

Charter Commission

CITY AND COUNTY OF HONOLULU

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



TUESDAY, JUNE 23, 2015
3:00 P.M.
COMMITTEE MEETING ROOM
HONOLULU HALE

MINUTES

Charter Commission Members Present:

Reginald V. Castanares, Jr. (arrived 3:10pm)
Donna Ikeda
Kevin Mulligan
Nathan Tetsuo Okubo
Paul T. Oshiro
Cheryl Soon
Jesse K. Souki
Edlyn S. Taniguchi
R. Brian Tsujimura
John D. Waihee III

Charter Commission Members Absent/Excused:

David W. Rae
Michael F. Broderick
Guy K. Fujimura

Others Present:

Dawn Spurlin, Deputy Corporation Counsel, Department of the Corporation Counsel
Krishna Jayaram, Deputy Corporation Counsel, Department of the Corporation Counsel

I. CALL TO ORDER

With a quorum present, Chair Jesse Souki called the meeting to order at 3:03 p.m.

II. FOR APPROVAL

Chair Souki addressed the approval of the minutes for the meetings of May 21, 2015, first at 1:30 p.m. and second at 3:00 p.m. Chair Souki asked if there were any comments or edits from the Commissioners. A motion to approve both of the minutes was made by Commissioner Tsujimura and seconded by Commissioner Waihee. None opposed. Motion passed.

III. CHAIR'S REPORT

Chair Souki introduced the Commission's newly hired Executive Administrator, Linda Oamilda.

Chair Souki thanked Sharleen Oshiro, the Executive Secretary for the Council Boards and Commissions, who took on the staffing responsibilities until a permanent staff was hired.

Chair Souki noted the article handed out by Commissioner Tsujimura and placed in each Commissioner's packet entitled: "Outsmart Your Own Biases."

Chair Souki discussed his meeting with Managing Director Roy Amemiya and Linda Oamilda to schedule informational briefings for the Commission with the administrative agencies.

Chair Souki discussed an invitation the Commission received to a meeting discussing past Charter Commissions from the Hawaii Chapter of the American Planning Association, of which Chair Souki is a member. However, the requirements of the Sunshine Law need to be met for attendance of the Commissioners to such a meeting. Deputy Corporation Counsel Krishna Jayaram was requested to explain the application of the Sunshine Law to the Commission.

Deputy Corporation Counsel Krishna Jayaram noted that since attending the meeting is related to the Commission's work, only a number of Commissioners

equal to less than a quorum (fewer than seven Commissioners) could attend the APA meeting at a time. He explained that if all of the Commissioners wanted to attend, it would be possible only if the APA meeting were part of a public Commission meeting requiring an agenda, notice, public opportunity to testify, etc. In addition to the limitation of the number of Commissioners who can attend a business-related meeting, the Sunshine Law also requires that no votes can be discussed or agreed upon and a report has to be given at a subsequent commission meeting about what was discussed at the meeting. He pointed out that to avoid all of those requirements, the Commission could simply invite the APA to attend a Commission meeting and present information that way.

Chair Souki suggested that Commissioner Soon take charge of keeping track of which Commissioners would attend the meeting, making certain it is fewer than seven. He suggested that she present a talk about the APA meeting at the next Commission meeting. He stated that the meeting would be on Wednesday, July 1, at noon at the AIA Honolulu Center for Architecture.

Noting that nonmembers of the Standing Committees can attend their meetings, Chair Souki told the Commissioners that he has filled out the membership of the Standing Committees as follows:

Committee on Rules:

Chair: Nathan Okubo

Vice Chair: Kevin Mulligan

Members: Michael Broderick, Paul Oshiro, and Edlyn Taniguchi.

Committee on Style:

Chair: Donna Ikeda

Vice Chair: Paul Oshiro

Members: Nathan Okubo, Brian Tsujimura

Committee on Personnel:

Chair: David Rae

Vice Chair: Kevin Mulligan

Members: Michael Broderick, Donna Ikeda

Committee on Submission and Information

Chair: John D. Waihee III

Vice Chair: Cheryl Soon

Members: Reginald Castanares, Nathan Okubo, Jesse Souki

Committee on Budget

Chair: Brian Tsujimura

Vice Chair: Vacant

Members: Reginald Castanares, Kevin Mulligan, Edlyn Taniguchi

The rules for individual committees are contained in the Commission Rules which will be adopted later in this meeting.

IV. EXECUTIVE ADMINISTRATOR'S REPORT.

After presenting a lei to Sharleen Oshiro and thanking her for her help, Chair Souki asked Linda Oamilda to provide her report as Executive Administrator.

Linda Oamilda began by thanking Sharleen Oshiro as well as Council Chair Martin and his Executive Administrator, Laura Figueira, and the head of Council Administration, Clayton Wong, for all of their help.

Linda Oamilda continued by telling the Commission that the Commission staff is located in room 501 in the tower of Honolulu Hale. There is an extra desk with a computer in the room set aside for any Commissioner who would like to use it. There is also a small meeting area where a permitted interaction group could meet. Of the \$150,000 budgeted for the office for the current fiscal year, only \$31,000 has been spent due to the late hiring of staff.

She also stated that work has begun on the website. She explained that Brent Lau was contracted to prepare the website. He will provide a brief presentation on what the website will look like and to receive suggestions from the Commissioners. She explained that the plan is to launch the website by July 1st to coincide with the date when proposals for Charter amendments can begin to be submitted.

Brent Lau introduced himself and explained that he works at the Legislature with the Senate and is the administrator for and maintains the Capitol website. Work on the Commission's website has begun with only a rough outline that will be filled in with content supplied by Linda Oamilda. He stated that he understood the main goal of this website is public outreach, that the public and agencies could submit proposals and testify through the website. Brent discussed the basic

menu at the top which includes the list of Commissioners eventually including photos which he asked that they provide. The website will also include the Commission's committees and members, the proposal review process, and a calendar of events. Down the left side of the website are links to current documents including the current charter, the rules of the Commission, and other reports. There is also a link to the form for proposal submissions. All proposal submissions will be compiled into an Excel sheet that will allow sorting. It will also allow attachments to be included with proposals. Finally, meeting notices and meeting minutes will be available on the website.

Linda Oamilda explained that she came on board on June 1st and website work began about two weeks ago. Brent Lau elaborated that his work on the website started a week ago.

The Commissioners discussed the website suggesting additions and changes including:

- Link the Charter Commission's website to the City's Website.
- Make all handouts connected to the agendas and minutes available.
- Add photos of city facilities.
- Make all testimony available for public review.
- Add an explanation that all information, including personal information, provided by the public in testimony will be public.
- Put all proposals together in one area so that the public can look at them easily.

The discussion then turned to the difference between actual testimony relating to a specific proposal versus a comment that a person wishes to make not related to a proposal. Testimony, either in person or through the website, must be on an agenda item at a specific meeting. Commissioner Waihee thought it was important to have an area for comments that could be used for any topic. It was suggested that perhaps this could be discussed in the Outreach PIG, so that the process could be made as user-friendly as possible.

There was discussion about the website going live, that only parts would be ready for use immediately. Then the discussion turned to how to handle comments on proposals before they were scheduled for a hearing. The Commissioners wanted to make sure the public is able to comment on all proposals so that the Commissioners are able to use the public input in a reasonable way. Chair

suggested that once they have the public comments, they will be able to summarize them and consider the public's concerns and suggestions which are submitted prior to actual testimony.

Commissioner Waihee asked Deputy Corporation Counsel Krishna Jayaram the difference between testimony and comments. Deputy Corporation Counsel Jayaram stated that testimony is in conjunction with an agenda item on a scheduled meeting while comments are just a way for the Commission to request and receive information from the public, not necessarily related to a proposal. Commissioner Soon also pointed out that the public would be more supportive of the Commission's work, knowing that their comments are read and considered by the Commission. Bottom line seems to be that the public needs to understand when they can submit comments and when to submit testimony. Commissioner Tsujimura noted that the public needs to be educated about the process. Deputy Corporation Counsel Spurlin also pointed out that if a plethora of proposals is received, comments could help narrow down what issues should actually be heard by the Commission at a meeting. It is up to the Commission what process to use. It would be ok to post proposals and ask for comments relating to them.

Deputy Corporation Counsel Spurlin explained how the Council handles testimony at its meetings, whether by submitting written testimony, signing in to testify, and even emailing testimony. She stated that for final testimony to be submitted, a meeting has to be held. Chair Souki explained the process as outlined in Rule 4.

Commissioner Waihee pointed out that when the Commission Rules were first written, electronic comments and testimony were not contemplated.

V. FOR ACTION

- a. Approval of Recommendations of Outreach Permitted Interaction Group.

Chair Souki explained there is no report since the group has not held a meeting since the last report.

- b. Discussion and decision on amending the Charter Commission Calendar.

The next topic brought up by the Chair was the Charter Commission calendar. The Executive Administrator discussed what is on the calendar up to this point

and that the calendar will continue to be revised as the Commission goes through its process. However, she pointed out that there are hard deadlines that cannot be changed and these are noted on the timetable. These include:

- July 1, 2015, the first day that proposals may be submitted to the Commission.
- October 31, 2015, the last day for proposals to be submitted to the Commission.
- November 30, 2015, is the last day for proposals to be submitted that a supermajority of the Commission wants to consider.
- August 22, 2016, is the suggested date by the City Clerk for submittal by the Commission of proposed charter amendments.
- August 25, 2016, is the absolute last date for submittal by the Commission of proposed charter amendments to the City Clerk.
- November 8, 2016, is the general election.

Commissioner Soon asked if the City Council could send proposals for inclusion on an agenda. Chair Souki replied that the City Council can submit proposals but that they have to go through the Commission's process. The Commission is an independent agency, not part of the administration or the City Council. The only way to get a proposal on an agenda is through the Commission's process.

Commissioner Soon inquired that if the website is going live, if the only way to submit a proposal is through the website. Chair Souki responded that proposals may be submitted by mail, hand delivery, email (once it's up and running), and using the website submission form. Commissioner Soon asked how the email option worked. Chair explained that the Commission has an email address which is monitored by the Executive Administrator. The staff will compile emailed proposals, provide them to the Commission and the proposals will then be referred to the committee that will process it.

Commissioner Ikeda suggested that the Council Chair and Mayor be advised of the deadlines. Chair agreed and added that they should also be advised of the dates of the informational briefings once finalized.

c. Discussion and decision on the Commission process.

Chair Souki noted that the timeline was put together to encourage additional public input using the existing framework already in the rules. The Executive

Administrator explained that, based on minutes from previous meetings, the first step after proposals have been submitted would be to have informational briefings on them and then, if necessary, establish one or more Permitted Interaction Groups to do further investigation. Through that process, the Commission will decide which proposals to advance at which time the public hearings will be held. Following the public hearings, the proposals will be referred to the Committee on Style for formatting and putting the ballot questions together. Then the Committee on Submission and Information will do the public outreach, finalizing the ballot question and beginning the public education for each proposal that is to be placed on the ballot. The proposals then are returned to the Commission for final approval.

Deputy Corporation Counsel Spurlin pointed out that it appeared that at the last meeting, the Commission was trying to decide if they were going to do a complete review of the Charter or simply take proposals from the public. To give the Commission some information and some understanding of the amount of work that was required in the 2005-2006 Charter Commission, she went through all the previous final reports of the six Charter Commissions, she compared how long they met, if there was information in the report, how many meetings they had, how many public meetings they had, how many proposals were submitted, how many proposals they had received, and how many amendments were actually put on the election ballot. She provided handouts that included a breakdown of the different Charter Commissions and a chronology of the 2005-2006 Charter Commission, which included comments on every meeting. She continued by noting that both the 1958 and the 1972 Charter commissions had many meetings as they both did a total review of the Charter. The 1958 Commission established the City Charter and had 150 meetings resulting in the 1959 Charter. The 1971-1972 Commission did a total review of the Charter resulting in the "Revised City Charter." The 1982 commission had numerous meetings also. That Commission put 50 proposals onto the ballot requiring voters to either accept all or accept none. The voters accepted none. Later commissions focused on specific proposals rather than doing a total review of the entire Charter.

Chair Souki pointed out that the process needs to be established. Rule 4 provides the process to follow but the Commission needs to decide exactly how to handle the proposals as they are presented by the public, etc. In addition, the Commission needs to decide if the entire Charter needs to be considered or simply the proposals that are submitted.

Commissioner Soon pointed out that there might be a middle ground. The Commission can look at proposals but might also find areas that need to be modernized or otherwise amended, including areas of the Charter which received no proposals.

Commissioner Oshiro asked, if a Commissioner notices that a priority issue has not been the subject of a proposal by the public, can the Commissioner make the proposal. Chair Souki responded in the affirmation.

Commissioner Mulligan noted Commissioner Rae's suggestion about using special committees to look at specific sections of the Charter, especially areas that the Commission feels could be improved or enhanced or even changed.

Chair Souki responded that the informational briefings will provide additional information. He was hesitant to create special committees because of the additional work involved in creating them, populating them and scheduling meetings, in addition to the work needed for the standing committees.

Commissioner Tsujimura inquired about the cutoff dates for submissions – it is the same for Commissioners as for the public, October 31, 2015, and November 30, 2015, with a supermajority vote.

Chair Souki noted the importance of the informational briefings. The Executive Administrator is working on scheduling them following the four functional areas as suggested by the Managing Director. Chair Souki suggested that the briefings be held after hours so that more of the public can attend. It was also noted that these meetings are the same as others and will require a majority of the members to attend.

Commissioner Waihee asked if a quorum was necessary for a meeting. What if a quorum was present to open the meeting but enough members left during the meeting so that there was no longer a quorum? He noted that under the Rules of Procedure, a quorum is only required when one is called for. Deputy Corporation Counsel Krishna Jayaram explained that the Sunshine Law is separate and apart from procedure in that respect. Commissioner Waihee understood from that, that a quorum has to be maintained. Commissioner Tsujimura asked if a meeting could continue if no decision is being made.

Commissioner Mulligan asked if the public would be allowed to comment at the informational briefings. Chair noted that the agendas can be structured to allow for comments at specific times or based on specific areas.

d. Discussion and decision on amending the Charter Commission Rules (including technical, nonsubstantive amendments).

Chair explained that even though the Commission had voted once on the rules, there were a few minor discrepancies that the Executive Administrator noted. The Executive Administrator explained that the changes needed were just cleanup for consistency. No substantive changes were suggested. She explained that, along with a clean version, a Ramseyered version was provided showing the exact changes made. Commissioner Waihee moved that the proposed amendments be accepted. The motion was seconded by Commissioner Castanares.

Commissioner Ikeda pointed out that the words “testifier” and “commenter” were used interchangeably in Rule 8 and that these should be clarified. Commissioner Tsujimura suggested that Rule 8 be split into an (a) for comments and (b) for testimony. It was also noted by Commissioner Tsujimura that two copies of testimony are required but if testimony is submitted by email, there won’t be two copies submitted. Discussion continued at length about Rule 8 and the distinction between testimony and comments. Deputy Corporation Counsel Dawn Spurlin explained that Rule 8 is supposed to be about testimony and its provisions are required under the open meetings law. The main issue for discussion by the Commission is the length of time a testifier can expect to speak.

Chair Souki pointed out that any changes to the rules should be made immediately since July 1, 2015, is the date for proposals to begin being submitted. It was agreed that Rule 8 be split up into three paragraphs and Commissioner Soon suggested that the word “input” be added to the title. A motion was made by Commissioner Tsujimura and seconded by Commissioner Waihee that the title of Rule 8 be amended to “Input and testimony by members of the public”; that the rule be split into three subparagraphs. In the first paragraph, designated (a), “at any public meeting of the commission” is deleted; in the second paragraph, designated (b), the word “comments” in the first sentence is replaced with the word “testimony”; and in the third paragraph, designated (c), the word “comments” in the third sentence is replaced with the word “testimony”. Motion passed with no opposition.

V. EXECUTIVE SESSION

A motion was made by Commissioner Soon and seconded by Commissioner Ikeda to go into Executive Session to consider the hiring, evaluation, dismissal, or disciplining of officers or employees where consideration of matters affecting privacy will be involved and to consult with the Commissioners' attorneys on questions and issues pertaining to the Commission's powers, duties, privileges, and immunities and liabilities. The motion passed unopposed. The Commission went into Executive Session.

Executive session was held from 4:50pm to 4:55pm.

MEETING RESUMED IN OPEN SESSION

The Commission returned from Executive Session. Chair Souki asked if there were any announcements. There were none.

The Commission affirmed and adopted of the Executive Administrator's recommendation on hiring the person in question for the position of researcher.

VI. ANNOUNCEMENTS

Chair Souki deferred to the Executive Administrator to set the next meeting date since it will be an informational briefing and will require a bit of coordination. The Executive Administrator confirmed with Chair Souki that the informational briefings would be after regular hours.

There being no business

VII. Adjournment

The meeting adjourned at 5:50 p.m.