

Charter Commission

CITY AND COUNTY OF HONOLULU

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



THURSDAY, APRIL 16, 2015
5:00 P.M.
COMMITTEE MEETING ROOM
HONOLULU HALE

MINUTES

Charter Commission Members Present:

Michael F. Broderick
Reginald V. Castanares, Jr.
Guy K. Fujimura
Kevin D. Mulligan
Nathan T. Okubo
Paul T. Oshiro
David W. Rae
Cheryl D. Soon (arrived at 5:15 p.m.)
Jesse K. Souki
Edlyn S. Taniguchi
R. Brian Tsujimura
John D. Waihee III

Charter Commission Members Excused/Absent:

Donna R. Ikeda

Others Present:

Krishna Jayaram, Deputy Corporation Counsel, Department of the Corporation Counsel
Adina Cunningham, Deputy Corporation Counsel, Department of the Corporation Counsel

I. Call to Order by Chair Pro Tempore

With a quorum present, Chair Pro Tempore Jesse Souki called the meeting to order at 5:03 p.m.

II. Election of Officers of the Charter Commission

The Chair Pro Tempore announced that the Commission would now elect its officers. Nominations for officers were solicited, first for the Chair.

Action: Commissioner Waihee moved to nominate Jesse Souki for the position of Chair of the Charter Commission. The motion was seconded.

Further nominations for the office of chair were solicited. No further nominations were made for the office of Chair.

Action: Commissioner Rae moved to elect Jesse Souki for the office of Chair. The motion was seconded. All Commissioners present voted in favor of the motion, and the motion was passed.

Nominations were then solicited for the office of Vice-chair.

Action: Commissioner Oshiro moved to nominate Dave Rae for the position of Vice-chair of the Charter Commission. The motion was seconded. All Commissioners present voted in favor of the motion, and the motion was passed.

Further nominations for the office of Vice-chair were solicited. No further nominations were made for the office of Vice-chair.

Action: Commissioner Oshiro moved to elect David Rae for the office of Vice-chair. The motion was seconded. All Commissioners present voted in favor of the motion, and the motion was passed.

III. Report on Findings/Recommendations by the Permitted Interaction Group on Budget.

Chair Souki requested that Corporation Counsel's office distinguish between PIG and committee, and again explain the formation and process of a PIG. Deputy Corporation Counsel Jayaram explained that the PIG is a specific entity created by statute that has a very specific format that it follows. Created by the full commission, it goes and does investigation or task, and comes back and makes a report. The process requires three meetings, not necessarily consecutive, but sequence is important. At the first meeting, the Commission, upon motion duly made and seconded, can form a PIG to address a specific issue and name the members of the PIG, whose number shall be less than the majority. The PIG will meet on its own to carry out its task and report back to the Commission at a subsequent meeting. This is the second meeting. The commission may discuss the PIG's recommendation, but there is no voting on the recommendation at this meeting. At the third meeting, the full Commission may take action on that report.

Commissioner Rae inquired about having an interim, but not an indefinite amount of time between the time it was formed and the time it does its report. Deputy Corporation Counsel Jayaram confirmed that it did not have to be consecutive meetings, but the sequence was important. Using the Budget PIG as an example, Deputy Corporation Counsel Jayaram stated that the PIG is making its final report and that the Commission

cannot take any action. Only at a subsequent meeting, would the Commission be able to take action. Deputy Corporation Counsel Jayaram had asked the Chair to speak on this item because the agenda includes two agenda items that talk about an interim report of the two PIGs. Deputy Corporation Counsel Jayaram expressed his concern that because the statute contemplates one report, these interim reports should really be of a non-substantive nature otherwise the Commission risks the interim report as being the final report and PIG being thereby dissolved. At the appropriate time, Deputy Corporation Counsel Jayaram will advise the commission as to what nonsubstantive information can be shared to keep the integrity of the PIG so that it's not automatically dissolved. Deputy Corporation Counsel Jayaram stated that the Commission would be well served with committees because the committees can seek updates, make multiple reports. That's what the Chair wanted COR to share with the Commission. When the Commission hears the two agenda items, Deputy Corporation Counsel Jayaram will advise as to what non-substantive matters can be discussed so that the PIGs would not be dissolved.

Commissioner Rae inquired whether the committees, are they PIG or are they publicly noticed meetings. Deputy Corporation Counsel Jayaram confirmed that the committees were publicly noticed. Upon further questioning, Deputy Corporation Counsel Jayaram explained the difference between a committee and a PIG. He explained that a PIG meeting requires no notice and need not be held in public. A committee meeting is subject to sunshine requirements and must be publicly noticed. A committee may meet multiple times and give interim reports to the commission. Commissioner Rae inquired where there was a limit on the number of people on a standing committee, whether it could be the whole commission, which he believed would be difficult. Chair Souki stated for a PIG, less than quorum, as to a committee, there are committees of the whole. Deputy Corporation Counsel Jayaram stated he would verify that and get back to the Commission.

Although it was not an agenda item and the Commission was not taking any action, Chair Souki stated that the Commission would need to form committees and requested any Commissioner interested in participating on a committee to notify him between now and the next meeting because the Chair's duty is to appoint the committees.

Permitted Interaction Group on Budget: PIG member Paul Oshiro reported that the PIG met and reviewed the budget. They did a comparative analysis to the previous Commission's budget taking various factors into account such as inflation, and certain non-recurring expenses such as moving costs and rent. They deleted the nonrecurring expenditures, outside building rentals instead of an office in Honolulu Hale. The Commission's budget is divided into two categories, one is salaries and one is current expenses. For the salaries portion, the proposed budget is \$202,500.00. They found that in reviewing the expenditures for 2006, the salaries of the Executive Administrator were \$72,000 a year, for the researcher \$48,000 a year, and for the secretary \$42,000 which resulted in \$162,000 in salaries from the last Commission. Comparing that to the proposed budget of \$202,500 for salaries there is a positive differential of \$40,500 to what the Commission has this year, their comparative analysis on the budget for staff is

that the budget appropriation is adequate for salaries of Charter Commission staff at this time.

Commissioner Waihee inquired about who paid for the benefits of the staff. Commissioner Oshiro clarified that there were no expenditures for that in the 2005 budget and that the salary is a personal services contract so no benefits are included. Commissioner Waihee asked that the PIG consider the advantage or disadvantage of the speed on hiring and whether the contract has to go through the procurement process.

Deputy Corporation Counsel Cunningham confirmed that the contracts would be personal services contracts and would not go through procurement. She recommended discussion of these matters to the Personnel PIG and that the Commission could only ask questions, and not have a discussion because the discussion would occur at the Commission's next meeting.

Chair Souki confirmed that the main take away was that the budget that the Commission has for salaries is sufficient. Commissioner Oshiro confirmed that the budget allocated is sufficient for the salaries. The second category the PIG then considered in the budget was the \$105,768 budgeted for current expenses. The PIG matched up the current expense budget with the budget of the 2006 Commission deleting non-recurring building rental and other related expenses totaling less than \$35,000. In its comparative analysis, the PIG compared the 19 subcategories in current expenditures with the 2006 budget. The PIG noted that there was one significant negative differential amount which was in the area of postage which amounts to \$75,000. The budget is \$2,400 which is about a \$70,000 differential. The PIG concluded that with the Commission's use of electronic communications opposed to mailings, the Commission should alleviate that recurring cost for communication with the use of electronic communications. The PIG deleted the differential from the 2006 expenses and found that with the deletion of the differential, the PIG found that the 2006 budget would have been \$36,000 when compared to the budget that the Commission has, the PIG determined that there is a positive differential of \$69,462.00. The PIG concluded that the amount allocated for the current expenses in the budget appears adequate to fund the Commission's needs.

One additional note, for the current allocation in this FY which runs thru June 30th, there is a current allocation for the Commission of \$150,000 of which \$40,000 is allocated for current expenditures. The PIG concluded that it would be beneficial if that \$40,000 appropriation in this fiscal year which expires on June 30 would be considered for use to staff up the office and startup costs.

Chair Souki who was on the PIG wanted the Commission to have a good feeling of the budget leaving some room for the Executive Administrator to have some room to make adjustments as needed.

Commissioner Soon inquired whether the Commission meetings are required to be on Olelo. Commissioner Soon assumes the budget has to cover advertisements in the newspapers of the public meetings and coverage of Olelo. Commissioner Soon inquired

whether in ten years whether the costs have changed. Commissioner Oshiro was not aware of any requirement to be on Olelo and what the costs are. He did note that there is allocated \$25,000 in the budget for telecasting for FY 2016-2017 while in 2006, they spent maybe \$7,000.

Commissioner Oshiro stated that the PIG did not discuss the Olelo requirements, but that there is \$25,000 for the telecasting budget which is a lot more than was allocated in 2005.

Chair Souki noted that the Outreach PIG would investigate such issues, but there is no report today, but that is something the Commission will have to investigate. The 2005-2006 commission report did not reference Olelo, but they did have a lot of outreach.

Commissioner Oshiro pointed out that the current budget is \$105,000 for current expenditures which can be moved around as necessary, plus the differential of \$69,000. Commissioner Oshiro noted that there's enough room to cover the expenditures. Chair Souki clarified that the next action on this issue probably should wait until the Executive Administrator (EA) is hired because the EA may take a harder look at the budget and have an idea of what the budget will be. Commissioner Soon countered that the budget will be passed by the time the EA is hired. Deputy Corporation Counsel Jayaram noted that no further action is required by the commission at this meeting. If the commission wishes to take any action, it will be at a subsequent meeting. Commissioner Waihee inquired whether the PIG disappeared. Deputy Corporation Counsel Jayaram answered in the affirmative. Chair Souki noted that what the PIG does is make a report and recommendation to act. Deputy Corporation Counsel Jayaram stated it's all one thing. Chair Souki stated there was no recommendation. Commissioner Oshiro confirmed that the recommendation is that the budget is adequate. Commissioner Oshiro inquired about a Budget Committee to deal with these issues at future meetings. Deputy Corporation Counsel Jayaram confirmed that the Commission could create a budget committee that could deal with these issues. Chair Souki inquired whether the rules already provided for a budget committee. Deputy Corporation Counsel Jayaram stated he would need to check.

IV. Interim Report by the Permitted Interaction Group Reviewing applicants for the Executive Administrator.

Deputy Corporation Counsel Jayaram recommended that a full report not be given because a report and recommendation is not ready at this time. COR recommends a non-substantive update to be appropriate, such as number of applications that have come in, how much longer PIG needs to vet the applications. Anything regarding quality of applicants would be considered a final recommendation unless the PIG had a final report.

At this point, Commissioner Rae inquired of Deputy Corporation Counsel Jayaram, if the Commission wanted to re-advertise and take another month to consider or have the PIG consider it, how would the Commission go about it. Deputy Corporation Counsel Jayaram responded that the next agenda item is for the Commission to consider this issue. Commissioner Waihee raised the issue of whether or not the PIG must dissolve into

executive session given the nature of the discussion. Deputy Corporation Counsel Jayaram responded that right now it is not clear how the PIG will make its recommendation, but personnel matters that affect privacy will require the Commission to go into executive session to discuss those issues. Chair Souki noted that the Personnel PIG had authority to review application, qualifications and interview applicants. At the time the PIG makes its recommendations, the Commission would convene into executive sessions to consider the recommendations. Chair Souki inquired whether the decision would be on the record. Deputy Corporation Counsel Jayaram confirmed that the decision would be on the record. Personnel PIG member Commissioner Mulligan reported that the PIG received a number of applications; about a dozen, and they had been received and reviewed by the PIG. No questions from the Commissioners as to agenda item no. 4.

V. Consideration of further advertising of the position of Executive Administrator.

Chair Souki moved to agenda item no. 5 concerning re-advertising of the executive administrator position. Commissioner Mulligan said the PIG was interested in that, but were advised by Corporation Counsel that the PIG could not consider item 5 because it would be a violation of the Sunshine law and needs approval of the Commission. Commissioner Mulligan noted that there was interest amongst the Personnel PIG to receive more applicants. There were a couple of resumes received after the March 30 deadline which could not be considered under the deadline that was originally established. The Personnel PIG would like to re-advertise for more applications but does not want to prolong the process, however, the PIG believed the EA position was important and that the Commission should get the appropriate person with the appropriate skills.

Chair Souki inquired whether the Personnel PIG wanted to amend the text of the advertisement. Commissioner Mulligan confirmed no change in text. Commissioner Rae stated possibly a change in the salary language. Commissioner Mulligan confirmed adding the salary range and extending the deadline. Commissioner Rae confirmed the qualifications would remain the same.

Commissioner Waihee asked the PIG Chair what he believed was an adequate amount of time for the extension. Commissioner Mulligan stated about a two week window given that the ad could not go in this Sunday's paper. In other words, two weeks from the date the ad would appear. Commissioner Waihee also inquired whether the PIG would want the salary range identified which was affirmed by Commissioner Mulligan. Commissioner Waihee moved that the Commission extend the deadline for applications for employees of the commission for two weeks from the time we are able to make a public announcement and that we include the salary based upon the budget. Commissioner Rae said May 11.

Commissioner Fujimura asked whether the two late applicants would have to resubmit with the extension of the deadline. Deputy Corporation Counsel Jayaram stated that it was really up to the Commission. The motion was seconded. Chair Souki recommended that

the Commission could request that the two applicants be asked to resubmit to keep it nice and forward. Commissioner Broderick felt the range would be a prohibition and inquired of Commissioner Oshiro whether the range would be in the high \$72,000?

Commissioner Oshiro stated he would defer to the Commission, see what applications the Commission received and how adequate a range would be. Commissioner Oshiro stated that the \$72,000 was what was paid in 2006 and this year, the Commission has \$202,500, which is divided into \$72,000 for the EA, \$48,000 for the researcher, and \$42,000 for the secretary, with the cushion of \$40,500. Commissioner Rae stated he would suggest using language of "up to of \$98,000 or \$100,000."

Chair Souki asked Deputy Corporation Counsel Jayaram how much it was to publish the announcement in last Sunday's paper. Sharleen Oshiro stated \$150.00. Commissioner Oshiro stated that there is \$3,000 for advertising from now until June. All commissioners present voted in favor of the motion, and the motion was passed.

Commissioner Fujimura asked if you applied real numbers to the range for the executive directors and apply it to the other positions, would that cushion work with the numbers. Commissioner Rae answered in the affirmative. The other thing is that in terms of the advertising, the Commission was going to do more than just the paper record, there is social media, there is UH, to make sure the word is known. Commissioner Rae further stated that each Commissioner would have access to the ad to send out to their respective own group contacts. Commissioner Broderick inquired whether that was done the first time around. Commissioner Rae said no.

VI. Interim Report by the Permitted Interaction Group Considering Proposed Outreach Plans for the Solicitation of Charter proposals.

Outreach PIG members are Commissioners Souki, Castavares and Okubo. Chair Souki reported that the PIG did not meet yet. They will meet before the next meeting and report at the next meeting. Chair Souki noted that Commissioner Soon had some good ideas and wanted to include her in the Outreach PIG. Commissioner Rae stated that as long as there wasn't quorum of the board, any number of people may sit in investigative meetings. Deputy Corporation Counsel Cunningham confirmed to be a member since four is not quorum, you could add a number to the PIG through a motion. A motion was made to add Commissioner Soon to the PIG by Commissioner Souki. The motion was seconded by Commissioner Waihee. All commissioners present voted in favor of the motion, and the motion was passed.

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

A calendar was drafted and distributed to commissioners by Office of the Corporation Counsel. Deputy Corporation Counsel Jayaram prepared a draft calendar for the Commissioners using the 2005-2006 calendar and updated the deadlines on the back end. Everything is based upon the 2005-2006 calendar. Commissioner Waihee inquired how rigid is the calendar, or is it just a guide, or whether the Commission was stuck with the calendar forever.

Chair Souki noted that the agenda item did not require action, but that he just wanted to get a calendar in front of the Commissioners so that the Commissioners would have an idea of what the time constraints are. Some of the dates are more set than others. At the last meeting, the City Clerk's Office informed the Commission that the Commission needed to get the charter proposals by a certain time to get the proposals published with the Office of Elections. Deputy Corporation Counsel Jayaram informed the Commission that the "hard" deadlines starting in August are hard deadlines. August 22, 2016 to submit Charter Amendments to the City Clerk, August 25, 2016 deadline for the City Clerk to submit charter amendments. Those are the hard deadlines. Everything else before that are for organizational purposes so that the Commission would have an idea of the process involved and what came next. Chair Souki stated that the calendar would be something the Outreach committee would look at.

In response to the Commissioner Waihee's question, Commissioner Rae stated that being on the 2005 Commission, that what happened in practice was that there were more meetings monthly. Commissioner Waihee stated that you require flexibility. Commissioner Rae affirmed.

Chair Souki asked Commissioner Rae in relation to the calendar, looking at the final reports there are many dates where people testify, how many meetings were out in the field? Commissioner Rae stated many were out in the field. The Commission tried to be in each council district, but it was certainly up to the Commission, the Commission could have district meetings. It was basically a presentation of the Commission's recommendations and prior to that the Commission went out to the community to solicit, and it was not always all of the members. Commissioner Soon pointed out that an important date is that whatever the date becomes is the deadline to submit Charter Commission proposals because it applies to the Mayor and the County Council. The sooner they know the date, the better. Commissioner Soon further stated that the Commission's work could start when the Commission starts receiving the proposals, but that the Commission must be clear on what that date is. Commissioner Soon queried what does the Commission do if the Council comes up with something and submits two weeks later.

Commissioner Waihee believed that the Commission would not set that date today, but needed to remember it is an important date. Commissioner Soon inquired whether it was also a deadline for community members and once that is gone, the only thing that she presumed could happen would be amendments. Commissioner Soon noted that you can do a lot of amendments to something that was already submitted, but you cannot submit something out of the blue.

Chair Souki was of the position that the Commission could probably follow the practice as long as it was germane to the title, but the Commissioners would need to check the Commission's rules. Commissioner Soon expressed her desire that people should know that it is just not a matter of commenting later, but to start thinking about it, to get people thinking about it. Commissioner Rae said that Commissioner Soon raised an excellent

point to get people thinking and to have forms people could use to submit proposals. And as a matter of ability, he believed the Commission has very wide discretion on whether it wants to entertain something and what to entertain. Commissioner Soon stated it would be tricky as to which ones you let in and which ones you don't. Commissioner Rae acknowledged the Commission has great discretion. Chair Souki stated that he was a believer of firm deadlines to give people notice. There was no further discussion on this matter.

VIII. Time, date and location of next meeting.

The next meeting will be on Thursday, May 21, 2015, 1:30 p.m.

IX. Adjournment

The meeting adjourned at 5:53 p.m.

Respectfully submitted,



Dawn Spurlin
Deputy Corporation Counsel