

Charter Commission

CITY AND COUNTY OF HONOLULU

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



JULY 12, 2016 COMMITTEE MEETING ROOM 205 HONOLULU HALE

MINUTES

Charter Commission Members Present:

Kevin Mulligan, Vice Chair
Judge Michael F. Broderick
Reginald V. Castanares, Jr.
Guy K. Fujimura
Donna Ikeda
Nathan T. Okubo

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

Commission Members Excused/Absent:

David W. Rae, Chair

Others Present:

Roy Amemiya, Jr., Managing Director
Donna Leong, Corporation Counsel
Dawn Spurlin, Deputy Corporation Counsel
Krishna Jayaram, Deputy Corporation Counsel
Dana Viola, Deputy Corporation Counsel
Lynn Wakatsuki, Deputy Corporation Counsel
Duane Pang, Deputy Corporation Counsel
Kamilla Chan, 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

Testifiers:

Flora Obayashi
Kaneala Peters-Clark
Ken Farm
George Massengale
Michelle McCoy
Marjorie Ziegler
Leah Hong

I. CALL TO ORDER

Roll Call: Edlyn Taniguchi, John Waihee, Kevin Mulligan, Nathan Okubo, Cheryl Soon, Michael Broderick, Paul Oshiro, Reggie Castanares, Donna Ikeda, Rick Tsujimura.

With a quorum present, Vice Chair Mulligan called the meeting to order at 3:30 p.m.

Governor Waihee and Commissioner Witty-Oakland arrived following Roll Call.

II. DISCUSSION AND ACTION

Discussion and action on the City agency review and legal review of Proposals 3, 23, 29, 36, 40, 42, 44, 54, 76A, 78, 80, 102, 116, 120, 153, and C-5.

The Commission anticipates convening an Executive Session closed to the public pursuant to Hawaii Revised Statutes §92-4 and §92-5(a)(4) to consult with its attorneys on questions and issues relating to their legal analysis and recommendations for the Charter proposals identified and described in the Attachment of the agenda.

Testimony:

Flora Obayashi requested to testify on Proposals 40, 42, and 44. For Proposal 40, she read a letter from the Kahaluu Neighborhood Board 29 that requested the proposed amendment not apply to the Neighborhood Commission and neighborhood boards. The boards provide an important forum to enabling the communities to review and comment on important issues in their community which affect their island quality of life. Ms. Obayashi testified in opposition to Proposal 44 which she believes will limit the voices of their kupuna who are important to our culture and history. Commissioner Broderick noted that the proposal applies equally to all boards and commissions, but Ms. Obayashi felt that the neighborhood boards are being targeted because they operate differently.

Kaneala Peters-Clark noted that he is 16 years old and being trusted by Stanley Chang to testify in support of the Youth Commission proposal to give young people a platform to participate in government.

Ken Farm testified in support of Proposal 102 to create a Youth Commission to encourage young people to participate in government.

George Massengale, Community Outreach Manager, Habitat for Humanity, noted that written testimony was submitted on Proposal 3 and testified on the issue of the sale of housing in the Affordable Housing Fund. He said there should be an opportunity or mechanism for lower income individuals and families to use the Fund to access for-sale housing. He described his organization and its mechanisms for providing low income housing.

Roy Amemiya, Jr., Managing Director, testified on behalf of the Administration and noted that written testimony was submitted explaining that they continue to hold the same positions as held in the past. Mr. Amemiya noted additional language to Proposal 54 suggested by the Department of Facilities Management, and Proposal 153 on which the Administration did not take a position but remarked on the letter sent by Vice Chair Michael Lilly of the Ethics Commission in opposition to the proposal.

Marjorie Ziegler testified in opposition to the proposal regarding the Clean Water and Natural Lands Fund and the process it creates for review of project applications. Her concern is whether the process is fair, transparent, and nonpolitical. Ms. Ziegler also noted that the process for creating a new commission is not clear and expressed her concerns regarding continuity and institutional memory. She left her written testimony with the Commission.

Leah Hong, State Director, The Trust for Public Land, testified in support of Proposal 116.

Vice Chair Mulligan announced that the Commission would convene an executive session pursuant to Hawaii Revised Statutes sec. 92-4 and sec. 92-5(a)(4) to consult with its attorneys on any questions and issues relating to their legal analysis and recommendations for the Charter proposals identified and described in the attachment. Governor Waihee moved that the Commission convene into executive session. Commissioner Broderick seconded the motion.

At 3:55 p.m. the Commission convened into executive session.

At 5:34 p.m. Vice Chair Mulligan called the meeting back to order and explained that the listed proposals have gone through the Style Committee and have been reviewed by the Corporation Counsel. The Commission can now consider whether any additional changes are needed.

Commissioner Paul Oshiro inquired about proposals still pending requiring legal opinions. Deputy Corporation Counsel (DCOR) Dawn Spurlin noted that some opinions will be sent tomorrow and that the deputies will be monitoring committee meetings for edits to be made before the final proposals. In addition, staff will be making minor technical nonsubstantive corrections.

Commissioner Witty-Oakland noted that, after conferring with the Department of the Corporation Counsel (COR) on Proposal 3, the permitted interaction group made amendments which she read into the record for clarity. She explained that in Exhibit B, monies in the Affordable Housing Fund can only be used to provide affordable rental housing for persons earning 60% or less of the median household income in the city for the provision and expansion of affordable rental housing and suitable living environments in projects, which may include mixed-use, mixed-income projects having residential units that are principally for persons of low and moderate income through land acquisition and for development of, construction and/or capital improvements or rehabilitation to such housing provided that the funded housing remains affordable for at least 60 years. She noted that a marked-up copy will be provided to staff.

Upon explanation of the process by DCOR Spurlin, Commissioner Witty-Oakland moved to amend Proposal 3 as stated. Hearing no objection, the motion passed.

Vice Chair Mulligan noted that there were no changes to Proposal 23, therefore, no action was needed.

DCOR Pang recommended minor changes to Proposal 29. Commissioner Tsujimura moved to amend Proposal 29 as recommended by COR. Governor Waihee seconded the motion. Hearing no objection, the motion passed.

Commissioner Oshiro noted that there was one change to Proposal 36 and moved that Proposal 36 be amended as recommended by COR. Governor Waihee seconded the motion. Hearing no objection, the motion passed.

Vice Chair Mulligan suggested possible amendments to Proposal 40 and noted that it will be taken up tomorrow.

Commissioner Oshiro noted that there were no changes to Proposal 42, therefore, no action was needed.

Vice Chair Mulligan noted that there were no changes to Proposal 44, therefore, no action was needed.

Commissioner Soon had no amendments to Proposal 54, therefore, no action was needed.

DCOR Spurlin noted that there were technical nonsubstantive amendments to Proposal 76A and will work with staff on the correct version. Commissioner Tsujimura moved to adopt the proposal as amended by COR. Governor Waihee seconded the motion. Hearing no objection, the motion passed.

Commissioners then discussed the necessity or desirability of passing a backup proposal to Proposal 76A in the event that Proposal 76A is not approved by the voters. Alternatives included discussion at the Commission meeting the next day or at the Submission and Information Committee meeting. However, COR cautioned that any isolated proposal would need to take into consideration its impact on other Charter proposals, and COR would need to review both proposals for consistency in the event that both proposals pass, and if only one passes that it can stand alone and be independent and have clear meaning.

Commissioner Fujimura expressed his concern that COR be able to look at the impact of the proposals and the timing of the process. Governor Waihee preferred that the Commission continue with Commissioner Ikeda's suggestion and Commissioner Ikeda deferred to the Submissions and Information Committee's review and decision.

Vice Chair Mulligan noted the minor or technical nonsubstantive amendments suggested by DCOR Wakatsuki to Proposal 78. Governor Waihee moved that the proposal be amended as recommended. Commissioner Broderick seconded the motion. Hearing no objection, the motion passed.

Vice Chair Mulligan moved on to Proposal 80 for which DCOR Chan has sent amended language in the form of Exhibit B. Commissioner Tsujimura moved that the Exhibit B be adopted. Governor Waihee seconded the motion. Hearing no objection, the motion passed.

Vice Chair Mulligan noted that there was no COR opinion on Proposal 102, therefore, no action was required.

Vice Chair Mulligan noted that Proposal 116 regarding the Clean Water and Natural Lands Commission will require the Commission to create an executive department. DCOR Jayaram confirmed for Commissioner Soon that the mayor could move the function to the new department upon City Council approval. Vice Chair Mulligan also noted that testifier Marjorie Ziegler added language to the proposal and that will be discussed at the Commission's meeting on next day.

Vice Chair Mulligan did not discuss Proposal 120 as it was not provided and then noted that there were no recommended changes to Proposal 153 and therefore, no action was required.

Commissioner Soon moved that the language offered in Exhibit B from Corporation Counsel relating to Proposal C-5, with an additional change to item f, to replace “in” with “with particular focus on such interest in” Governor Waihee seconded the motion. Hearing no objection, the motion passed.

III. ANNOUNCEMENTS

Governor Waihee announced that the Submission and Information Committee met prior to this meeting and adopted a working draft plan to address the proposals and to assist in decision-making. He described the framework which is based on themes and suggested that all the proposals to be discussed at the Wednesday, July 13th Commission meeting be grouped accordingly. Commissioner Tsujimura restated the request he made at the Submission and Information Committee meeting that the full Commission consider attaching a fiscal note to all the proposals being submitted to the public for consideration, to indicate the fiscal impact of each proposal. Governor Waihee noted that the Committee agreed to consider the request at its next meeting.

Commissioner Broderick noted that COR will be assisting with the language of the proposals at the appropriate time. Corporation Counsel Donna Leong noted that COR will be working closely with staff.

Governor Waihee announced that the Submission and Information Committee is working on hiring a writer and is also in the process of searching for a public relations firm, payments for both of which are included in their budget.

Vice Chair Mulligan announced the following meetings for the next day, Wednesday, July 13:

1. Style Committee will meet at 12:30 p.m.
2. Commission will meet at 2:00 p.m.

IV. ADJOURNMENT

With no further business, Vice Chair Mulligan adjourned the meeting at 6:18 p.m.