

Charter Commission

CITY AND COUNTY OF HONOLULU

Honolulu Hale • 530 South King Street • Honolulu, Hawaii 96813



WEDNESDAY, JULY 29, 2015
3:00 P.M.
COMMITTEE MEETING ROOM
HONOLULU HALE

MINUTES

Charter Commission Members Present:

Jesse K. Souki, Chair
Judge Michael F. Broderick
Reginald V. Castanares, Jr.
Guy K. Fujimura
Donna Ikeda
Kevin Mulligan
Cheryl D. Soon
Edlyn S. Taniguchi
R. Brian Tsujimura
John D. Waihee III, Governor

Charter Commission Members Absent/Excused:

David W. Rae, Vice Chair
Nathan T. Okubo
Paul T. Oshiro

Others Present:

Linda Luli Nakasone Oamilda, Executive Administrator
Mary James, Research Analyst
Derek T. Mayeshiro, Deputy Corporation Counsel

I. CALL TO ORDER

With a quorum present, Chair Jesse Souki called the meeting to order at 3:09 p.m.

II. ANNOUNCEMENTS

Chair Souki noted that there was a discussion during the last meeting about the deadlines for Charter proposal submissions. He announced that the Executive Administrator (EA) would be sending an email about how the dates were selected so that the Commissioners could decide how to proceed and perhaps put an item on the agenda concerning these dates. Commissioner Soon asked if this was about the supermajority deadline of November 30. Chair Souki confirmed that it was.

Chair Souki told the Commissioners that staff would be circulating a sign up list for neighborhood board (NB) meetings to address Phase 1 of Public Outreach Plans. Encouraging the Commissioners to sign up to attend as many meetings as they could, the Chair stated that the Chair, EA or staff will attend the meetings the Commissioners do not sign up for.

Chair Souki then discussed the upcoming meeting for Friday, July 31, 2015, which is expected to run very long. Instead of going into late night hours, Chair Souki suggested that the presentations by the Board of Water Supply (BWS) and the Honolulu Area Rail Transit (HART) be moved to the following week by recessing the Friday meeting prior to those presentations and then continuing the meeting on Tuesday, August 4, 2015.

III. DECISION MAKING ON THE REPORT BY THE PERMITTED INTERACTION GROUP CONSIDERING PROPOSED OUTREACH PLANS FOR THE SOLICITATION OF CHARTER PROPOSALS

Chair Souki stated that after last week's discussion of the Permitted Interaction Group (PIG) on Outreach Plans, a vote to amend and/or approve the final report was necessary. Commissioner Soon moved to adopt the final report; Commissioner Castanares seconded the motion. The vote was taken with none opposed and the motion passed. The report was adopted. Chair Souki thanked Commissioners Soon, Castanares and Okubo for their work on the report.

IV. BRIEFING ON PUBLIC SAFETY FUNCTIONS BY THE EXECUTIVE BRANCH

Under section 15-105, of the Revised Charter of the City and County of Honolulu 1973, as amended ("Charter"), the Charter Commission is required "to study and review the operation of the government of the city under [the current] charter" every ten years. The Commission has invited departments, agencies, and offices of the City to a series of public meetings to present how they operate under the Charter and to discuss potential Charter amendments or revisions that may improve City government operations.

Today's guests are from the:

- Honolulu Police Department;
- Honolulu Fire Department;
- Honolulu Emergency Services Department;
- Department of the Prosecuting Attorney;
- Department of the Medical Examiner; and

- Department of Emergency Management.

Chair Souki announced that public testimony would be taken after hearing from each of those departments.

Honolulu Police Department (HPD)

Chief of Police, Louis Kealoha, introduced himself and Deputy Chief McCauley, who is in charge of field operations, and gave a slide presentation on HPD and its functions.

He provided a brief explanation of HPD's powers, duties, and functions, and explained the duty of the Chief of Police is to:

- Keep the peace, provide services, and enforce the law by training, equipping, maintaining, and supervising a police force;
- Serve processes and notices both civil and criminal, such as traffic and criminal citations; and execute and serve TROs and warrants;
- Create rules and regulations for the organization and internal administration of HPD using guidelines found in the Hawaii Revised Statutes, the Honolulu Revised Ordinances, and collective bargaining agreements as well as guidelines from the Equal Employment Opportunity Commission and the Human Resources Department;
- Prepare a five-year plan of goals and objectives called "Vision for the Future" 20/20 which maps out future goals, how to achieve them, and how to know when they have been achieved;
- Appoint the Deputy Chiefs; and
- Provide other services, etc., as needed.

He also discussed "What Works Well":

- The appointment of the Police Chief by the Police Commission which oversees the Chief of Police and his performance (Section 6-1603);
- The Chief's ability to appoint the Deputy Chiefs (Section 6-1604); and
- The autonomy given HPD in its administrative affairs (Section 6-1606).

He also recommended changes to allow the Chief of Police to appoint the Assistant Chiefs. Currently, HPD has six assistant chiefs and two deputy chiefs. The Chief of Police appoints the deputy chiefs but not the assistant chiefs. The Chief of Police proposed to amend the Charter to allow the Chief of Police to appoint the deputy chiefs to ensure that trust, teamwork, and a shared vision is maintained, especially when a new Chief of Police comes in. They will submit a formal Charter Amendment Proposal. This concluded their formal presentation.

Chair Souki asked for questions from the Commissioners.

Commissioner Soon thanked the Chief of Police for his succinct presentation and asked how many deputy chiefs and how many assistant chiefs HPD has. The Chief of Police responded that they have two deputy chiefs, and six assistant chiefs.

Commissioner Broderick asked who appoints the assistants now. The Chief of Police responded that they go through the civil service process and promotions.

Commissioner Broderick continued by inquiring if the Chief of Police knew the intent and history of that process. The Chief of Police said he was not sure how it came about that the regular promotional process would go through civil service, but explained that when a new Chief of Police comes in, they can appoint the two Deputy Chiefs. He explained that the process is important because the new Chief can observe the operations and if they are not going in the direction the Chief wants, he can save time by appointing the assistant chiefs.

Commissioner Mulligan asked how this process compares to other police departments. The Chief of Police responded that it's consistent with other major metropolitan police departments, explaining that a new Police Chief will observe the operations, share their vision, look at the operations especially from the viewpoint of the senior administrative staff, like the Chiefs, and then make changes accordingly, perhaps after six months. Changes are not made immediately.

Commissioner Mulligan inquired what would happen to an assistant chief when a new Police Chief comes in, if the person was no longer appointed through the civil service process. Will there be demotions? The Chief of Police responded that the person would go back to being a major.

Commissioner Soon asked if the members of the Police Commission were all appointed by the Mayor and confirmed by the Council. The Chief of Police responded in the affirmative.

Commissioner Soon asked if there were any anticipated changes relating to police work over the next ten years that need to be reflected in the Charter or could necessary changes take place without amending the Charter. The Chief of Police responded that the Charter is so global that there's lots of room to work especially because of the autonomy given to HPD. Because changes take place so quickly, HPD needs that built-in flexibility to allow it to move forward.

Commissioner Broderick asked if the five-year term was appropriate, too long, or too short. The Chief of Police answered that the five-year term works well and, along with the ability to make appointments, it enables the department to plan for the future.

Commissioner Mulligan brought up the issue of accountability for law enforcement agencies especially in relation to public concerns over the use of excessive or even lethal force. He noted his personal concern and interest in these issues and how HPD and the Police Commission address these extremely serious issues. The Chief of Police agreed that these issues are of local and national concern as is the resulting unfair stereotyping of all police. He explained that HPD is moving forward with the use of body cameras which will bring more accountability but the cost is between \$1.8 and \$3 million. He also explained that they are holding their officers to a higher standard than what's reported in the papers, which reports are frequently inaccurate. He mentioned that all disciplinary actions are taken with the law and collective bargaining requirements in mind, and he assured the Commissioners that he works with the Police Commission for high profile cases for which he is accountable and in turn holds his officers and the department also accountable.

Commissioner Ikeda asked about HPD's Information Technology (IT) Division and whether contracts for changes go through that division and who approves the wording of the contract. The Chief of Police responded that HPD works with their IT Division and with the City's IT, but they also need to work with the Budget and Fiscal Services for funding and similar

services. As for the wording of the contract, they have in-house attorneys who work with Corporation Counsel as well.

Chair Souki thanked the Chief of Police and the Deputy Chief of Police for their time.

Chair Souki reminded the presenters that even though proposals were included in their presentation materials, these need to be submitted formally to the Commission as proposals through the website or otherwise. He also noted that the City Auditor provided the following two documents to help the Commissions better understand city government:

- The National Citizen Survey (NCS), 2014, Honolulu, HI Report for FY 2014; and
- 2014 Service Efforts & Accomplishments Report.

The Auditor will explain these documents later but in the meantime, the Commissioners can look over them.

Honolulu Fire Department (HFD)

Attending from HFD were Deputy Fire Chief Lionel Kamara; Assistant Fire Chief Scott Lawton, Administrative Services; Assistant Fire Chief Ron Rico, Operations; and Battalion Chief Terry Seelig, Fire Preventions Bureau.

The Deputy Fire Chief explained HFD's handout which contained a copy of the Charter provision that applies to HFD and a copy in Ramseyer formatting noting the changes requested to the Charter to clarify what HFD actually does and to make some housekeeping changes. Specifically, HFD would like to:

- Amend the mission statement to include prevention, preparedness and effective emergency response. Prevention is the #1 item for the Department. Prevention is preferable to an emergency response. "An ounce of prevention is better than a pound of cure;" and
- Add "emergency response" to "rescue" because many calls do not begin as a rescue but a quick response can prevent a mishap from developing into a rescue situation.

Chair Souki asked if the Commissioners had any questions for the Deputy Fire Chief.

Commissioner Taniguchi wanted to know the difference between what HFD does for the emergencies and what Water Safety does.

The Deputy Fire Chief explained that Water Safety stops working at 5:00 pm, while HFD is a 24/7 operation. The two agencies work closely together. Water Safety is the primary responder but HFD works closely to assist them and remains after Water Safety leaves, continuing rescue operations into the night and into the next morning as needed.

Chair Souki asked if there would be any efficiencies in combining Water Safety with HFD or more globally combining police, fire, water safety, and first responders. He asked how these agencies coordinate among each other.

The Deputy Fire Chief responded that they all work closely together. HFD has quarterly meetings with the Honolulu Emergency Services Department (HESD) that heads up the ambulance service, and the lifeguards. He stated that they do a great job coordinating operations. HFD concentrates on firefighting and emergency response but HESD specializes in the area of ocean safety, doing an excellent job. There doesn't seem to be any reason to combine efforts at this time.

Chair Souki inquired about rescues for someone stranded on a trail, including helicopter rescues. How are services compensated? The Deputy Fire Chief explained that HFD responds to those calls with helicopters as needed. HFD works closely with the Department of Land and Natural Resources or calls the Federal fire department depending on where the emergency is located. They receive no compensation from the State even if the person was stranded on State lands. HFD asks for an increase in the hotel accommodations tax each year.

Commissioner Soon asked if the Fire Commission is appointed by the Mayor and confirmed by the Council and does the Commission hire the Fire Chief. The Deputy Fire Chief answered in the affirmative.

Chair Souki said to "let the record show that Commissioner Waihee has joined us."

Commissioner Broderick was curious about how the deputy fire chiefs got their positions and who the hiring authority is. The Deputy Fire Chief explained that the deputy fire chiefs are promoted through an interview process. Certain qualifications are required such as experience as a battalion chief but they aren't required to take any type of test. The final hiring authority is the Fire Chief. However, this duty is often assigned to a panel or may use a chief from the Federal fire department as a neutral third party.

Commissioner Fujimura inquired what the protocol is if there are multiple responders from different agencies such as if HFD and the State respond to a lost hiker on State land. The Deputy Fire Chief answered that it's pretty much "common sense." For example, if HFD responds to an emergency or rescue and arrives first, they will take command. However, it depends on what kind of event it is. It could involve HFD but could also involve others such as the State sheriffs, or Federal resources such as Homeland Security or the FBI.

Chair Souki wanted to know if HFD would consider reimbursement for rescues, as is being discussed on Kauai. The Deputy Fire Chief explained that HFD has looked at the possibility but when the risk was weighed against the benefit, safety came first and foremost. It is important that folks who are in trouble call right away. If people are charged for a rescue, they may wait to call until they are really desperate. Waiting until after nightfall or a weather change to call can also put the rescuers at risk. It's better if they call immediately during daylight hours, etc., minimizing the risk to the firefighters and aircraft pilots.

Chair Souki also wanted to know if HFD will respond to calls for a homeless person who has a medical emergency. The Deputy Fire Chief assured him that they respond to all medical emergencies, either EMS contacts them or they get a direct call. However, the responsibility for transporting the person lies with EMS.

Chair Souki asked how the City estimates the cost to HFD's budget with the cost of rescuing people lost on trails, responding to homeless, things that are not fire-related. How are those quantified or estimated?

The Deputy Fire Chief responded that everything is in one budget even though some of the specialty companies might be budgeted on their own such as rescue or HAZMAT. But the firefighting budget includes whatever other related duties the department responds to.

Chair Souki commented that it appears that with his experience, they have a good feel for their budget, year-to-year.

Chair Souki expanded on the issue of hidden costs, noting that climate change is being considered worldwide in terms of resiliency. He asked if the discussion of prevention and preparedness includes consideration of climate resiliency and the emergency response in the State right-of-way. The Deputy Fire Chief responded that first, from an emergency response perspective, HFD has started looking at hardening the fire stations to withstand a category 5 hurricane or similar event so that operations can continue. HFD is also expanding fire stations to create "Regional Emergency Depots." The first one has been built in East Kapolei. The idea behind these is that, should the island get cut off by a major storm, fire battalions can still operate independently. It will be as if there are five independent fire departments.

Chair Souki asked about the availability of heavy equipment such as that required on the Big Island for lava flows. In that case, Hawaii County relied on the State and their resources to clear up the roads. The Deputy Fire Chief responded that they depend on HESD and the Departments of Parks and Recreation, and Facility Maintenance for heavy equipment support. If more is needed, they can request assistance from the National Guard.

Chair Souki asked the Commissioners if there were any further questions, if the Deputy Fire Chief had any last words or if there was anything the Charter Commission could do to help HFD. There were no other questions from the Commissioners. The Deputy Fire Chief had no further input and thanked the Commissioners for their time in volunteering to come out and help HFD.

Honolulu Emergency Services Department (HESD)

Attending from HESD were Director, Mark Rigg; and Deputy Director, Ian Santee. The Director provided an overview of HESD's administration. In summary, HESD oversees two Divisions, the Emergency Medical Services (EMS) Division and Ocean Safety and Lifeguard Services Division and oversees the Health Services Branch which provides pre-employment and return-to-work services for City employees. HESD is a state-funded entity.

The Director explained that as to medical services, the Charter requires HESD to be the primary provider of emergency medical care; develop programs and provide training and educational programs related to emergency medical services and injury prevention; be responsible for medical matters relating to public health and welfare; and be responsible for the administration of the City's health services programs and medical evaluations of current and prospective city employees. As to ocean safety, the Charter requires HESD to be the primary responder to emergencies arising on the beach and in the near shore waters; be responsible for ocean safety training, educational, and risk reduction programs relating to ocean safety; and perform such duties as may be required by law.

HESD is responsible for the efficient, effective, and economical operation of the pre-hospital emergency medical care and advanced life support emergency ambulance service on Oahu; a

comprehensive ocean safety program, to include lifeguard services such as patrol and rescue activities, and emergency response to medical cases on the beach and near shore waters; injury prevention, public education, disaster planning activities in coordination with other local, state, federal, and private organizations; and physical and medical evaluations for personnel as required for their positions or maintenance of licensure or physical standards.

The State Department of Health (DOH) contracts with the City to provide emergency medical services on Oahu. There are a total of 20 ambulance units. All are Advanced Life Support ambulances and the Rapid Response Units are staffed with one Mobile Emergency Care Specialist (paramedic) or at least two paramedics or one paramedic and one EMT (emergency medical technician.) A paramedic is trained and authorized to perform invasive techniques under medical supervision and standing orders. In addition to the field ambulance units, the EMS Division has five support elements: Communications, Specialty Services, Equipment, Supplies, and Vehicle Maintenance. HESD also provides training for outside emergency providers.

The Ocean Safety and Lifeguard Services Division runs a comprehensive operation along the 198 miles of Oahu's coastline. The services performed by the city lifeguards include ocean rescues, emergency medical treatment, mobile patrol and response, and educational/prevention strategies directed toward the 18 million beach users on Oahu every year, a number that continues to go up on an annual basis.

Health Services performs pre-employment screening and physical examinations for prospective city employees. Periodic physical examinations are also conducted specific to job requirements, with special attention given to providing health promotion and disease prevention counseling to city employees.

The Department of Transportation medical certification is provided to the City's commercial drivers and operators of crane and hoist equipment. Examinations are mandated under the Hawaii Occupations Safety and Health regulations and are conducted to support departmental hearing conservation, respiratory protection, and blood borne pathogen programs.

Health Services also provides a critical service in administering the City's various controlled substance testing policies, in particular the City's pre-employment drug screening policy. The Medical Review Officer (MRO) assessment is provided for pre-employment testing for HPD's and HFD's random testing. The MRO also assesses urine drug screens of candidates of the Department of Parks and Recreation's Summer Fun Program.

The Director asked if there were any questions.

Commissioner Soon noted that, given the wide range of topics covered by HESD beyond emergencies, including prevention and screenings, perhaps the word "medical" should be in the Department's name. The Department might also even merge with the Medical Examiner. The Director responded that until about a year and a half ago, HESD did not include the branch of Health Services, rather Health Services was with the Human Resources Department. Through a series of discussions and meetings, it was decided and mostly it had to do with the involvement of the previous director and his direction for the Department that the Health Services Branch be included in HESD. In addition, Ocean Safety, used to be with Parks & Recreation, and around 1998, it moved from Parks and along with EMS created HESD. The Director concluded that the Department is absolutely all about medicine.

Commissioner Soon asked the Director if he would be averse to changing the name of the department; or could he recommend a name that fits their purpose better. She said the current name is confusing, and asked if the Director could perhaps recommend a name that fits what the Department does. HESD and the Department of Emergency Management (DEM) must get confused for some people so perhaps some clarity in the name would help. The Director agreed with the observation that people get confused between DEM and HESD.

Commissioner Broderick thanked the Director for attending the meeting and asked if he had any recommendations about Charter amendments or changes. The Director explained that he will meet with the Chief of Staff next week Tuesday for that purpose. They have not discussed what amendments they would like to make to the Charter but will certainly get back to the Commission when they finalize their proposals.

Commissioner Broderick also wanted to know HESD is and has been funded. The Director explained that the EMS Division has been funded by DOH for at least 32 years. Responding to a question by Chair Souki asking if this were a delegation of authority, the Director continued that according to the Hawaii Revised Statutes, DOH is responsible for administering and funding emergency medical services statewide.

Chair Souki asked if there were any other questions from any Commissioners.

Chair Souki said that he likes the idea of the name change and thanked the Director for his time.

Department of the Prosecuting Attorney (PAT)

Keith Kaneshiro, Prosecuting Attorney for the City and County of Honolulu, was present for the presentation. He apologized for not having a PowerPoint of PAT's, functions and duties of the department but said he would provide it at a later time. He stated that he did not have any proposed changes and did not intend to have any proposed changes. He then gave an overview of the functions of the Department.

The Prosecuting Attorney is elected by the voters of the City and County of Honolulu for a four-year term. The Prosecuting Attorney appoints the deputy prosecutors and the rest of the staff are members of civil service - the investigators, clerical staff, and victim/witness counselors are all civil service. The Prosecuting Attorney has the duties and functions to prosecute all laws against the State, criminal laws against the State, by the power delegated by the Attorney General of the State of Hawaii. A staff member attends all court proceedings and all district court proceedings, and circuit court proceedings involving criminal cases. The few civil cases PAT is involved in are connected to civil cases such as asset forfeiture and nuisance abatement. These are proceedings that are connected with some criminal offenses. But there are also civil proceedings and they are authorized to do.

The Prosecuting Attorney noted that the only concern he has that relates to the Charter Commission is the independence and autonomy of the Prosecuting Attorney's office. The people decided to make the Prosecutor independent by voting to have an elected prosecutor. However, PAT is the only department that presented to the Charter Commission that is not an executive department under the Mayor. PAT is independent from the Mayor. However for budgetary reasons, the Mayor can control PAT. Even though the City Council funds PAT's

budget, the Mayor's office has the discretion to withhold the allocation of those funds to the office, and has done so on several occasions. This might impact the independence of PAT duties and functions because funds not released by the Mayor can hinder the work of PAT programs. As a whole, the Mayor's Office has been fairly cooperative in releasing funds. However, some of the savings made by PAT have been kept by the Mayor's office and used for other expenses depriving PAT of their use.

Commissioner Waihee requested clarification of the budget process. Kaneshiro responded that all of the departments, including PAT, submit their budgets to the Mayor. The Mayor and the departments then go through a screening process to decide what to submit to the Council and what areas to cut. After the budget is submitted to the Council, PAT can testify at the budget hearings, requesting the Council to reinstate amounts cut from PAT's budget. He summarized that it's basically a "political crossfire between the Mayor and Council."

Governor Waihee explained that once the budget is finalized and signed by the Mayor, it can be vetoed but can't be changed. However, even though the budget that passed is balanced, certain funds can be sequestered by the Mayor and not spent.

Commissioner Broderick inquired, if the Prosecuting Attorney had two concerns, why he was not proposing changes to the Charter. The Prosecuting Attorney thought it best to leave the decision on whether and how to make these changes up to the Charter Commission.

Commissioner Ikeda wanted to clarify that PAT was not administratively attached to the Mayor or a department and the Prosecuting Attorney confirmed this. She then noted that seemed odd that the Mayor would then cut their budget. The Prosecuting Attorney assured her that he welcomed a review of PAT's budget to ensure it met legal requirements but didn't agree with the Mayor being able to hold back some funds by sequestering them.

Commissioner Fujimura clarified once more that the Mayor has the ability to cut PAT's budget prior to submitting it to the Council and has done so on occasion after reviewing it. The Prosecuting Attorney affirmed this.

Commissioner Taniguchi asked if the Mayor could cut PAT's budget because some of the funds were general funds and the Mayor has to consider the use of all general funds. The Prosecuting Attorney affirmed this further explaining that the only other funding they have is CIP funds for the Family Justice Center. The budget includes State funds and federal grants.

Chair Souki found the concept of bifurcating the Prosecutor's Office from the Executive Branch interesting. Even with special funds at the State level, the Governor as the Executive Branch is responsible for releasing the appropriated amounts. He asked if the Prosecuting Attorney knew of any other municipalities around the country where the prosecutor or just the attorney's office is separate.

The Prosecuting Attorney said that nationwide most of the prosecutors or district attorneys are elected. In Hawaii the only prosecutor that is not elected is in Maui County where the prosecutor is appointed by the Mayor. The county prosecutors for Kauai and Hawaii counties are elected and district attorneys and attorney generals in other jurisdictions are elected. Responding to a question from Chair Souki the Prosecuting Attorney confirmed that their budgets are independent.

Chair Souki observed that this seems to make PAT similar to a fourth branch of government. The Prosecuting Attorney noted that the City and County of Honolulu has a Council or Legislative Branch and a Mayor or Executive Branch making PAT similar to a Judicial Branch since they deal with the courts and the law. The Council recognizes that PAT is independent and elected by the people so it provides leeway in PAT's budget requests and often reinstates cuts made by the Mayor so that PAT can carry out the public's programs.

Chair Souki asked that, if PAT wants to pursue a model in which the Prosecutor's office would be totally independent, could they provide the Charter Commission with some examples so the Commissioners can consider the language that should be used. The Prosecuting Attorney agreed to research the issue to see how other jurisdictions handle the budgetary situation.

Governor Waihee suggested he also check how the State handles budgets submitted from the Judiciary and from Office of Hawaiian Affairs because they are supposed to be separate or independent branches. The Prosecuting Attorney explained that he understood when the Governor withholds funds it is because the projected tax revenues are low so funding must be restricted. But the City's budget is based on the collection of the previous year's property tax. Governor Waihee explained that he thinks the concept of a balanced budget is similar no matter what level of government, but the difference is that restrictions should not be for a specific program. The restriction could be at a higher level so it doesn't undo what the Legislative Branch passed. However, as the Governor understands it, the sequestration process allows the Administration to select programs from which to withhold funds, which is a major difference from what would happen under the State regarding the Judicial Branch or even the Office of Hawaiian Affairs. The Prosecuting Attorney agreed.

Commissioner Ikeda added that as she understands it, once the Judiciary budget is passed, it can't be cut, - even if the projections come in lower than anticipated. The Executive can only request a reduction from the Judiciary which is under no obligation to accept the request and in some instance cannot.

Chair Souki asked if any Commissioners had any other questions or comments.

The Prosecuting Attorney asked if he could address the Commission about an issue raised by Commissioner Mulligan relating to the supervision of police in the use of excessive force. He explained that it is a big topic in the District Attorney's Office and that he's in the National District Attorney Association. The issue is of concern across the nation because of recent shootings. When there is a police-involved shooting, PAT does an independent investigation to determine whether the police shooting violated any criminal laws or if the officer should be charged with a criminal offense using the results of the police investigation as well. Part of its investigation includes looking at the police report to see if there are any differences or if it left out anything, if any kind of evidence was withheld. The Prosecuting Attorney explained that he goes to the scene because it's very important to capture what happened at the scene to make sure that no evidence is destroyed. PAT makes an independent determination of police shootings.

Chair Souki asked if there were any other questions.

Commissioner Soon asked about the minimum qualifications for the Prosecuting Attorney's position including years of practice. The Prosecuting Attorney responded that, before nomination papers can be accepted, the City must determine that the person qualifies and has had at least five years' experience in criminal law.

Commissioner Ikeda then pointed out footnote number 33 in the provision relating to the powers, duties and functions of the Prosecuting Attorney in the Charter which states:

Prosecuting attorney is not authorized by law to bring a civil action to abate a nuisance.
Marsland v. Pang, 5 Haw. App. 463, 701 P.2d 175 (1985).

The Prosecuting Attorney said that there's a nuisance abatement law that authorizes a prosecutor to bring such a civil action and that the footnote probably refers to an old provision. He agreed that this needs to be changed and Commissioner Ikeda requested that he check other footnotes. He said he would. Commissioner Ikeda thanked him.

Commissioner Mulligan then pointed out the close relationship between PAT and HPD stating that might be of concern to some people. This relationship is not necessarily bad but involves potential misconduct by the police. The question becomes: How independent are the two departments and how objective are they? The possible answers to that question have encouraged some municipalities to create independent bodies to examine police misconduct such as in Long Beach and San Jose. Commissioner Mulligan asked for PAT's response.

The Prosecuting Attorney explained that it is difficult to overcome perception. But he pointed to the cases PAT has pursued which included charging police officers with sex assault and other crimes based on the evidence presented. That's how they overcome the perception.

Chair Souki, seeing no more questions, thanked the Prosecuting Attorney who also thanked the Commission.

Department of the Medical Examiner (MED)

Dr. Christopher Happy, Director and Chief Medical Examiner, presented a PowerPoint presentation of the powers, duties and functions of MED. Specifically, MED:

- Investigates cases of sudden, unexpected, violent, and suspicious deaths;
- Identifies, makes positive identifications, of deceased individuals;
- Discovers documents, and preserves medical, anatomic, and evidentiary findings (other kinds of evidence present on deceased individuals); and
- Provides written reports of the findings and expert testimony in criminal and civil litigation (testifying as expert witnesses in both civil and criminal proceedings).

Article VI of the Charter provides the details about MED's functions including its organization, the qualifications of the medical examiner, MED's powers, duties and functions, a requirement that the office always remains open, notification of death, investigations by the Medical Examiner, autopsies, records, and oaths.

Important to MED's function is section 6-1305 which outlines MED's jurisdiction. For example, when a person dies violently or by a casualty, or by apparent suicide, or suddenly while in apparent good health, or when not under the care of a physician, or in jail or in prison, or within 24 hours after admission to a hospital, or in any suspicious or unusual manner, then, whoever is the first official to encounter that death, whether it be police, doctor, or some other government official, has to report the death to MED. When any of these events happen, section 6-1306 authorizes MED to investigate the death and take custody of the body. A death

scene is HPD's purview but the body remains under the control of MED. MED works in conjunction with HPD, going to the scene. Once the police have taken all their evidence and when it's OK to move the body the Department takes custody of the body. The police can't move or disturb it without MED's consent. Once the body can be removed, it is brought back to the office and an autopsy is performed to find the cause and manner of death.

Commissioner Soon asked if MED's functions are important enough to require a separate department and if so, could the Director please explain. The Director replied that these functions definitely need to be in a separate department. There are no other individuals who are qualified to perform these functions other than forensic pathologists who are medical doctors, who have gone to medical school and then done a pathology residency along with additional training in forensic pathology. Doctors untrained in forensic pathology should not be medical examiners.

Commissioner Soon explained that she was not disputing the qualifications but just wondered if the function has to be in an independent department. The Director stressed the importance of being independent and not working HPD or under the Attorney General's office. For example if there were an officer-involved shooting, there could be concerns about how the incident should be treated – as an accident or homicide. If the latter, HPD could be sued. Commissioner Soon explained that that would be an ethics issue but the Director thought it was more an independence issue pointing out that the Director is appointed by the Mayor but can only be removed for cause after a hearing before the Council.

Commissioner Soon asked how many people are in the Department. The Director answered, "twenty."

Commissioner Mulligan inquired how other jurisdictions handle this function. The Director explained that there are two major death investigation systems in the U.S., one is a coroner and the other is a medical examiner. Coroners are either elected or appointed individuals that don't necessarily need to be doctors. In some cases, they are funeral directors but in many jurisdictions, especially in California, they are the Sheriff. When the Sheriff is elected he or she automatically becomes the coroner and the medical examiner which may produce an inherent conflict of interest, real or not. Therefore, the medical examiner is usually appointed and has to meet certain criteria. For example, the Director explained that he has boarded in Pathology and has a medical license which are the minimal qualification for medical examiner. He also noted that the medical examiner is usually independently funded.

Governor Waihee observed that the medical examiner, emergency medical services and health services must have similar administrative business which could be incorporated not necessarily placing MED under the Prosecutor's Office or the Police Chief's Office. He noted that there seemed to be some compatibility between the EMS, Health Services and, MED for those departments to be put into one department with three divisions to save duplication. The Director agreed that as long as he maintains his autonomy, administrative functions could be combined.

Governor Waihee inquired whether a system similar to the State Department of Accounting and General Services would work. Governor Waihee gave the example of the state Department of Accounting and General Services to which is attached a Procurement Officer who is appointed to be independent of the Director and can't be fired without Legislative consent. The Director worried about the EMS Division making a mistake but Governor Waihee said he should call

them on it. The Director explained that Governor Waihee's proposal is somewhat radical in the U.S. but in Brazil the medical examiner performs some of the functions previously described by HESD, such as drug testing. He reiterated that his autonomy was of major importance so that he can perform independent investigations, working closely with HPD, correcting them if they make a mistake, while a coroner under HPD might not be so likely to do that.

Commissioner Waihee asked if MED has the problem similar to PAT - that of the Administration withholding funds, thereby affecting MED's independence. The Director responded that every department has to go through the Mayor's office but the Prosecutor is different because he is elected independently of the Mayor and is not appointed. He explained that everybody in the office is appointed by the Mayor including himself, the Deputy Medical Examiner and his secretary.

Commissioner Fujimura clarified that he thought the issue, looking at another point of view, is whether establishing a department would add a measure of autonomy that would not exist if MED were an independent office assigned administratively to a department. Departments have certain functions to administer so they tend to be larger structures. If departments could be combined so that their administrative functions could be handled in one area, it might make for more government efficiency. The other functions of each department could be kept separate perhaps in divisions, so that the main functions would not be changed, only the administrative functions would be handled centrally.

The Director stated that while he understood the concept, he would still prefer to be a separate department. The Director was hired for his medical skills, not his administrative skills so MED has an administrator and soon will have an office manager in charge of the day-to-day functions such as purchasing and human resources.

Commissioner Broderick pointed out that the Director now understood that the Commission is looking at possible proposals regarding MED and asked if the Director had any proposals of his own. The Director said he might have one proposal but that he wanted to discuss it with the Chief of Staff at a meeting next week before presenting it to the Commission.

Chair Souki listed the areas that would be taken over by a combined administration if MED became part of a larger agency. These included: procurement, hiring, personnel decisions, budget, and reorganization authority. Chair Souki asked if any of those functions were important for the Director to retain control of. The Director answered that all were very important. He went on to explain that MED is very specialized. There are about 600 Board certified forensic pathologists in the U.S., very few in a country with a population of 350 million. Having a doctor to do all the administration for an office might not seem correct but the vision of how the office functions and what supplies are needed is critical. No administrator will know that without the direction of probably a chief medical examiner. Every jurisdiction has different needs. It is very hard to find trained forensic pathologists here because there aren't a lot of pathologists to begin with. Hawaii has one medical school and only one pathology residency that trains 10 people a year and of those only one, maybe every few years will go into forensic pathology. A training program is needed in Hawaii. Currently, students have to go the mainland for this training. If there were a reorganization of the department, a board certified forensic pathologist would need to be included. In Los Angeles County, historically, they had a coroner who was an administrator and they had a Chief Medical Examiner. Now they've actually merged so that the Chief is over the administrator.

Fujimura noted that he felt the Director's argument on why it works was informative because it works conceptually. Some practitioners won't want to do the administrative functions because it gets in the way of the mission. If a practitioner were given a certain status level such as department head, the administrative work wouldn't get in the way because what they do is very specialized. It gives the person a certain level within the Administration equal to all the other department heads and in practice it seems to allow time to be more efficient and more effective in accomplishing the purpose of the office.

The Director explained that he wears two hats. Because it's such a specialized office environment in general, an MBA without additional training would not be able to run the office because:

- It's not a business; and
- The administrator would need to have had extensive schooling and training to know what the direction of the office should be.

Even a good administrator would not be able to run the office because the person would lack the knowledge of how the office should progress through the future.

Chair Souki asked if there were any other questions from the Commissioners.

Commissioner Taniguchi asked if all the counties, in the State have a medical examiner. The Director said no. He feels that Honolulu is lucky to have a medical examiner system because on all the neighbor islands, the police chief is by de facto the coroner.

Chair Souki asked if that was a function of population or something else. The Director answered that it was probably a function of population but noted that Santa Clara County, where he used to work, currently has a medical examiner so the Sheriff is the coroner. It's a little different, in some coroner offices, the sheriff determines the manner of death - natural accident, homicide, suicide, and undetermined. That wouldn't be a system Honolulu would want but in Santa Clara County, the doctors determine manner and cause of death. There are hybrid systems in different places but there's always an office of the medical examiner whether it's under the department of health or the attorney general's office. Some places like New Jersey, Massachusetts and New Mexico have a state system so their budgets come from the State Legislature and the Governor, but most places are not like that.

Commissioner Soon observed that Hawaii doesn't have a State system and continued by asking if the Director had been called to one of the neighbor islands for assistance. The Director said he has consulted on cases on the neighbor islands but only informally as doing consulting work as the Chief is a bad idea. He has enough to do on Oahu.

Commissioner Soon explained that the Commission has learned about a number of city departments that are providing services to jurisdictions other than Honolulu and the Commission has been investigating these incidents. The Director concluded and he's been asked and will informally tell the prosecuting attorneys on the other islands his opinion and suggest whom they should call to testify because he's not available to testify.

There were no other questions.

Department of Emergency Management (DEM)

Director Melvin Kaku provided several slides to explain the function of DEM. He explained that the basic function of DEM is to develop, prepare and, under disaster or emergency situations, assist in the implementation of civil defense plans and programs to protect and promote the public health, safety and welfare of our community as stated in Section 6-103 of the Charter. The Director discussed the key functions of DEM which require that within 30 minutes they must wrap up and provide a scalable response to a particular disaster whether natural or man-made, including traffic, support for fire, wild fires, and major structural fires that may occur in downtown areas. He provided the example of the water main break in Waianae the past weekend, causing a traffic nightmare with long delays for commuters.

There are three functional areas in DEM. These are Administrative Support, Technical Support and Professional Staff. DEM can reach out to the entire City network of departments—22 of them and a total complement of 9,000 employees, and again based on a scalable event, will select and identify particular departments that would respond to a particular activity.

The Director provided two recommendations for a Charter Amendment. These include two housekeeping amendments to:

- Update section 6-103 to change references from “civil defense” to “emergency management; and
- Update section 6-104 similarly

for consistency with current state law as well as terminology that is used nationally and locally.

Chair Souki asked if the Commissioners had any questions for the Director.

Commissioner Soon said she had two questions. The first was whether DEM was confused with HESD due to the similarity of their names. The Director answered that it’s not a problem as the terminology is used consistently nationally.

Commissioner Soon asked if changing the name of HESD would eliminate some confusion. The Director responded that he didn’t think so since that department provides emergency services while DEM provides management and coordination, facilitation, and collaboration. Organizationally, DEM depends on and uses all the resources and responds to and collaborates with multiple agencies. DEM also works with many of its stake-holders whether working a single event or multiple events. In some cases, DEM has to deal with unified commands including multiple agencies or multiple jurisdictions, so, while some might be unfamiliar with the particular names, the similarity in names doesn’t cause a problem.

Commissioner Soon asked the Director to explain more about the Commission. The Director responded that the Citizens Advisory Commission on Civil Defense consists of five members, appointed by the Mayor, generally representing private practitioners, as well as those representing agencies. The Commission has also included former police chiefs. Current members include those in the tourist industry that provide local coordinated hotel security, those in the field of community service and former doctors.

Commissioner Soon inquired if the Commission is an important need. The Director responded with an emphatic “Yes,” explaining that the Commissioners provide outside perspectives

relating to their areas or matters of concern. As DEM develops products and does community outreach, community perspectives are important.

Commissioner Soon asked if DEM has to staff the Commission and pay for their functions or whether the Commission has its own staff. The Director explained that DEM provides all the administrative support for their meetings. There are generally 9-10 meetings because there are a lot of activities. DEM provides the Commission status, important projects, and informational briefs.

Commissioner Soon noted that, based on this, the Commission doesn't have its own Chair and DEM sets their agenda. The Director replied that DEM works with the Commission. The Commission votes to establish its Chair and Vice-Chair but DEM acts as the Commission's "secretary" and prepares and distributes their minutes, and reviews and makes final edits of the minutes. Basically, DEM provides all their support. Commissioner Soon thanked the Director.

Governor Waihee asked if the Citizens Advisory Commission on Civil Defense has any supervisory role over DEM. The Director answered in the negative. Governor Waihee continued, asking if the Commission was strictly advisory. The Director affirmed that, remarking that the Commission helps by providing their thoughts and guidance to their projects. For example, it provides guidance in terms of talking points and who DEM should reach out to. In the recent tsunami evacuation mapping effort, the Commission recommended that DEM meet with the Chamber of Commerce and business organizations with vested interests.

Governor Waihee reiterated that the Commission is not administrative but strictly advisory and the Director affirmed this.

Governor Waihee asked what exactly does DEM do that is different from what the State Emergency Management offers that used to be called Civil Defense.

The Director explained that all incidents begin at the local level. DEM, under the Director's tutelage, as well as with support from the City, responds, cradle to grave. If resources at the local level are overwhelmed, then it is the Director's responsibility, with the Mayor's approval, to ask the State for additional resources or assistance to mitigate, respond to and hopefully close the incident. If the City and State cannot accomplish these goals collaboratively, then they will request aid from the federal government.

Governor Waihee explained that he asked the question because, during a recent hurricane, the only government representation at the Diamond Head Center was the State.

He asked what the responsibilities of the county government are versus the state government. The Director responded that all counties respond to all the incidents. Beaches are closed, evacuations are put into effect, and all the resources available to the City and County are employed and engaged. The State monitors the situation while the county blows all the sirens, coordinates with the State Department of Education for post-event shelters, if necessary, and, as during the aftermath of the Japan tsunami, DEM also sends out teams to do post damage assessments, looking at the harbors and facilitating the collection of data. In addition, if people are sick, dying, or injured, DEM coordinates through HESD to send ambulances, provide immediate medical care and coordinate with the hospitals for final care.

Governor Waihee praised DEM saying that in his experience they do a very outstanding job. The Director thanked him. Chair Souki agreed with the Governor, observing that when the Chair worked with the State Department of Land and Natural Resources, staff had to stay in the Command Center working with DEM. Chair found it a good experience that DEM was very efficient and served the public well.

Commissioner Fujimura inquired whether, when another County provides resources, they are provided from county to county or are they provided through the State. The Director responded that it depends, explaining that the heads of the various agencies work together on emergency response and have mutual agreements. The Director said his understanding is that they work out the various arrangements, including compensation, prior to making the commitments. He is of the understanding that BWS is working to formalize the system by signing a Memorandum of Agreement which specifies such things as equipment, resources and rate of reimbursement as a method of precluding post-event detailed discussions.

Commissioner Fujimura asked if the State also used such procedures. However, the Director could not say how the State functions in these situations. Commissioner Fujimura clarified that he wanted to know how DEM worked with the State to receive resources. The Director explained that “wall fires” are of great concern for DEM. He explained that DEM and others work under mutual aid agreements, where agencies agree at no cost to the agencies that they share in the responsibility. When resources are fully expended and over-utilized, DEM will work with the State’s Emergency Management Department, formerly State Civil Defense, to request aid from the National Guard. Unfortunately, the National Guard requires compensation as some decisions are difficult. For example, if DEM has to advise the Mayor to use one of their helicopters with the huge bucket, it comes at a cost. Often the Mayor and Governor work this out through discussions. DEM has to accept whatever is formalized and accept the cost and the chance of getting some compensation but not always total compensation. Compensation is not always guaranteed. It requires petitioning, collecting of information, and then submitting it to a third party for their audit. DEM is lucky to get 75 cents on a dollar.

Chair Souki asked if the Director thinks the Charter needs a specific policy statement relating to the importance of impacts of climate change and that emergency management plans, for example, must specifically include climate change in the analysis. This is based on the preparation by the counties of a Statewide Emergency Management Plan, part of which deals with reducing the magnitude of impacts. Chair Souki was interested in knowing if the plan will include methods to make Hawaii’s communities more resilient to climate impacts and include what each agency should do. The Director responded that he personally didn’t think so. He explained that DEM recognizes the importance of collaborative planning, looking ahead that climate change is one of the increasing challenges. DEM also recognizes other challenges. So all its plans are being looked at with a critical eye of being a little more proactive and forward looking when looking at evacuation routes. Are coastal highways the desirable choice? How to safeguard our coastal roadways, in addition to taking into account that, over time, it is inevitable that alternate routes will need to be looked at to provide assurances that there will always be viable evacuation routes. Now the big challenge is determining when. Right now DEM is looking at updating the mitigation plans, looking at those adjustments to current plans to take climate changes into account – just one of the challenges that has to be accounted for. Chair Souki further inquired whether part of the hazard mitigation mission is to take into account, for example, impacts for 2050 capital improvement project (CIP) decisions.

The Director said that he doesn't sit on any of the CIP project reviews. Chair Souki asked if the Director thought he should sit on the CIP project reviews. The Director responded that the planning side is sufficient. DEM is more concerned with the emergency response, reviewing mitigation plans and the development of flood planning and mapping, with the parameters hopefully being transferred into Planning decisions which is the responsibility of the Department of Planning & Permitting.

Chair Souki asked the Director for his thoughts on how the Emergency Statewide Emergency Responses Plan, the Hazard Mitigation Plan, is rolling up into decision-making noting that the previous plans had an issue with implementation. The Director responded that the Hazard Mitigation Advisory Group has different members that are looking at criteria to determine what projects are suitable and appropriate for funding. The Director indicated that DEM submits projects in anticipation of mitigation being ultimately funded but the advisory group makes the final decision which is difficult because funding is very limited. Basically planning accounts for 20% of the funding while hazard mitigation accounts for 80%. Hazard mitigation projects are very specific and have defined outcomes while planning is not so precise. Chair Souki noted that if the impact from known hazards can be reduced, less money will need to be spent saving lives and property. The Director agreed that's correct for the long term.

Chair Souki asked the Director if the framework in the Charter is adequate for addressing these issues or should there be a more concise statement in the Charter. These decisions that government makes are very complex, it's not even one thing but is it being factored in adequately? The Director responded that as far as DEM is concerned, the Charter is adequate. He was unsure what the impact of a particular statement in the Charter would be, from a planning principle perspective since DEM is already taking that into account.

Commissioner Fujimura noted that the timeline for climate change is getting closer – the 100 year storm seems to happen every 10 years now - and asked the Director if they took this into account when forming a taskforce, a planning group, or response group to try to accommodate an unfolding emergency, observing that the planning has to be way in advance of the "avalanche". The Director assured him DEM is taking this into account. The thresholds are getting closer and closer so it is prudent to look at climate change as a serious factor to consider in the proactive planning process. He hoped that mitigation can be initiated to minimize or offset the impact of a future hazard. He thought that the Chair was astute to discuss a mitigation program now to minimize and offset a potential hazard.

Commissioner Fujimura observed that DEM should consider the terms of the Charter because DEM provides the management for emergencies. That management function may mean DEM is the appropriate department to begin to incorporate more coordination in terms of mitigation and CIPs. Perhaps DEM may have to start taking on those responsibilities because the difference between DEM and the other emergency services is that DEM provides management. So it may develop that the management authority and duty will fall to DEM under the Charter. At this point, Governor Waihee noted that it just takes money to accomplish such goals.

After considering these comments, the Director said that he wished he could just ask for the money but DEM only manages, it isn't at the front end generally. DEM manages to minimize the impacts as the incidents unfold and then try to instill better planning and better considerations to mitigate possible future reoccurrences. He noted he was providing a philosophical picture. And that he would like DEM to participate and thinks it does but it's a small little fish in one of 21 other departments.

Chair Souki asked for any final comments, and seeing none, offered his own. He noted the discussion is more than philosophical, it's actual. People in Hawaii are very conservative about thinking about the future, saving money for children to go to college for example. Just as not saving money for college means children not going to college, not investing in risk minimization means paying on the other end. As Ben Franklin and the Fire Chief said, "An ounce of prevention is worth a pound of cure."

The Director told Chair Souki that he appreciated his words.

PUBLIC TESTIMONY

Chair Souki asked if there was any public testimony.

Justin Gruenstein, Executive Assistant to the Mayor said he wanted to provide additional information based on some questions that came up earlier. In response to Commissioner's Soon's request for information about some of the boards and commissions, he noted that one of his responsibilities is facilitating appointments to boards and commissions. He stated that the number of boards and commission varies depending on the Administration because some boards and commissions are advisory and can be set or dismantled by the Mayor at his or her choosing but for discussion's sake, there are 28 boards and commissions and then there are a few other advisories that are within departments themselves which aren't considered to be part of the permanent ongoing boards and commissions, and some of those are mere advisory but they've consistently been in place. For discussion purposes, there are 28 boards and commissions but very few act on their own. In that regard the Police Commission does, as they have their own administrator, their own staff, their own office space separate from HPD, and staff that are accommodating and facilitating the Commission are full time which is a rarity. Most boards and commissions are only staffed and supported by the department to which they are attached. Every single board and commission is attached to a department for administrative purposes. Even the Ethics Commission is administratively attached to Corporation Counsel but they are pretty independent. The six boards and commissions that have a little bit more break away from the department but still are attached are clearly the: Police Commission, Fire Commission, Liquor Commission, Ethics Commission, HART and BWS. A common thread is that those boards and commissions have oversight and hiring authority of the director or of the chief. But still they might only meet once a month, they don't have a full time staff and usually the departmental secretary sends out the meeting agendas and notices and does the minutes, so they are not autonomous boards and commissions so to speak, such as the Police Commission which is more an anomaly than it is the norm. He urged the Commission that, if there are additional question on boards and commissions, to ask the director or the deputy of the department because they're familiar with the functions and duties of the boards.

Commissioner Soon thanked the Executive Assistant to the Mayor for his overview since that was often her line of questioning. She pointed out that it was actually Commissioner Rae who wants an examination of all boards and commissions as to their relevancy, their accountability, their transparency, their usefulness and, after 10 years, asks if they are still needed. She asked if he could provide the information in writing.

The Executive Assistant to the Mayor replied he'd be happy to provide additional information, listing all of the boards and commissions. He observed that they actually just updated them for

the annual report including a brief summary of what each one does, including who is responsible for appointing them, and whether they are confirmed by the City Council or not, etc.

Commissioner Soon observed that there seems to be quite a bit of variation as to their advisory function and wondered if these functions could have been accomplished in another way. What has been established in the Charter, and what should be added or not? She thought this would probably be a worthy exploration to confirm if they are all needed. The Executive Assistant to the Mayor agreed that it can definitely be confusing as the boards and commissions are half appointed by the Mayor and the City Council, some by just the Mayor, others are appointed by the director of the department. He said he's been doing this for 2 ½ years and still learns something new every day about boards and commissions.

Commissioner Soon pointed out that she could speak from personal experience. When she was Transportation Director, she found the Transportation Commission awkward because they evaluated her but didn't hire or fire her. She wondered why they evaluated her. The Executive Assistant to the Mayor explained that they're supposed to review the departmental budget. Some people see that and assume that they have purview and oversight of the budget but they just review it, they don't have any authority to change it.

Commissioner Soon considered being hired by one person and evaluated by a different group as an unfair accountability.

Governor Waihee asked the Executive Assistant to the Mayor what commissions they are having a hard time filling, noting that when he was Governor there were some boards and commissions nobody wanted to deal with. The Executive Assistant to the Mayor explained that the City and County isn't quite like the State, which has many boards and commissions and many of these go unfilled. A lot of them are technical, like the medical ones, so it's really difficult to find people to appoint. Honolulu doesn't tend to have that problem, though there are some challenging appointments.

Probably the most difficult board to fill is the Building Board of Review because there are receipt requirements. There has to be somebody who is a plumber, an electrician, and a general contractor. When there are such specific requirements it is a challenge to find somebody willing to volunteer their own time that has that expertise. But even with these challenges, the City manages to do well and get a lot of community members seeking to volunteer and to assist.

Commissioner Soon asked if there is a difference between a board and a commission. The Executive Assistant to the Mayor said only the name.

Commissioner Fujimura asked what the autonomy of the Parks Board is. The Executive Assistant to the Mayor told him that the Board of Parks and Recreation is a kind of advisory board.

Commissioner Fujimoto then inquired about the six boards he mentioned which had more autonomy. The Executive Assistant to the Mayor explained that they have a bit more authority because they do the hiring of the director or the chief.

Commissioner Fujimoto observed that that's a lot of autonomy. The Executive Assistant to the

Mayor agreed. Similar to the Police Commission, the six have their own staff which none of the others do, but the Board of Parks and Recreation is more advisory, facilitated and administered by the department itself, in fact the division head does the agenda, minutes, etc. for them.

Chair Souki noted that when he was at the Office of Planning, there was an Advisory Board and the Director selected those members. He asked if that's how it works at the City, that the Director selects the advisory board members.

The Executive Assistant to the Mayor said it depends on if it's in the Charter or not. He continued that there's a Design Review Board that is selected by the Director of the Planning and Permitting; and yet the Mayor's advisory boards such as the Board of Parks and Recreation which is kind of an advisory board, are appointed by the Mayor and confirmed by the Council.

Chair Souki asked if there had ever been an audit or a study of the boards and commissions and the Executive Assistant to the Mayor replied not to his knowledge but there might have been one in the past, before his time.

Commissioner Taniguchi asked if he could identify which boards and commissions have dedicated staff. The Executive Assistant to the Mayor replied that only the Police Commission has a dedicated staff. Governor Waihee asked about the Liquor Commission. The Executive Assistant to the Mayor answered that it's hard to say whether that Commission is a commission or an independent department. It depends on how you look at it.

Commissioner Taniguchi said she understood that the Civil Service Commission has a dedicated secretary. The Executive Assistant to the Mayor explained that the secretary is from the Department and only works with the Commission. He continued that, for example, HART has a Board Administrator who just facilitates the Board but is still an employee of HART. He remarked that he will be working with the Mayor's Chief of Staff and there are definitely some amendments that could be made to the Charter to make it more consistent. These recommendations may come down to the Commission from the Administration.

Chair Souki brought up a question that came about from the last meeting about what changes the Mayor can make, even during the Commission's work. These changes seem to be geared more toward reorganization, such as changing a name or combining agencies. He asked the Executive Assistant to the Mayor if he was familiar with the process. He asked, for example, if the Commission decides to combine two agencies and the change is voted on and accepted by the voters, does the Mayor have the authority to change it back. The Executive Assistant to the Mayor said he didn't know where that line is drawn if it's specifically stated in Charter or not.

Commissioner Soon said she thought Deputy Corporation Counsel Spurlin was going to get back to them on that, after she had some time to look at it. Chair Souki asked the Deputy Corporation Counsel at the meeting to mention this to Deputy Corporation Counsel Spurlin and he said he would.

Chair Souki explained that the Commission didn't want to spend all of our time changing Charter provisions if the Mayor can do it anyway. He thanked the Executive Assistant to the Mayor for his presentation.

IV. DISCUSSION

Chair Souki asked if there were any topics for discussion.

Commissioner Broderick stated that one of the issues he felt the Commissioners should discuss is to what extent do they want to put ministerial changes on the ballot. For example, the DEM Director had a couple of proposed changes that he characterized as very ministerial. He said if those changes aren't made, it won't have much of an impact on DEM. Commissioner Broderick noted that it was important for the Commission to think about whether they want to put matters that are purely ministerial on the ballot as opposed to those of substance.

Governor Waihee wondered if there might be a single amendment on style to update various provisions.

Chair Souki said that he would like to recommend that Corporation Counsel show the Commission what previous ballots looked like.

Commissioner Soon stated that this seemed to be related to the question they asked Corporation Counsel to examine, that is: "what's ministerial and what isn't?" For example, she noted that she heard one of the testifiers say that the DEM is no longer called civil defense. She asked if that were a change the Commission could make without having to send it to the voters. However, she assumed that it would have to go to the voters because of the Charter. But it would be best to ask the Corporation Counsel.

Commissioner Broderick agreed that for purposes of discussion it does have to go to the voters, but he also asked if it rose to the level that this Commission wants to propose. He feels that, simply because it has to go to the voters, it doesn't necessarily rise to the level, that it should be a proposal by the Commission.

Chair Souki commented that the one thing that helped the last Commission decide what went to the voters was the sudden appearance of 180 proposals. That really helped them focus.

Commissioner Soon pointed out that one of the Commissions had so many proposals, it confused the public and all the proposals "went down in flames."

Commissioner Ikeda continued the discussion saying that along those lines, when one looks at the Charter, there really is no emergency management because it's actually civil defense and if that's something the Mayor could change then it should have been changed already.

Governor Waihee commented that these are simply clerical changes.

Chair Souki recommended they keep in mind that, when a report about all the work they did is written, as an aid for the next Commission, even recommendations maybe to the Mayor and/or Council, that ministerial changes could detract from the more urgent changes but that these might be able to be cleaned up by another Commission.

Commissioner Soon observed that initiating these meetings has started a lot of people thinking which is a good thing and based on that, they might make a proposal.

Commissioner Broderick noted that there have been a couple of folks who said they will meet

with the Chief of Staff. He assumed that that person is Ray Soon as opposed the Managing Director, Roy Amemiya.

Commissioner Mulligan asked that the Police Commission be asked to come and make a presentation before the Commission.

Chair Souki asked if there was an interest in forming a PIG to review the boards and commissions as commented on by Commissioner Rae.

Commissioner Soon noted that Commissioner Rae initiated the idea of eliminating all of the boards and commissions so that the ones that were still needed could argue for reinstatement.

Chair Souki reminded the Commissioners to keep the timing of the meetings in mind.

Governor Waihee pointed out that a lot of the commissions were left over from past times, such as the Parks Commission.

Commissioner Soon asked if the minutes were going to be for each individual meeting or were they going to be done collectively, as one set. In answer, Chair Souki addressed the EA saying that the minutes should be for separate meetings, except when the Commission breaks up an agenda with a recess. That would be one collection of minutes.

Commissioner Waihee asked the Chair what they should do about the suggestion for a PIG. He asked if they should take this under consideration until tomorrow or take action today. Chair Souki told the Commission members there would need to be a motion and the agenda could be amended with a 2/3 vote since it's not a significant issue for the public. He also pointed out that a chair would be needed as well as members and a concise statement of what the mission is about.

Commissioner Soon pointed out that Commissioner Rae was interested in such a group and perhaps they should wait until he returns to establish it.

Governor Waihee asked if they could just form an ad-hoc committee instead of a PIG, off the board. Chair Souki explained that a PIG would allow the Commissioners to meet and then return to the Commission with a report which would require an additional meeting for adoption of the report. If they form a committee, it will require public notice and will slow down the work.

Governor Waihee agreed that a public notice would slow down the work. Chair Souki said that it just depends on how the Commission wants to approach it, saying that a PIG would be more nimble.

Governor Waihee agreed that whatever is more nimble is best.

Chair Souki explained further that a PIG is like a working group that can discuss the issues, collect information, talk to whomever they want, and talk to each other.

Governor Waihee asked if, as part of the discussion, they can have staff prepare a motion for an interaction group that we can take up tomorrow. We're going to need two motions: one to allow it to be on the agenda, and one to pass it.

Chair Souki agreed and said he'll work with staff. He understood that what the Commissioners had in mind was an investigation into the City's boards and commissions and their effectiveness.

Commissioner Soon observed that various Directors seemed to be a little politically correct in answering Commissioners' questions, that maybe they were in an awkward position to be making recommendations.

Governor Waihee suggested they speak to the Mayor's Chief of Staff and ask why the meeting has to be so scheduled next week.

Commissioner Soon wondered if it was likely that the Commission would receive any recommendations about the boards and commissions and that the Commission believes recommendations will have to be Commission-initiated. She asked if that were the rationale for establishing a PIG for that subject. Chair Souki confirmed that was the rationale for the PIG. He said he expects the PIG to investigate this and come back with some recommendations saying "everything's fine" or perhaps further investigation might be necessary.

Commissioner Soon reiterated that this was because such recommendations are unlikely to come to the Commission.

Seeing not further discussion, Chair Souki moved on to "Announcements."

V. ANNOUNCEMENTS

Chair Souki announced that the next meeting will be on Thursday, July 30, 2015, at 3pm in the conference room.

Commissioner Soon inquired about the sign up list for the neighborhood board meetings. At this point, Chair Souki provided information for those who missed the earlier discussion about the supermajority vote and the deadline. He told the Commissioners that staff reviewed the minutes and will put together an explanation or send it to them by email. If any of the Commissioners think that's an issue that should be pursued further after reading that, it can be brought up at a subsequent meeting. The neighborhood board meetings are part of the phase 1 outreach. It is the Commission's hope to visit all the neighborhood boards. To that effect, he said that staff will email each Commissioner the times already secured on neighborhood board agendas for August and September. He remarked that it would be helpful if the Commissioners volunteered to talk to one of the thirty-three boards.

Commissioners Soon and Broderick asked if they were going to talk to each one; that they thought the Commission was going to send them all a letter. Chair Souki responded that a letter would be ok but he's in favor of visiting any that are feasible such as the downtown neighborhood board that he likes going to. He didn't think it necessary to cover the entire island. Commissioner Soon suggested that the boards should get adequate notice including a timeline and an idea of the functions of the Commission. There was some discussion about how previous Commissions handled this. Commissioner Broderick cautioned about visiting some boards and not others and supported the suggestion that the Commission simply send a letter. That would be more than sufficient.

Commissioner Taniguchi suggested asking the Mayor's representative, who goes to every neighborhood board meeting, to remind each board about the Commission.

Chair Souki agreed that sending a letter would be fine.

Chair Souki then brought up the issue of the time for the Commission meetings. He noted that the upcoming Friday agenda is very long and that they decided to recess the meeting and hear the presentations by HART and BWS the following Tuesday at 3pm. He asked if future meetings could be changed to start at 5pm or later. Commissioner Broderick said he'd prefer that. Chair Souki agreed that it would be 5pm beginning after the public informational briefings.

VI. Adjournment

The meeting adjourned at 5:32pm