

Charter Commission

CITY AND COUNTY OF HONOLULU

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



MARCH 23, 2016 COUNCIL COMMITTEE MEETING ROOM HONOLULU HALE

MINUTES

Charter Commission Members Present:

David W. Rae, Chair
Kevin Mulligan, Vice Chair
Judge Michael F. Broderick
Reginald V. Castanares, Jr.
Guy K. Fujimura
Donna Ikeda

Nathan T. Okubo
Cheryl D. Soon
Edlyn S. Taniguchi
R. Brian Tsujimura
John D. Waihee III, Governor
Pamela Witty-Oakland

Charter Commission Member(s) Excused/Absent:

Paul T. Oshiro

Others Present:

- Roy Amemiya, Jr., Managing Director
- Gary Nakata, Director, Department of Community Services
- Senator Will Espero
- Aaron Hunger
- Senator Cynthia Thielen
- Councilmember Brandon Elefante
- Natalie Iwasa
- Derek Mayeshiro, Deputy Corporation Counsel
- Linda Luli Nakasone Oamilda, Executive Administrator, Honolulu Charter Commission
- Mary James, Research Analyst, Honolulu Charter Commission
- Norma Reyes, Secretary, Honolulu Charter Commission

I. CALL TO ORDER

Roll Call.

With a quorum present, Chair Rae called the meeting to order at 3:31 p.m.

II. DISCUSSION AND ACTION

Deliberation and decision-making on the Report on the Findings and Recommendations by the Permitted Interaction Group (PIG) established to review proposals relating to the Police Department and the Police Commission pursuant to Hawaii Revised Statutes Section 92-2.5(b).

TESTIMONY

Senator Will Espero testified that he would like the Mayor to have the authority to terminate the Police Chief with the concurrence of the Police Commission. Senator Espero cited numerous examples of the administrative process in handling employee discipline. Governor Waihee confirmed that they all had to do with accountability of the Police Commissioners. Chair Rae noted that there are term limits although Police Commissioners can be appointed for a new term after being off the Commission for one year.

Aaron Hunger testified that he agrees with Commissioner Soon's suggestion to clarify Section 6-1606 of the Charter. He also suggested that the Police Commissioners have various qualifications such as human resources and investigation experience which he feels would be better than the current lay Commissioners.

Senator Cynthia Thielen testified that the Charter Commission needs to put something before the voters to try to fix the problem of accountability.

Roy Amemiya, Jr., Managing Director, testified on behalf of the administration in support of the PIG's recommendations.

DISCUSSION

Commissioner Mulligan clarified the proposal made by the PIG regarding the criteria from the Missouri Revised Statutes. The intent of the PIG is to change the position of Police Chief into an at-will position to serve at the will of the Police Commission providing for termination at any time, highlighting four reasons. Commissioner Fujimura clarified that the four causes for termination listed are intended to be modifiers, but the key is at-will. He also stated that the PIG felt that if the Mayor is given the authority to fire the Police Chief, then the Mayor should also hire the Police Chief. However, there shouldn't be interference with running the Police Department. The Police Chief should have the authority to consider the Police Commission's recommendations and act appropriately in a timely manner.

The Commissioners discussed whether "at-will" conflicted with the stated reasons for firing. The Commissioners felt that the reasons provided give the Police Commission the

ability to suspend the Police Chief while the Police Commission investigates the issue. They also felt that a provision should be added for violation of the U.S. Constitution and the laws of the U.S., the State Constitution and the laws of the State, and the Charter and the ordinances of the City.

Commissioner Ikeda moved to have the Police Chief appointed by the Mayor with the advice and consent of the City Council. Governor Waihee seconded the motion. Commissioner Fujimura felt that removal should not require the City Council's approval, so that the entire authority would rest with the Mayor. However, he also noted that there would be no transparency because the public would not be involved in the process, as opposed to the Police Commission or City Council where interested parties can testify. A roll call vote was taken on the motion. Three were in favor of the motion and six against it. The motion failed.

Governor Waihee moved to accept the recommendations of the PIG as amended and send the proposals to the Style Committee. The motion was seconded and passed with a unanimous voice vote.

IV. DISCUSSION AND ACTION

Deliberation and decision-making on submitted proposals relating to Housing.

At this time Chair Rae recognized Councilmember Brandon Elefante and announced that Item IV on the agenda relating to Housing would be taken out of order.

TESTIMONY

Councilmember Elefante testified in support of Proposal 3 and noted that he also submitted written testimony. He explained that his intent was to provide a resource for affordable housing developers to help with gap financing.

Gary Nakata, Director, Department of Community Services, testified in support of the Administration's Proposal 66.

Commissioner Mulligan asked Director Nakata about the development of affordable housing. Director Nakata said that there was a presumption that the private sector would provide affordable housing which didn't occur in sufficient inventory. He feels that the issue is what additional assistance the developers need to add to the affordable housing inventory. Commissioner Fujimura noted that when the City discontinued the housing business, there was not the large homeless population that exists today. He feels that the question now is who would be better to pick up the slack in increasing the affordable housing inventory. Director Nakata countered that this administration is looking at ways, old and new, to find more affordable housing. Chair Rae noted that housing is mentioned

in several places in the Charter and suggested that it may be helpful for it to be consolidated in one place and Director Nakata agreed.

Director Nakata then confirmed for the Commission the responsibility of the different aspects of housing:

- Affordable housing requirements for new construction is handled by Department of Planning and Permitting;
- Management of the City's existing portfolio of affordable housing is managed by the Department of Facilities Management;
- Section 8 funds are administered by the Department of Community Services; and
- General obligation bonds for fiscal year 2016 are budgeted to the Department of Community Services and implementation is done by the Office of Strategic Development.

Roy Amemiya, Jr., Managing Director, testified that administration is supporting Proposal 66 because it brings all the housing elements into one single department.

Commissioner Tsujimura moved that Proposal 66 be sent to the Style Committee. Commissioner Witty-Oakland suggested creating a permitted interaction group instead to investigate housing proposals attached to that day's agenda and to address the City's housing policies, centralization of the housing functions, the periods of affordability, and the target household income levels for projects using the City's Affordable Housing Fund and recommended drafting a modified housing proposal that pulls these issues together. Commissioner Tsujimura withdrew his motion. Commissioner Witty-Oakland then moved to create a Housing PIG to investigate the housing proposals attached to the agenda, and corresponding testimony, and to address the housing issues previously noted. The PIG would include Commissioner Witty-Oakland, Nathan Okubo, Edlyn Taniguchi, and Rick Tsujimura. Commissioner Mulligan seconded the motion. There was a unanimous voice vote in support of the motion.

III. PERMITTED INTERACTION GROUP REPORT

Report on the Findings and Recommendations by the Permitted Interaction Group on proposals relating to Ethics pursuant to Hawaii Revised Statutes Section 92-2.5(b).

TESTIMONY

Natalie Iwasa testified that she asked for the report of the Ethics PIG on the day the agenda was posted but did not receive it until today's meeting. She said that for Proposal 39, her only concern is related to the possibility of a part-time executive director and asked that the phrase providing for a "less than full-time" position be deleted. She testified in support of Proposal 107 which she introduced. She then noted her concern regarding the lack of independence of the Ethics Commission.

Chair Rae addressed Ms. Iwasa's complaint regarding the availability of the PIG report to clarify that the report of the PIG is due when the Commission meets. Everyone, including the Commissioners, received the report at the same time at the meeting.

Vice-Chair Mulligan gave the PIG report on the Ethics Commission. Proposal 15 was not considered. Proposal 39 attempted to give the Ethics Commission additional independence in setting salaries for its attorneys. Proposal 107 was considered but would require considerable expense to implement and would duplicate some of the functions of the Ethics Commission and the City Auditor. The proposal was based on the City of Oakland, California, process which Vice-Chair Mulligan explained and how it differed from Honolulu's situation. The PIG also discussed this with the Executive Director of the Ethics Commission. The PIG recommends leaving the current appointment process in place but possibly adding the qualifications used by Oakland. Proposal 114 was submitted by the League of Women Voters to support increased independence for the Ethics Commission by adapting a process from Georgia, where members are selected by various organizations. The PIG felt that there was no basis for the organizations making the selections and does not recommend the proposal. Proposal 147 is not a proposal but several editorial statements and therefore, should not be considered. Proposal 153 pertains to gifts to elected or appointed officials, which language is overly broad and will be difficult to enforce. The PIG requested staff to do additional research and so, made no recommendation on this proposal. Depending on staff research, there may possibly be a recommendation later.

Commissioner Tsujimura asked if the PIG considered Hawaii State law, and Vice-Chair Mulligan confirmed that the PIG did but not extensively. Commissioner Ikeda noted that at the first meeting, Commissioners were told by Corporation Counsel that the Commissioners are exempt from ethics provisions because the Charter Commission is not a political body, but a constituent body. She then inquired whether or not, as a constituent body, the Commission is a political subdivision and whether the Commission has the authority to amend the Charter. She requested that Corporation Counsel provide an opinion on whether the Charter Commission is a constituent body and has the authority to amend the Charter. Chair Rae directed staff to send a written request for an opinion from Corporation Counsel.

Chair Rae noted that the Commission has now reviewed every submitted proposal at least once.

V. ANNOUNCEMENTS

The next meeting will be on March 24, 2016, 3:30 p.m.

VI. ADJOURNMENT

There being no further business, the meeting was adjourned at 5:42 p.m.