR. HYDE: Yeah.

CHAIR MOLINA: Okay. And then so, the Managing Director would not have, or will he or she have any role in the removal of the Corporation Counsel or Prosecuting Attorney? Or is that strictly all just the Mayor?

MR. HYDE: Just the Mayor.

CHAIR MOLINA: Just the Mayor. Okay, Members, the floor is still open for questions. If not, then Chair King, if you...well, first of all, any last question for Mr. Hyde before we excuse him from the lectern? Seeing none, I guess you can have a seat again, Mr. Hyde. Thank you.

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COUNCILMEMBER KING: Thank you so much.

CHAIR MOLINA: Thank you. Okay, the floor is open for considerations.

COUNCILMEMBER KING: Chair?

CHAIR MOLINA: Ms. King?

COUNCILMEMBER KING: I'm going to first make a motion, then I want to ask OCS if they have the amendments ready yet?

MS. MILNER: They're printing them right now.

COUNCILMEMBER KING: Okay. So, I'd like to move that we pass out of Committee the resolution, Proposing an Amendment to the Revised Charter of the County of Maui (1983), as Amended, to Organize the Executive Branch to Establish an Office of the Managing Director and Provide for the Appoint of the Managing Director as the County's Chief Operating Officer.

COUNCILMEMBER LEE: Second.

CHAIR MOLINA: Okay, the motion has been made by Chair King, excuse me, Member King, seconded by Chair Lee to move forward out of Committee the resolution to establish an Office of the Managing Director and providing for the appointment of the Managing Director as the County's Chief Operating Officer. Discussion?

COUNCILMEMBER KING: Okay.

CHAIR MOLINA: Ms. King?

COUNCILMEMBER KING: I think, yeah, I think we've had quite a bit of discussion. I want to thank all the Members for the questions and thank Mr. Hyde for being here the first time and then addressing some of the concerns that were brought up. And I have the amendments soon as they get printed and brought in for the...to make it easier for the Members to see. But I will...if I can propose these amendments right now. I'll...let me propose them and then we'll have...

CHAIR MOLINA: You know, let's do this --

COUNCILMEMBER KING: ...*(inaudible)*...

CHAIR MOLINA: --Ms. King. Members, I did tell you 4:30 is the threshold, but everybody okay with time? I mean can everybody hang out 'til 4:45, or maybe close to 5:00? Is there...Member Rawlins, do you have a flight to catch?

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VICE-CHAIR RAWLINS-FERNANDEZ: Yeah, I have to leave. I was going to try to leave by 4:30. Four-forty-five is really pushing it. Four-forty at the latest.

COUNCILMEMBER LEE: How many amendments do you have?

CHAIR MOLINA: Okay. I believe three, three amendments.

COUNCILMEMBER KING: Right. I can do this in one motion if it's okay with everybody.

CHAIR MOLINA: So, you're going to move to amend the motion on the floor?

COUNCILMEMBER KING: Right. And this addresses concerns by yourself, Chair, and Member Lee. So, the first amendment, well, the first part of this amendment addresses the concern by Councilmember Lee, and this is on Page 2, Article 3, Section 3-6. This would amend number 8 to...that paragraph would be removed and replaced with a new 8, that reads "to review and approve the terms and conditions of any contract or amendment thereto between the County and the Managing Director."

CHAIR MOLINA: Okay, that is the proposed amend...that's a motion to amend?

COUNCILMEMBER KING: Well, that's...

CHAIR MOLINA: Oh, you're just reading the amendment.

COUNCILMEMBER KING: I'm reading the first part of the amendment, then...and I have two more parts of this proposed amendment.

CHAIR MOLINA: Okay.

COUNCILMEMBER KING: Okay, so that's the first part. The second part, the second and third parts are on Page 9, under Article 7, Office of the Mayor. And so, this...the first amendment would add a new number 2, after number 1, that reads, "to hire the Managing Director through an ad hoc search committee chaired by the Mayor, in accordance with a process defined by ordinance, involving the Mayor, County...or Council Chair, and a three-member citizen group, with administrative support and counsel provided by the Director of Personnel Services. Final selection among search candidates shall be made solely by the Mayor. Any contract or amendment thereto between the County and the Managing Director shall be subject to review and approval by the Council in accordance with Article 3, Section 3-6, Subsection 8." And then the last part is...would be to change number...the current number 2, make that number 3, and change that verbiage to read, "directly supervise the work of the Managing Director, as provided by law. Assign annual goals and objectives to the Managing Director and review and assess the Managing Director's performance at least annually." And then the new part is, "annual goals and objectives assigned by the Mayor to the Managing Director shall be a matter of public record and posted on

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the County's website within 15 days after assignment. The Mayor's annual assessment of the Managing Director's performance to these goals and objectives shall also be a matter of public record by means of an abstract of the Mayor's assessment of performance posted on the County's website within 15 days after completion of the annual review process." So, that last part addresses your concern about transparency of the goals of the Managing Director.

CHAIR MOLINA: Okay. So, that is your first amendment to the motion.

COUNCILMEMBER KING: So, that's the amendment I'm proposing.

CHAIR MOLINA: Okay, all right.

COUNCILMEMBER KING: And that came from Mr. Hyde.

CHAIR MOLINA: So, that is the proposed amendment to the motion. Is there a second?

COUNCILMEMBER KAMA: Can I have it written?

CHAIR MOLINA: Okay. Members, you prefer to have it written first before acting on it?

COUNCILMEMBER KAMA: Yeah.

CHAIR MOLINA: Okay.

COUNCILMEMBER KING: Can I get a second to the amendment?

COUNCILMEMBER SUGIMURA: We want to see it --

CHAIR MOLINA: Okay.

COUNCILMEMBER SUGIMURA: --in writing, please.

COUNCILMEMBER LEE: Second for discussion.

CHAIR MOLINA: Second for discussion. All right, the motion has been seconded for discussion.

COUNCILMEMBER KING: Okay, and here it is in writing.

CHAIR MOLINA: Okay. Staff will be distributing the information, or the amendment.

VICE-CHAIR RAWLINS-FERNANDEZ: Chair?

CHAIR MOLINA: Ms. Rawlins-Fernandez?

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VICE-CHAIR RAWLINS-FERNANDEZ: While we wait for the distribution of the written amendments, for the benefit of the public and myself, Member King, would you mind kind of like running through, you know, like what it would look like when...like what this would look like in real life. Like--thank you--you know, like describing from point to point. So, from beginning to the end. Like just kind of like, like how we're elected. So, if I was explaining this to a member of the public, I would say that the election occurs on the first Tuesday of November, and then, you know, that night the winners of the election would be announced. And then as it currently stands, if I won the election as Councilmember, I would be inaugurated on June...I mean January 2nd. And then I would, you know, go into the office, and then we would have like an organizational meeting. So, you know, kind of just describe what it would look like so that I think everyone can understand it a little better.

COUNCILMEMBER KING: Okay.

CHAIR MOLINA: Before we do that, Members, you need time to review the...so do you want a recess, short brief one-minute recess?

COUNCILMEMBER KING: So, looks like the amendments are in purple. They used purple for the amendments. And the amendments are all on Page 2, and Page 9 and 10.

CHAIR MOLINA: Okay. Page 2, Page 9, and Page 10. All right. Members, so Chair's going to call for a recess subject to the call of the Chair. Meeting in recess. . . . (*gavel*) . . .

RECESS: 4:31 p.m.

RECONVENE: 4:33 p.m.

CHAIR MOLINA: . . . (*gavel*) . . . The GET Committee meeting for February 25, 2020 is now back in session. We have a motion on the floor to amend. We'll go ahead

MR. KUSHI: ...I mean if this proposal goes on the ballot for 2000, this coming election 2020, does the appointment and the new Managing Director take effect the following month? I mean, you know, January 2, 2021? Or --

CHAIR MOLINA: So, which date.

MR. KUSHI: --pursuant to the ballot question, does it take effect in 2022, so.

CHAIR MOLINA: Okay. Ms. Rawlins-Fernandez, you have a clarification?

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair. I don't have a clarification to Corporation Counsel's question. But I do have to go.

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CHAIR MOLINA: Yes, okay.

VICE-CHAIR RAWLINS-FERNANDEZ: And while everyone kind of fixes all the inconsistencies to make it make sense, I just wanted to express my support for this. And my intention is to vote yes.

CHAIR MOLINA: Okay, so...

VICE-CHAIR RAWLINS-FERNANDEZ: Mahalo, Chair.

CHAIR MOLINA: Okay, let's go deal with the amendment, take action on the amendment.

COUNCILMEMBER KING: Okay.

CHAIR MOLINA: And then go back. Members, you have any questions on the proposed amendment from Chair King...Member King? Okay, Chair will call for the question on the amendment. Okay. All those in favor, signify by saying "aye."

COUNCILMEMBERS VOICED AYE.

CHAIR MOLINA: All those opposed? Okay, we have seven "ayes." Is that a "no" also, Ms. Sugimura? Okay, so we have six "ayes;" two "noes," Member Sugimura and Member Kama; and one excusal, Mr. Hokama.

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

NOES: Councilmembers Kama and Sugimura.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmember Hokama.

MOTION CARRIED.

ACTION: AMEND RESOLUTION.

CHAIR MOLINA: Now, we are back to the main motion as amended. Discussion? Oh, yes, now let's address Mr. Kushi's --

COUNCILMEMBER KING: Okay.

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CHAIR MOLINA: --clarification.

COUNCILMEMBER KING: Can I ask for --

CHAIR MOLINA: Mr. Hyde?

COUNCILMEMBER KING: --Mr. Hyde to come back here and explain the dates?

MR. HYDE: If you make it 2021, after it's passed, it gives you a year to adopt your resolution about how you're going to populate the committee and begin the process of selection so that you can put a manager in place in 2021. That gives you...

COUNCILMEMBER KING: Twenty twenty-two.

MR. HYDE: Twenty twenty-two. That gives you some breathing room for one year to get the new manager in place. The manager would come in, inherit a number of directors who are on the job, and keep working, and evaluate them, and move forward. And that's...so, 2021 is an error. It should be 2022. Yes.

CHAIR MOLINA: So, that 2022 is under number 23, right, on the...

COUNCILMEMBER KING: Right, I think the purpose of that was, and maybe it needs to be clarified that the amendment proposed takes effect on January 2, 2021, but we're giving until 2022 to actually seat the new Managing Director. And that gives a year to do that search to, you know, figure out how we're going to do the search and to get a new person in. And, I know she's not here anymore, but pursuant to the Vice-Chair's question, at that point that new Managing Director position would be seated and...in 2022 along with the incoming Mayor. But the contract would hopefully be a different, you know, like maybe a six-month...or six-year contract, kind of like the Auditor, or even longer if that was negotiated if we got someone real powerful. And it would...and then the, you know, a new Mayor or the same Mayor comes in four years later and, you know, people are still there. That's the purpose of it. So, timing of it would just depend on the contract when that position was turned over, or if it just keeps...if it's somebody really good, which we hope we're going to get, then that person would continue on. So, there's not really a timing issue after that first, the first seating of that position.

MR. HYDE: That's true.

COUNCILMEMBER KING: Will come in with the next Mayor, whether it's this Mayor's --

CHAIR MOLINA: Okay.

COUNCILMEMBER KING: --next term or new Mayor.

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CHAIR MOLINA: Okay, I'd like recognize Member Paltin. You had a question?

COUNCILMEMBER PALTIN: Thank you, Chair. My question was, while I was supportive of the previous Charter amendment, how would that play out if that one passes as well as this one passes? And then the new take-office date is the first Monday in December, and here we're talking about January 2nd. Like is there going to be a gap in things, or...

CHAIR MOLINA: Good question.

COUNCILMEMBER PALTIN: I mean the reason that January 2nd is chosen is because that was the inauguration day of when people take office.

CHAIR MOLINA: Yeah. So, for example, you're saying that now with...if this Charter amendment that we've just passed out of Committee goes on the ballot where it's December now, where both the Mayor and the Council gets sworn in, and how does this relate to this one if...

COUNCILMEMBER PALTIN: Yeah.

CHAIR MOLINA: Okay. So, maybe dates would have to be...I guess it depends on what...that's --

COUNCILMEMBER KING: Well, I don't...I think --

CHAIR MOLINA: --a perplexing question.

COUNCILMEMBER KING: --it would work because it just means that the new Managing Director would come in in January. So, you know, you have that transition time between the previous manager...

CHAIR MOLINA: So, you have the Mayor that would be sworn in in December, and the new Managing Director should be...

COUNCILMEMBER PALTIN: Should be January. So, then we just retain whoever is in the seat until that time.

CHAIR MOLINA: Mr. Hyde, any--

MR. HYDE: Yes.

CHAIR MOLINA: --thoughts?

MR. HYDE: Yeah, you know, I think the way it works right now is the directors remain in place until their replacements have been identified. So, it just flows.

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CHAIR MOLINA: Okay, does that answer your question?

COUNCILMEMBER PALTIN: Thank you.

CHAIR MOLINA: Okay, further discussion on the motion as amended? Ms. Sugimura?

COUNCILMEMBER SUGIMURA: So, Mr. Hyde brought up, if you don't mind, when I was asking him questions about how the Salary Commission would fold into this. So, where would that be in terms of the document?

MR. HYDE: You know, I don't have it in front of me. I'd have to look at the Salary Commission...

CHAIR MOLINA: Mr. Hyde, can I just chime in real quickly. Now, my...

COUNCILMEMBER SUGIMURA: In terms of setting the salaries, right, for the Managing Director, not the Salary Commission appointment or anything like that, as it relates to this document.

MR. HYDE: Well, it's my understanding that the Salary Commission sets salaries for all the directors. Correct?

COUNCILMEMBER SUGIMURA: Correct. So...

MR. HYDE: And so...

COUNCILMEMBER SUGIMURA: I was under the impression from what you said, and I could've misunderstood you, that you said that the Salary Commission would then have a say with this contract, 'cause I was talking to you about the contract.

MR. HYDE: Well, I believe that they would be able to provide advice and counsel in terms of, you know, what a appropriate salary would be and...

CHAIR MOLINA: If I may interject, maybe Ms. Sugimura can ask...consult with Mr. Kushi 'cause the Salary Commission does set the salaries for directors and the Mayor. And one question I had where if this proposal passed, would...because now there's less responsibility for the Mayor, the Salary Commission may have to consider a salary adjustment to the Mayor's current salary since his or her responsibilities would be lessened. So, Mr. Kushi, any thoughts on the question that was brought up by Ms. Sugimura?

COUNCILMEMBER KING: Chair? There's actually a provision in this proposal, under the Salary Commission, that says the Commission shall determine the compensation of elected officials, and then it adds in the Managing Director and Deputy Managing

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Director, and appointed directors. And then it goes into...the next sentence is, in establishing the compensation of the Managing Director and Deputy Managing Director, the Salary Commission shall consult with the Council in establishing the compensation of appointed department heads and their deputies. The Salary Commission shall consult with those boards and commissions that have appointing authority for department heads.

CHAIR MOLINA: Okay.

COUNCILMEMBER KING: So, it does make a provision in the proposal for the Salary Commission.

CHAIR MOLINA: You make a good point because sometimes when the Salary Commissions are looking at adjustments, say, for the Councilmembers they'll ask...they'll invite Councilmembers or the Mayor to share with them their roles and responsibilities to help them make a fully informed decision as far as salary adjustments, so. Okay, Member Sugimura, you have a question?

COUNCILMEMBER SUGIMURA: So, I understand this. I was talking about the contract, the Managing Director's contract. And I thought that's what you referenced, that the Salary Commission would be involved. So, if that's correct, then I would like to amend this so that it includes that, so they become part of the negotiations if the Salary Commission plays that big of a role, 'cause that's big...that's important. I also appreciate what you just brought up, Chair, about with the differences of responsibilities, what is the impact then of then the overall salary. So, I think that needs to be looked at, too.

CHAIR MOLINA: Yeah. Chair Lee?

COUNCILMEMBER LEE: I view this more as a structural change. And the money aspect could possibly not change. I mean that's something that's dealt with separately, to me. So, I really don't see a need to try and resolve that part of it in order to pass this.

CHAIR MOLINA: Yeah, at this point.

COUNCILMEMBER LEE: Yeah, at this point.

CHAIR MOLINA: Okay. That's something I guess that as we go along, so to speak, if it does, the voters do pass this, well, if it makes it to the ballot, and approved by the voters, I mean that's something --

COUNCILMEMBER SUGIMURA: Kind of important though.

CHAIR MOLINA: --that can be dealt with at a later...

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COUNCILMEMBER SUGIMURA: We do budget, so I think that's a really important aspect of this discussion. So, I appreciate your questions [sic]. And I disagree. I think that it's...it is something that has major impacts for our Budget and whatever this negotiation is for the contract, I think it needs to be more defined for myself. But thank you.

CHAIR MOLINA: Okay. Thank you for your comments. Any other discussion, questions before the Chair calls for the vote? Okay. Chair will call for the vote on the motion as amended. Again, this is to approve the Resolution that would move forward out of Committee establishing an Office of the Managing Director and providing for the appointment of the Managing Director as the County's Chief Operating Officer. Okay. Chair calls for the vote. All those in favor, signify by saying "aye."

SEVERAL COUNCILMEMBERS VOICED AYE.

CHAIR MOLINA: All those opposed?

COUNCILMEMBER SUGIMURA: Oppose.

CHAIR MOLINA: Roll call, Ms. Milner.

MS. MILNER: Member Sinenci?

COUNCILMEMBER SINENCI: "Aye."

MS. MILNER: Chair Lee?

COUNCILMEMBER LEE: "Aye."

MS. MILNER: Member King?

COUNCILMEMBER KING: "Aye."

MS. MILNER: Member Paltin?

COUNCILMEMBER PALTIN: "Aye."

MS. MILNER: Member Sugimura?

COUNCILMEMBER SUGIMURA: No.

MS. MILNER: Member Kama?

COUNCILMEMBER KAMA: No.

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**GET-10(1) AMENDMENTS TO THE REVISED CHARTER OF THE COUNTY OF MAUI
(1983), AS AMENDED (APPOINTMENT OF TEMPORARY ADMINISTRATIVE
HEADS) (CC 19-28)**

**GET-10(11) AMENDMENTS TO THE REVISED CHARTER OF THE COUNTY OF MAUI
(1983), AS AMENDED (CHARTER COMMISSION) (CC 19-28)**

CHAIR MOLINA: If there are no objections, the Chair's going to defer discussion of the last two items on our agenda.

COUNCILMEMBERS VOICED NO OBJECTIONS. (Excused KRF, RH)

ACTION: DEFER.

CHAIR MOLINA: Okay. So ordered. Ms. Milner, is there anything the Chair needs to be made aware of before we close our proceedings today?

MS. MILNER: No.

CHAIR MOLINA: Okay. Thank you very much, Members, you worked very hard. The Governance, Ethics, and Transparency Committee meeting for Tuesday, February 25, 2020, it's 4:45, is now adjourned. . . . (*gavel*) . . .

ADJOURN: 4:45 p.m.

APPROVED BY:



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

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Transcribed by: Reinette L. Kutz

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CERTIFICATE

I, Reinette L. Kutz, 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 this 19th day of March 2020, in Makawao, Hawaii.


Reinette L. Kutz