

Charter Commission

CITY AND COUNTY OF HONOLULU

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



THURSDAY, MAY 21, 2015
1:30 P.M.
COMMITTEE MEETING ROOM
HONOLULU HALE

MINUTES

Charter Commission Members Present:

Michael F. Broderick
Reginald V. Castanares, Jr.
Guy K. Fujimura (arrived at 2:00 p.m.)
Donna R. Ikeda
Kevin D. Mulligan
Nathan T. Okubo
Paul T. Oshiro
David W. Rae
Cheryl D. Soon (arrived at 1:39 p.m.; left at 2:39 p.m.)
Jesse K. Souki
Edlyn S. Taniguchi
R. Brian Tsujimura
John D. Waihee III (arrived at 1:38 p.m.)

Others Present:

Derek Mayeshiro, Deputy Corporation Counsel, Department of the Corporation Counsel
Dana Viola, Deputy Corporation Counsel, Department of the Corporation Counsel

I. Call to Order by Chair

With a quorum present, Chair Jesse Souki called the meeting to order at 1:34 p.m. Chair Souki inquired if anyone from the audience intended to testify on any item on the agenda. There was no response.

II. For Approval

Chair Souki first asked the Commissioners for volunteers for the standing committees. He further stated that all Commissioners would be allowed to participate and discuss matters in the standing committees, but only members of the standing committees will be allowed to vote.

Chair Souki then addressed the approval of the minutes for the prior meetings. He stated that for one of the meetings, the recorder was not functioning properly.

a. Minutes of Meeting on March 6, 2015:

Chair Souki allowed time for the Commissioners to review the minutes. Commissioner Tsujimura moved to approve the minutes of the March 6, 2015 meeting. Commissioner Castanares seconded the motion. There was no discussion. All Commissioners present voted in favor of the motion. There was no opposition. Motion passed.

b. Minutes of Meeting on March 18, 2015:

Chair Souki allowed time for the Commissioners to review the minutes. Vice Chair Rae moved to approve the minutes of the March 18, 2015 meeting as circulated. Commissioner Broderick seconded the Motion. There was no discussion. All Commissioners presented voted in favor of the Motion. There was no opposition. Motion passed.

c. Minutes of Meeting on April 16, 2015:

Chair Souki allowed time for the Commissioners to review the minutes. Discussion held regarding the identity of commissioners who made motions to appoint the chair and vice chair. Commissioner Waihee stated that he was the commissioner that nominated Chair Souki as Commission Chair. Vice Chair Rae stated that he was the commissioner who seconded that motion. Commissioner Oshiro stated that on page 2 of the minutes, he was the one who nominated Vice Chair Rae as the Vice Chair of the Commission. Commissioner Castanares stated that he seconded that motion. On page 7 of the minutes, Chair Souki stated that he moved to add Commissioner Soon to the Outreach PIG.

Commissioner Soon moved to approve the minutes of the April 16, 2015 meeting, as amended. Commissioner Broderick seconded the motion. There was no further discussion. All Commissioners present voted to approve the minutes. There was no opposition. Motion passed.

III. Permitted Interaction Group [Outreach PIG] Report:

Chair Souki continued to the next agenda item regarding the PIG for the outreach plan for solicitation of charter proposals. He stated his understanding was that the group is not ready to give its report, but it wanted to share something.

Commissioner Soon stated that the group has met and wanted to make its report at the next meeting. Chair Souki stated that the PIG did not want to make its report at this time because the discussion would have excluded the executive administrator who has not yet been retained. No report given and no discussion or action taken.

Chair Souki also stated that he's getting questions on the procedure of submitting proposals to the Charter Commission. He stated that the Commission has adopted rules that outline the process, so commissioners can refer people to the amended rules.

IV. Permitted Interaction Group [Personnel PIG] Report:

Chair Souki recognized Commissioner Mulligan who reported for the PIG. Commissioner Mulligan reported that the Commission received 26 applications for the position of executive administrator. He stated that all applications and resumes were reviewed and the PIG interviewed two applicants. The PIG has a recommendation for approval by the Commission.

Vice Chair Rae moved to enter into executive session to discuss matters pertaining to personnel. Commissioner Castanares seconded the motion. There was no opposition. Motion passed and the Commission convened an executive session. Chair Souki invited the deputies corporation counsel to attend.

V. Executive session held from 1:41 p.m. to 2:01 p.m.

MEETING RESUMED IN OPEN SESSION

At 2:01 p.m., with 13 members present (Broderick, Castanares, Fujimura, Ikeda, Mulligan, Okubo, Oshiro, Rae, Soon, Souki, Taniguchi, Tsujimura, Waihee – 13); the Commission resumed in open session.

VI. For Action

a. Discussion and Decision and Adoption of a Charter Commission Calendar

Chair Souki noted that the discussion of the calendar is on the agenda, but the item will be deferred until the Executive Administrator is hired. Commissioner Soon inquired about how to respond to people with questions about submitting

proposals. Chair Souki responded that the process is outlined in the adopted Rules which were distributed. The public with such inquiries can be directed to that section in the Rules. Commissioner Soon inquired who is identified on the form to receive the proposals. Chair Souki responded that the form specifies Ms. Sharleen Oshiro. Commissioner Soon inquired whether the proposals will be submitted to the executive administrator once that person is hired. Chair Souki responded that it depends on what the Commission wants. Discussion was held regarding whether Ms. Oshiro will continue to support the Commission after the executive administrator and researcher are hired. Ms. Oshiro responded negatively, but she will assist to ensure a seamless transition. Chair Souki and Commissioner Soon thanked Ms. Oshiro. Chair Souki also thanked Corporation Counsel for assisting with the Commission minutes.

Commissioner Soon inquired if there was a deadline for the charter proposals. Chair Souki responded that the deadline is in October and that there is a form in the back of the rules. Upon review of the form, Chair Souki stated that the deadline is left blank. He noted that the blank in the form on page 10 needs to be filled in with October 31, 2015.

Commissioner Soon inquired if the Commission will have its own website. Chair Souki responded that it is a subject for further discussion. He stated that if the executive administrator and staff can coordinate it, there is money in the budget to cover it. Discussion held regarding whether the form and the procedures for charter proposals will be on the website.

Chair Souki reiterated that members who wanted to participate in committees should let him know by the next meeting.

Vice Chair Rae encouraged the Commission to form committees based upon sections of the charter or subject matter. He reasoned that the Commission could operate more efficiently without the entire Commission meeting on every single thing. He commented that the proposals could be researched more efficiently in this manner.

Chair Souki commented that this is why the executive administrator (EA) is so important. The EA can coordinate with everyone without sunshine law restrictions. He continued that the EA could gather all the information and layout a strategy and a calendar. Chair Souki inquired if Vice Chair Rae envisioned additional standing committees beyond the five current ones.

Vice Chair Rae responded that his thought was permissive interactive committees. He reasoned that the PIGs could call people in, talk to people, including the managing director's office or various council members as long as the members do not exceed quorum.

Commissioner Soon commented that the limitation she saw with using PIGs was that once it makes its report, the PIG no longer exists. She stated that a standing committee allows more reporting.

Chair Souki highlighted that any standing committee is subject to the sunshine laws. But, those standing committees can also have PIGs. So, the committees can think about what needs to be addressed through that tool because it allows investigation of an issue more easily than a committee.

Commissioner Soon inquired if a committee has authorization to form a PIG. Chair Souki responded affirmatively. He stated what would happen is the committee would form an investigation group who would go out and do an investigation, would report back to the committee and the committee needs to make a recommendation to the full commission to take action. Vice Chair Rae commented that standing committees don't lend themselves to specific issues, but PIGs could be targeted to various sections. Chair Souki noted that in 2005, the Commission had someone from the law school advising the Commission. Vice Chair Rae stated that the 2005 Commission reached out to the law school and law students and others came in to volunteer their time similar to an internship. He commented that the big re-organization portion was handed to the Commission from the then Mayor's office.

Commissioner Soon recalled that at the first meeting, the briefing on previous commissions explained how other charter commissions took different approaches, from starting over to just tweaking. This Commission seems to be on a path to consider other people's proposals rather than their own. Vice Chair Rae said that he has a list. Commissioner Soon stated that there needs to be a meeting to sort some of that out. She asked, "What is the approach of this Commission?"

Chair Souki suggested that there may be people in the community who have an interest in certain substantive issues. Commissioner Waihee stated that the standing committees are administrative. He said so there really isn't any organization structure to deal with substance. The Charter has different parts to it, as in Con Con, which had various areas handed out to committees who then reported back to the whole. Vice Chair Rae agreed with Commissioner Waihee.

Chair Souki explained that this is what he was trying to say with that model of having a group that can really do a good, fair evaluation of the substantive issue aside from a PIG or a committee. That this group can be trusted by the public and the commission and that they go do something and come back and they make a recommendation about what the right direction is and the Commission decides. Commissioner Soon believed that this delegates away the Commission's duties. She stated that the group should deal with substantive issues so there is a direct connection to the Commission. She stated that the executive administrator could have a workshop. The concept of a workshop also allows for certain things under the sunshine law that gives some flexibility that you don't have when you are

sitting in a circle. She said that this will allow the Commission to get organized. After the Commission gets organized, each special committee can invite members of the public to do a presentation.

Chair Souki inquired if the Commission held a workshop what outcome would Commissioner Soon like to see. She responded, "Our own organization. How we are reviewing the charter."

Vice Chair Rae said that there are some members more familiar with city operations than others and that those members can take a look at the charter and section out four or five substantive areas.

Commissioner Waihee stated that proposals will be coming from the public and government itself and the proposals must be filtered.

Chair Souki asked the Commissioners if they could schedule the next meeting. However, he asked the Commissioners to review the rules because they contemplate a framework of shifting through all the information they have. He reminded the Commissioners that the rules could be changed if needed.

Vice Chair Rae stated that Commissioners Soon and Waihee are struggling with a conceptual framework of what pigeon hole to put what set of information into. Commissioner Soon commented that the Commissioners should just read through the City Charter and come up with their own proposal and see where they match up. At least determine if there are any big areas of concern.

Commissioner Waihee asked Corporation Counsel to advise the Commission on the difference between how the sunshine law applies to workshops and how it applies to meetings. Vice Chair Rae stated that he did not believe there was a difference.

Commissioner Waihee elaborated that a committee is limited by certain meeting requirements. However, a workshop format allows the Commission to form temporary discussion groups that are not PIGs. But, the groups are allowed to caucus and make recommendations back to the Commission after their discussions. To take formal action, the Commission would have to convene into a formal meeting. So, the workshop is schedule first, then a meeting is scheduled at the end of the day. He said that "All of this is public but the only difference is we don't get caught up with PIGs and other kinds of pork."

Chair Souki said that Corporation Counsel could research the concept of workshops and report back. However, he stated that as long as the group is making a decision or working towards a decision, the sunshine law applies. But, it does not stop the Commission from having some kind of workshop as part of a public outreach. It will educate the public about issues and what the charter is, and how to submit proposals. He said then, what we get as proposals will be

things that we can actually work with and understand and try to implement and get on the ballot which is our task in a shape on the ballot so that voters can final decide.

Commissioner Soon stated that in the event that the Commission is not able to do a workshop, it could have a plan B whereby the agenda of a meeting formats itself in a way that allows the Commissioners to discuss how to do the substance of the work. Chair Souki believed that this discussion will be helpful to the Outreach PIG and the EA. He stated that hopefully at the next meeting a recommendation could be ready.

Commissioner Soon stated that she believes that the issue is fundamental to how the Commission does its business. She commented that it isn't a matter that the executive administrator actually decides or the community. She said that the Commission wants to embrace the community and bring them into the process, but that implies that the Commission needs to have a process which it doesn't right now. She said that "We're not that far away from it but we just don't have it yet. We're talking about it."

Chair Souki agreed that he didn't think that the Commission was going to decide this during a meeting. However, with the PIG and the EA, the Commission will have more flexibility to process this information and figure out how the Commission can make it work and make a proposal. And that's something for the Commission to think about further and comment on.

Commissioner Soon commented that she did not believe this issue was assigned to the Outreach PIG. She stated that the Outreach PIG was created to say how to make sure the public gets a say in charter proposals, not how the commission should organize itself.

Commissioner Ikeda stated that the group has to come together and discuss this. She continued to say that it doesn't matter how they decide to organize it but there needs to be an open discussion among themselves so they are in agreement. She said that she would not like to have a committee come back and say this is what we recommend and not having been a part of the internal discussion to see how they reached that conclusion.

Vice Chair Rae stated that he sees no reason not to do that at our next regularly scheduled meeting. Have an agenda item that says that Commission has to discuss how to break up into the various groups and what parts of the charter needs to be categorized and have an agenda item that's broad enough to allow us to do that.

VII. Announcements

a. Time, Date and Location of Next Meeting.

Commissioner Soon moved to have the next meeting on June 25, 2015.
Discussion held as some Commissioners were not available on this date.
Commissioner Soon suggested June 23, 2015.

As the availability of the Council meeting room was being determined, Chair Souki suggested that it would help discuss the internal organization of the Commission if the EA review the rules of past commissions.

Discussion held regarding the wording of an agenda item allowing discussion of the Charter Commissions organizational structure.

Discussion held on the time for the next meeting. Chair Souki stated that the next meeting will be on June 23rd at 3:00 p.m.

Discussion returned to Commission's organizational structure and approach.

Commissioner Fujimura noted that in terms of recommendation of corporation counsel, amending the rules is important, but according to the discussion, the Commission will also consider what is possible, rather than amending rules. If the Commission amends the rules, they are going back to where they are now. Commissioner Waihee's proposal is a way to accommodate a cultural practice, which is to have a general discussion before engaging in the decision-making portion. He said that the process requires people to mull it over, roll it out and take a look at it. Commissioner Fujimura continued to say that Commissioner Ikeda's comments recommended that the discussion group not make recommendations, but just report back to the entire group what the discussion group covered. However, corporation counsel needs to determine if it complies with sunshine law, determine what is possible rather than make another rule.

Vice Chair Rae stated that any of the Commissioners can meet with anyone to discuss Charter business at any time. He said, "That's one of the thing of being *sui generis* so that there's nothing to prohibit you from meeting with the mayor or a councilmember or whoever." He added, "So long as it's not with another commissioner."

Chair Souki noted that there are basic ingredients for the rules – they must let everyone know how to submit proposals, how the Commission will review proposals, the criteria to make those determinations, and meet deadlines. Chair Souki stressed that his only concern is a fair and open process. He also stressed that the Commission has to decide what the new rules will be because the Commission is already inviting proposals. So, the Commission must figure out how it will consistently and fairly review them. He distinguished between the Commission's responsibility to develop a system to review and evaluate the proposals and the Commission suggesting its own proposals. He emphasized that these two things must happen orderly.

Commissioner Fujimura agreed with the Chair and feels they are two separate things – soliciting input is one thing and looking at an idea and rolling it around is another. He also commented on Commissioner Soon’s query regarding the type of approach the Commission will have for this session. He asked, “Do we want to examine everything and recommend changes or manage what comes to the Commission, 95% of which will come from the Council and the Mayor’s office?” This is also a new day and a lot of people in the public that have particular concerns that want to be at the table. At some point, there is a difference between being a public participant or trying to contribute to the process and being the people that have to make the decisions about the process. Commissioner Fujimura continued to say that if the Commission considers the extent of public participation, there is a line between managing what comes in and everyone’s input on big issues. There are big issues that are not resolvable in the charter, such as homelessness.

Commissioner Waihee commented that following the rules dictates a certain kind of process. If we are not careful, the process that the sunshine law is dictating for this commission is very passive. So that we would basically sit back and whatever comes, comes, and so forth and so on. That process does not allow for us to take initiative. He clarified that he’s not saying this is good or bad. But, he said that the only way to take initiative is to take control of the subject matter, getting intensely involved in it, structuring yourself so you can do that. None of this was anticipated when sunshine laws written. So we have to find ways to evolve to accomplish that. Otherwise, basically, we have an operation that is very passive.

Vice Chair Rae responded that the Commission can accommodate some of that by having agenda items that are broad enough to go where an item may go.

Commissioner Waihee then countered with the question of how to word the agenda. Vice Chair Rae emphasized that the Commission can add agenda items by super majority. Deputy Corporation Counsel Viola cautioned that there is a public notice provision so that public can participate. Chair Souki responded that the threshold is if it’s substantive as opposed to technical and nonsubstantive. If the agenda is amended to add a big substantive issue, it wouldn’t work.


Chair Souki summarized the discussion by asking the Commissioners if they wanted the next agenda to discuss the process and revisit the rules. Commissioner Waihee responded that he does not believe that the Commission wants to revisit the rules. He said that the rules will suffice and they don’t hinder the Commissioners one way or another. Chair Souki encouraged the committees to be creative even though the rules don’t say much about what committees do. Commissioner Waihee noted that the rules allow for special committees so maybe we can have a discussion on special committees. Commissioner Ikeda, in reading minutes of the first meeting, didn’t see anything that says the commission can’t have a PIG of the whole. Chair Souki clarified that PIGs can have however many as long as less than quorum. Vice Chair Rae commented that special committees are fine, but believed strongly about dividing the charter into substantive sections, then having a special committee for each

sections. He agrees with Commissioner Waihee that most of the Commissioners do not want to just passively wait for proposals to come in. Chair Souki affirmed that the big idea is within this process

VIII. Adjournment

The meeting adjourned at 2:49 p.m.

Respectfully submitted,



Derek T. Mayeshiro
Deputy Corporation Counsel