SPECIAL COUNCIL MEETING

SEPTEMBER 16, 2013

The Special Council Meeting of the Council of the County of Kaua'i was called to order by the Council Chair Jay Furfaro at the Council Chambers, 4396 Rice Street, Room 201, Līhu'e, Kaua'i, on Monday, September 16, 2013 at 2:06 p.m., after which the following members answered the call of the roll:

Honorable Tim Bynum
Honorable Gary L. Hooser
Honorable Nadine K. Nakamura
Honorable Mel Rapozo
Honorable JoAnn A. Yukimura
Honorable Jay Furfaro

Excused: Honorable Ross Kagawa

APPROVAL OF AGENDA.

Mr. Bynum moved for approval of the agenda as circulated, seconded by Ms. Yukimura, and carried by a vote of 6:0:1 (Councilmember Kagawa was excused).

Chair Furfaro: Any discussion? If not, before I go into a period of public comment, I would actually like to ask the County Attorney to come up, please.

EXECUTIVE SESSION:

MARC E. GUYOT, Deputy County Attorney: Good afternoon Chair, Vice Chair, and Councilmembers. On todays' agenda, you have two (2) Executive Sessions designated as ES-674 and ES-675. I will proceed to read them in order.

Chair Furfaro: Could you first introduce yourself, Marc?

Mr. Guyot: Deputy County Attorney, Marc Guyot.

Chair Furfaro: Thank you.

Mr. Guyot: Thank you, Chair.

ES-674 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4) and Kaua'i County Charter Section 3.07(E), the Office of the County Attorney, on behalf of the Council, requests an Executive Session with the Council, to consult with Special Counsel relating to the investigation of personnel matters involving the Office of the County Auditor and related matters. This briefing and consultation involves consideration of the powers, duties, privileges, immunities and/or liabilities of the Council and the County as they relate to this agenda item.

ES-675 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(2) & (4) and Kaua'i County Charter Section 3.07(E), the Office of the County Attorney, on behalf of the Council, requests an Executive Session with the Council, to consider the hire, evaluation, dismissal, or discipline of an officer or employee or of charges brought against the officer or employee of the Office of the County Auditor, where consideration of matters affecting privacy will be involved, provided that if the individual concerned requests an open meeting, an open meeting shall be held; and to consult with the Council's attorney regarding questions and issues pertaining to the Council's and County's powers, duties, privileges, immunities, and liabilities as it relates to this agenda item, and to deliberate and take such action as deemed appropriate.

Chair Furfaro: Thank you very much.

Mr. Rapozo moved to convene into Executive Session for ES-674 and ES-675, seconded by Mr. Bynum.

Chair Furfaro: I have a motion and a second to go into Executive Session, and before I take a call for a vote, let me ask, do we have anyone that has signed up to speak on public comment?

PUBLIC COMMENT.

Pursuant to Council Rule 13(e), members of the public shall be allowed a total of eighteen (18) minutes on a first come, first served basis to speak on any agenda item. Each speaker shall be limited to three (3) minutes at the discretion of the Chair to discuss the agenda item and shall not be allowed additional time to speak during the meeting. This rule is designed to accommodate those who cannot be present throughout the meeting to speak when the agenda items are heard. After the conclusion of the eighteen (18) minutes, other members of the public shall be allowed to speak pursuant to Council Rule 12(e).

RICKY WATANABE, County Clerk: Yes. We have three (3) speakers who are signed up to exercise their right to speak on public comment. The first speaker would be Peggy Hara, followed by Joe Rosa.

There being no objections, the rules were suspended to take public testimony.

PEGGY HARA: My name is Peggy Hara. I am thirty (30) year resident of Hanapēpē, and a forty (40) year resident of Hawai'i. I am a former school teacher, and now retired. I taught at 'Ele'ele Elementary School and a parishioner at Holy Cross Catholic Church. I am here to speak to the character of Ernie Pasion. I have known Ernie for a little over four (4) years and I value his friendship. He has a very strong moral compass and is willingly committed to doing what is right. As a small example of this, recently, I was locked out of my car in the Holy Cross Church parking lot one Saturday evening. I thought my only options were to sit down and cry or to start walking from Kalāheo to Hanapēpē. Ernie drove by, his was the last car in the parking lot. He offered the use of his cellular phone to contact my husband. When that was unsuccessful, Ernie drove me home, going in the opposite direction from where he needed to be. He also offered to wait with me until my husband came home. A small act? Maybe, but very revealing of a descent respectable man, the kind of man Kaua'i needs. Thank you.

Chair Furfaro: Thank you very much.

Mr. Watanabe: The next speaker is Joe Rosa, followed by Ken Taylor.

JOE ROSA: Good afternoon members of the Council. For the record, Joe Rosa. Well, I am here today to speak on behalf of Mr. Ernie Pasion under items ES-674 and ES-675. I have known Ernie for quite a while and I am here to back him up in his doings with his Office. I think he has done a considerable job from the audits that have "read" on the reports that he has made. An Auditor's job is a job where a person will need a lot of guts because it is not an easy task, for that person to do what he has to do to make the government operation run the way that it is supposed to be ran. There are a lot of things that are going on that the people should be made aware of which has not because of audits that were not taken or were not being done. Ernest took the job with a lot of courage, like I just said, and he a lot of enthusiasm to do it and do it right and correct a wrong, that was a wrong to make it a right. That is what the taxpayers are looking for in government, a good, honest, and accountable operation of our government system. It is not an easy task, but what has to be done, has to be done even it means that a few heads would fall under waist high. This has to do with a lot of honesty and integrity with our government officials and members of our Council, along with our whole County system. Honesty, it has to come within the heart. So, people elected, your people in your Office, to be accountable. This is something that has been lacking according to what I have read of the audit so far. There were a lot of wrongs and those wrongs should be corrected and there is nothing wrong with what the audits have uncovered. It is only to get government back in a position that people can trust our government system again. We need that trust back in our government. That is what we pay taxes for.

Mr. Watanabe: Three (3) minutes.

Mr. Rosa: The honestly of good government...

Chair Furfaro: Joe, that is your first three (3) minutes. I will extend you another three (3) minutes.

Mr. Rosa: Thank you, Jay. Those are the things that I have seen that Ernest has been doing with his annual audits that he has done so far. It is very interesting and I just hope that the public could read about it and see what it is all about. A lot of people on this Council was here when he was appointed in 2008. Mr. Hooser, Mr. Kagawa, and Ms. Nakamura, you were not around then but the old Council, if my mind serves me right, Council Chair Jay Furfaro made the nomination of Mr. Pasion as our County Auditor of the applicants that applied for it. He has done a wonderful job and I think there is no wrong in what he is doing. It is a right, right, right, a win, win, win. In your Executive Session, just look over and do what you need to do for the position of the County Auditor. There were not any wrongs, it was a right. You do not correct a right when a right is right. If there is a wrong, you correct a wrong. In your Executive Session, just think about the honesty of government and let your heart and your mind make your decision, even if it is that gut feeling that you have for the good and better government. You vote accordingly so that Mr. Ernie Pasion can go on and continue with the work that he has been doing with his past audits that he has, so that we can get good, clean, honest government back into the County of Kaua'i. Thank you.

Chair Furfaro: Thank you, Joe.

Mr. Watanabe: The last public speaker that signed up is Ken Taylor.

KEN TAYLOR: Good afternoon Chair and members of the Council. My name is Ken Taylor. Before I get started, I would just like to say that Glenn Mickens would have liked to been here today, but he is on his way to Cuba for some baseball activities and regrets that he could not be here. I am very disturbed. A few years ago we established, by a vote of the people, Audit Office. You appointed Ernie a few years ago to fill that position. In my opinion, he has done a job that he was appointed to do and yet there seems to be some serious problems. Internal auditing is an independent objective assurance and consulting activity designed to add value and improve an organization's operations. It helps an organization accomplish its objectives by bringing a systematic discipline approach to evaluating and improving the effectiveness of risk management, control, and government processes. Internal auditing is a catalyst for improving an organization's governance, risks management, and management controls by providing insight and recommendations based on analysis and assessments of data in business processes. With commitment to integrity and accountability, internal auditing provides value to governing bodies and senior management as an objective source of independent advice. What we have here is an individual that has brought all of these issues to the table in six (6) audits that he has provided to date. What has he gotten for it? About a thirty percent (30%) decrease in budget, where most all other Departments in the County got two percent (2%) or three percent (3%) shortfall in this year's annual budget. I find it very disturbing that until recently, only a couple of the audits have been on the table for review. You as the controllers of the purse strings, should have had these items on the agenda immediately after the audits were brought forth and documented.

Mr. Watanabe: Three (3) minutes.

Chair Furfaro: Ken, that is your first three (3) minutes.

Mr. Taylor: Thank you. To date, some of the audits have not even been on your agenda and it is just disturbing that that is the case. You have an Auditor that when he was first appointed, I was very concerned about another internal government appointee, but Ernie has completely changed my mind and his integrity. He has brought the integrity and the accountability to the Office of the Auditor. You folks have not picked up your end of the ball and move forward with the information that has been brought forth and I find it very disturbing that we are here today to talk about what may or may not be moving in the direction of termination. I hope I am wrong in that, but it is very, very disturbing that things are going the way that they are when we have an individual that took over a new Department. If you want to compare just two (2) fairly new Departments, you look at the Department of Parks and Recreation that has been in place for six (6) or eight (8) years compared to the Office of the Auditor and see the difference in the quality of what has been brought forth. Did the Department of Parks and Recreation get a thirty percent (30%) deterioration in their annual budget? No. For some reason, the Mayor and you folks saw fit to cut thirty percent (30%) from an organization that has gone way beyond in their integrity and accountability for providing this County and the taxpayers with something much needed. I hope you move forward in the right direction and restore Ernie to this position and to make sure that the funding is necessary to continue independent objective auditing. Thank you.

Chair Furfaro: Thank you, Ken. Do we have anyone else signed up?

Mr. Watanabe: No other speakers signed up.

Chair Furfaro: Is there anyone in the audience that would like to speak? No. We will be having a roll call vote here to go into Executive Session. We are going to continue to use this room for the Executive Session, so we will vacate the space at that time. Let us do a roll call vote. I would like to take a ten (10) minutes recess after the decision is made to go into Executive Session.

The motion to convene in Executive Session for ES-674 and ES-675, was then put, and carried by the following vote:

FOR EXECUTIVE SESSION:	Bynum, Hooser, Nakamura, Rapozo, Yukimura, Furfaro	TOTAL – 6,
AGAINST EXECUTIVE SESSION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Kagawa	TOTAL – 1,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Mr. Watanabe: Six (6) ayes.

Chair Furfaro: 6:0:0, please make note. We are going to go into a recess and when we come back, we will be in Executive Session.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 2:25 p.m.

Respectfully submitted,

RICKY WATANABE
County Clerk

:aa for dmc