

SALARY COMMISSION  
COUNTY OF KAUAI  
4444 RICE STREET, MOIKEHA BUILDING  
MEETING ROOM 2A/2B  
LIHUE, HAWAII 96766  
**APPROVED ON 9/5/2019**

MINUTES OF THE COMMISSION'S:

March 7, 2019 MEETING

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1. **ATTENDANCE**

Commissioners present at the meeting: Kenneth Rainforth Chair; Robert Crowell Vice Chair; Trinetta Kauai and Jo Ann Shimamoto.

Commission Support Staff: Ellen Ching Boards Commissions Administrator and Mercedes Omo Support Clerk.

Commission Attorney Present: Deputy County Attorney Peter Morimoto.

**CALL TO ORDER**

Chair Rainforth: Good morning, its 9:00 a.m. and I would like to call this meeting to order of the Kaua'i County Salary Commission.

2. **CHAIR'S ANNOUNCEMENTS INCLUDING BUT NOT LIMITED TO:**

Chair Rainforth: On the agenda is an item for a possible next meeting, but I think we'll leave that for the end of the agenda to discuss. Okay, the next part of business is the approval of the meeting minutes of February 28, 2019.

3. **Approval of the February 28, 2019 Open Session Meeting Minutes**

Chair Rainforth: I need to a motion to approve or amend the meeting minutes of February 28, 2019. Are there any additions or corrections to be made? I have to admit I didn't read the whole thing, but on Page 3 half way down the page where Chair Rainforth says "In your discussions did you talk about what the private section is pay for their comparable positons and is there some kind of salary range?" The word "section" should be "sector". Are there any other comments? Are you ready to vote?

Vice Chair Crowell: Move to approve the meeting minutes as amended.

Ms. Kauai: Second.

Chair Rainforth: Those in favor of approving the meeting minutes as amended, please signify by saying aye. Those opposed say nay. Hearing none. The motion carried 4:0.

**On a motion made by Vice Chair Crowell and seconded by Ms. Kaui the meeting minutes of February 28, 2019 was approved as amended.**

SC 2019-03 Discussion and decision-making on submitting a salary resolution to establish the maximum cap for salaries for certain County officers and employees, included in Section 3-2.1 of the Kaua‘i County Code for Fiscal year 2019/2020.

Ms. Ching: Chair, can I make some comments?

Chair Rainforth: Yes.

Ms. Ching: First of all, I just want to acknowledge the tremendous amount of work that Deputy County Attorney Peter Morimoto has put into this. As you know we are on a fast track and we are meeting every week and he has put in an amazing amount of work and has actually carried me because I was supposed to work on the transmittal and I just got really snowed under with a lot of work. So, he very nicely and generously agreed to draft up the transmittal – you know the hard work is creating something from nothing and that is what Peter did so I just want all of you to know that we are at this point because of his work and as the work of Mercy. She has just been unbelievable and together that’s how you are at the point of where you are now. Thank you.

Chair Rainforth: Thank you and thank you Peter. Which should we tackle first the Resolution or the transmittal? Let’s go to the Resolution. I have a question for Peter. How did you select the positions for Part I and Part 2?

Mr. Morimoto: In the last meeting, you talked about breaking it up in accordance to the types of degrees that the positions carried and whether or not they dealt with health and safety. So, I broke it down to County Engineers because a County Engineer requires a professional degree/licenser as does the County Attorney and the Prosecuting Attorney and their deputies. As does the Manager and Chief Engineer for the Water Department.

And because the Fire Chief and Police Chief deal with health and safety my recollection was that the Commission wanted that included in this category as well and because the Manager Director oversees people with professional degrees as well as the health and safety aspects of the County. I believe that the Commission wanted to up his salary and make it comparable with the other Department Heads in this category. That was my understanding.

Chair Rainforth: Good.

Ms. Kaui: Yes, I think so.

Ms. Shimamoto: Good, but shouldn't that be covered in the transmittal memorandum because I think that's going to pop-up as a question as to why is this and how is this separated into two sections.

Mr. Morimoto: Paragraph six which is the last sentence in the memo could be embellished. Do you want me to craft the new language now and circulate it? I could do that. Okay.

Chair Rainforth: I have several suggestions on the transmittal before you jump into doing that. Let's finish talking about the Resolution and then we can move on to the transmittal. I like the Resolution as is. I just had a question on the division. Did anyone find any parts of it that they would like to embellish or change?

Ms. Kaui: I just need clarification on the parts.

Mr. Morimoto: Do you mean the part about the health and safety?

Ms. Kaui: Right.

Mr. Morimoto: Okay.

Chair Rainforth: Peter are you going add a sentence in Part II that describes why those positions are in Part II?

Mr. Morimoto: Yes.

Chair Rainforth: Okay. I guess we need to have a motion to approve this draft Resolution for submittal. Is there a motion?

Vice Chair Crowell: So moved.

Ms. Kaui: Second.

Chair Rainforth: Okay, now we can discuss it. Are there any other issues that we want to see changed?

Ms. Kaui: I think it's good.

Ms. Shimamoto: The figures here are the figures that you figured out?

Chair Rainforth: I checked about half of the figures and Ms. Ching checked them all.

Ms. Kaui: And it's divisible by 24?

Ms. Ching: Yes, we did that too.

Ms. Shimamoto: And that was 4.5% divisible by –

Chair Rainforth: No it's 5% divisible by 24. Okay, sensing there is no discussion are you ready to vote? All those in favor of the motion, please signify by saying –

Mr. Morimoto: Excuse me, but you moved to approve the Resolution and I think you need a motion to amend Part 2 of the Resolution.

Ms. Kauai: Right.

Mr. Morimoto: The language about the health and safety and professional degrees.

Chair Rainforth: You're right. Do you want to move?

Ms. Kauai: I make a motion to amend the Resolution on Part 2 to clarify the grouping with regards to professional degrees and the health and safety.

Ms. Shimamoto: Second.

Chair Rainforth: It's been moved and seconded. Any more discussion on the amendment? So, now let's move back to the main motion which is to approve this draft Resolution No. 2019 as amended.

Mr. Morimoto: Chair, you need to vote on the motion to amend the Resolution.

Chair Rainforth: Okay, the motion is to amend the Resolution by adding language to Part 2 that describes the reason for the positions in Part 2 as needing professional designations and health safety. Okay, all those in favor of the amendments, please signify by saying aye. Those opposed say nay. Hearing none. The motion carries 4:0.

**On a motion made by Ms. Kauai and seconded by Ms. Shimamoto to amend draft Resolution No. 2019-1 by describing the reason for the positions in Part 2 as needing professional designations and health and safety. The motion carried unanimously by a voice vote of 4:0.**

Chair Rainforth: Okay, I need a motion and a second to adopt draft Salary Resolution No. 2019-1 as amended.

Ms. Kauai: I move to adopt Salary Resolution No. 2019-1 as amended.

Ms. Shimamoto: Second.

Chair Rainforth: Okay, those in favor of adopting the draft Salary Resolution No. 2019-1 as amended, please signify by saying aye. Those opposed, please signify by saying nay. Hearing none. The motion carries 4:0.

**On a motion made by Ms. Kauai and seconded by Ms. Shimamoto to adopt draft Salary Resolution No. 2019-1 as amended. The motion carried unanimously by a voice vote of 4:0.**

Chair Rainforth: Okay, next is the transmittal memorandum which we want to include all of the ideas that we have been discussing as to how we came up with these numbers and why. From what Ms. Ching said Mr. Morimoto drafted the majority of this language and it's all very good. I would like to almost discuss it paragraph by paragraph because some of the language is over my head and maybe I would suggest some simpler language.

Relative to number one, in adopting its salary findings are these findings – is that the right word?

Mr. Morimoto: That's the word from the charter.

Chair Rainforth: Okay, so what we're submitting in our Resolution is our findings?

Mr. Morimoto: Correct.

Chair Rainforth: Okay, in number two you have good reasons why we're recommending increases and talking about the private sector and comparisons. What we talked about in our meetings that is not included in this paragraph would be some mention of the cost of health benefits and the issue on overtime compensation. So, I think this should be the paragraph to add those comments. And I think it was at the last meeting, everyone was telling us that some councilmembers have expressed concerns about overtime, the value of vacation and sick leave. The discussion we had was about the unusual high cost of health benefits for county workers and the issue about overtime.

Ms. Shimamoto: Right that the Department Heads don't get overtime.

Ms. Kauai: Right.

Ms. Ching: Chair, on this paragraph with number two I kind of see the overtime issue as one of the major causes of the inversion so I would in this paragraph I would focus on adding that cost of health which there is a vast difference between what the public or government can cost a government employee pays for health versus what a private employee pays for health. So, I would suggest on number two to limited to the health and overtime – look at addressing the overtime on the inversions on number three.

Chair Rainforth: On number three?

Ms. Ching: Yes.

Chair Rainforth: Okay, that sounds logical to me. Let's give Mr. Morimoto a couple minutes to make his notes.

Ms. Ching: And then before you go on to number three are you accepting number one?

Ms. Shimamoto: I have a question on the Nash Study. Should we include the date of the Nash Study? When was the study conducted? Because it don't think it's clear.

Ms. Ching: It was conducted in 2007.

Mr. Morimoto: I looked at the Nash Study and the contract that the County entered into and the study was actually commissioned by the Personnel Department to look at excluded managerial compensation. So, wouldn't necessarily the people covered by this Resolution but all excluded management in the County – they were trying to figure out appropriate compensation and job descriptions so it was a really comprehensive look at the entire structure of county personnel. The appointees were discussed towards the end of the study and I believe that the consultants helped the County to come up with the tiered system for the salaries but it was almost (I don't want to say it) like an afterthought and not really the primary focus of the Nash Study.

Chair Rainforth: Is the data on the Nash study important?

Mr. Morimoto: I could put that in –

Chair Rainforth: When was this study done?

Mr. Morimoto: In 2007.

Chair Rainforth: Okay.

Mr. Morimoto: Do you want me to put the date in?

Ms. Shimamoto: I would make a reference to something –

Chair Rainforth: Like the 2007 Nash study.

Mr. Morimoto: Okay.

Chair Rainforth: Are there any comments to parts 1&2 before we moved on to part 3?

Ms. Ching: Chair, just to make sure we're clear since we are so close. On paragraph one we are just inserting 2007 so it reads the 2007 Nash study.

Ms. Shimamoto: It should say based in part of the 2007 Nash study, the Commission recommended implementing raises for elected and appointed positions.

Mr. Morimoto: Okay. So, it would be based in part of the 2007 Nash study, the Commission –

Ms. Shimamoto: At that time recommended; is it?

Chair Rainforth: Good.

Ms. Ching: Are you clear Peter?

Mr. Morimoto: Yes. It will read, based in part in part of the 2007 Nash study, the Commission recommended implementing raises for elected and appointed officials in three phases.

Ms. Ching: Okay, we're done with number one, right?

Ms. Kaui: Yes.

Ms. Ching: And for number two we are inserting addressing the cost of health care public versus private. Correct?

Ms. Kaui: Yes.

Ms. Ching: Okay, on to number 3.

Chair Rainforth: Sorry, back to number two. Peter at the end of number two you called exhibit blank. Is this the exhibit that you're thinking of?

Mr. Morimoto: No. There was another chart but I can't recall who produced it?

Ms. Ching: I believe that it was the Department of Human Resources.

Mr. Morimoto: Okay, HR.

Ms. Ching: Right, they did a comparison of the different counties including the state.

Mr. Morimoto: They did a chart showing the different Department Heads salaries.

Chair Rainforth: This one? I cleaned it up.

Mr. Morimoto: Yes, but you also added this.

Chair Rainforth: You don't think that's important? I don't know.

Mr. Morimoto: I think it would be good to explain so that Council can see how you arrived at each figure. So, your chart would be helpful in that respect. I could add a sentence or a phrase saying that the chart showing the value of county officials as compared to their counterparts along with the proposed raises.

Chair Rainforth: Okay.

Ms. Ching: I do think that it's important to attach it because it gives context as to what you are proposing so that when Council receives it they will see that the Commission is proposing and how it compares to the other counties. Yes, so I do think it's important to attach it as an exhibit.

Mr. Morimoto: So the sentence referring to the chart would read as follows: "a chart showing the salaries of county officials as compared to their counterparts in the state and the other counties, along with the raises proposed by this Commission, is attached to this memo as Exhibit \_\_\_." So, what we'll do is, instead of using the one that was generated by personnel we will use the chart that was generated by Chair Rainforth as the exhibit.

Ms. Shimamoto: So, this is the chart by the County with the added column reflecting the 5% proposed increase correct?

Mr. Morimoto: Correct.

Ms. Kaui: I did some accounting and the impact to the County's budget is a little over \$300,000 for all of the salary increases. We don't need to put that it's just for your information only ("FYI").

Ms. Shimamoto: \$300,000.

Ms. Kaui: Yes. If we take the current salaries proposed the increase is about \$300,000.

Vice Chair Crowell: It's not much at all.

Ms. Kaui: I know that we talked about the 5% but some of the positions are actually getting more because we're bumping them up to a different category. So, it would be good to include Chair Rainforth's chart because it shows the percent increase. Right?

Chair Rainforth: Yes. Okay, moving on to number three. After the first two sentences, I would like to see a paragraph break and then start with the testimony by retire Fire Chief Robert Westerman as a second paragraph. Partly, because I want to add another sentence to the end of the first part. We're talking about salary inversion and how it's making things difficult to attract qualified internal candidates. We don't say why or we're not say why qualified internal candidates would be a good thing – I think we ought to say that, so I was thinking right after the first sentence where it ends with County Engineer we should insert a sentence which says that the Commission believes that qualified internal candidates for appointed positions brings

institutional knowledge and expertise to these leadership positions that few outside candidates possess. I think that's a valid point with the inversion issue because the people most qualified are not applying because they don't want a big cut in pay.

Ms. Shimamoto: I like that Chair Rainforth especially the reference to the institutional knowledge that they bring.

Chair Rainforth: I'll give you my notes.

Mr. Morimoto: Okay, thank you.

Chair Rainforth: And after that added sentence it just goes on to the salary inversion chart is attached. Is that the one that shows Fire and Police? Is that the one you're talking about?

Ms. Shimamoto: Yes.

Mr. Morimoto: Yes. I don't know how many positions are there, but there is a bunch.

Chair Rainforth: Are there any other suggestions for part three?

Ms. Kauai: Are we going to address the overtime?

Chair Rainforth: Right.

Ms. Ching: If you want to add the overtime here, I would suggest that the first sentence define what a salary inversion is. That a salary inversion is define by this Commission when the top position earns less than the positions below it and some of the reasons that this exists is because of overtime or I can't recall what HR calls it but it has to do with the add-on's like uniform allowance, those kind of things. So, I think if you start off there, then go into Chair Rainforth's proposed language I think it will work.

Chair Rainforth: I like that because I never even heard about salary inversions until I came here.

Ms. Kauai: Also, I think it would be important to note that Department Heads do not receive overtime.

Ms. Ching: There is also more thing that I neglected to add. We did receive written testimony from Bryan Wienand Water Manager and Chief Engineer. So at the last line, we can say testimony from Mr. Thomas Canute Chair of the Board of Water and Bryan Wienand as well.

Chair Rainforth: That's good Ms. Ching. I think it's important to talk about salary inversion is and link the overtime issue into that. Are there any other comments on number three? If not, we can move on to number four. I was thinking we could change instead of saying retention is a huge issue we could say retention is a critical issue.

Mr. Morimoto: This actually is a quote. I quoted –

Ms. Ching: I think it's from the PowerPoint?

Mr. Morimoto: Yes, so actually there is a sentence missing. It should be that...

Chair Rainforth: So it should be in parenthesis starting with retention is a huge issue ending somewhere?

Mr. Morimoto: Yes, so it should look like this – the Salary Commission found that and then quote retention is a huge issue and this Commission also found that and then the last sentence should say given these concerns hold true today.

Chair Rainforth: Okay. The Commission also talked about the phrase “greener pasture” thing.

Mr. Morimoto: That actually came from a memo the 2016 Commission sent to the Council.

Chair Rainforth: Please put it in parenthesis so we know that it's a quote.

Ms. Kau: Yes.

Chair Rainforth: This section in this paragraph is also from the report?

Mr. Morimoto: Yes. So the formatting is a little off but it should be the 2016 Salary Commission found that then in parenthesis and then the retention actually should be moved down and indented to reflect that it's a quote. And the next one says that the Commission also found that – and quote, and then (inaudible).

Chair Rainforth: Good.

Mr. Morimoto: And that should also be indented to reflect that it's a quote. My recommendation unless the Commission is going to wait for me to crank something out and come back and approve it, but you might have to meet again next week.

Chair Rainforth: I was hoping that we could go over the transmittal and if everyone is in agreement with the suggested changes we could leave it as that and I'll come in to review it one more time before its submitted since –

Mr. Morimoto: That's fine. How the Commission chooses to do it –

Chair Rainforth: That's what I was going to recommend instead of meeting again just to approve a revised draft.

Mr. Morimoto: I think that as long as the substance of the wording is approved as far as word smiting if the Commission would delegate that to Chair, Boards and Commissions and the County attorney's office we can hammer something out.

Chair Rainforth: I'll include that in when we come to a motion to approve the transmittal language, we'll throw that into too okay.

Ms. Kauai: Okay. As long as there are no material changes.

Chair Rainforth: I guess we're done with number four because its' basically all quotes. We can move on to number five.

Ms. Shimamoto: Were we going to mention – I have a note here that says the proposal was only based on the CPI and does not address inversion but also the difficulty of responsibility of these positons.

Ms. Kauai: Something more than the CPI – that's the only thing...the other departments like the attorneys and stuff that we bumped up.

Chair Rainforth: Are you talking about number five including some language to clarify what?

Ms. Kauai: How we came up with the base increase.

Ms. Shimamoto: Right.

Chair Rainforth: Right, I guess that would be a good place to put that in and –

Ms. Kauai: So seventeen and eighteen –

Ms. Shimamoto: The last Resolution was based on the 2010 and 2016 CPI. And then we're considering the 2018 and 2019 CPI's.

Ms. Kauai: No, just 2017 and 2018.

Ms. Shimamoto: Right and then rounding it off to 5%. Right?

Chair Rainforth: I'm not sure. The way we addressed the salary inversion issue was to bump up the Managing Director, County Engineer, Prosecuting Attorney, the County Attorney and the Water Manager to the same level as Police and Fire. That was our discussion.

Ms. Kauai: Right.

Chair Rainforth: So do we put that thought in here?

Ms. Kauai: I think –

Ms. Shimamoto: Mr. Morimoto was going to address that in –

Ms. Kauai: In number six?

Chair Rainforth: It says that the Commission is beginning to address the inversion issue by increasing the salaries of those positions up to the level of the Fire Chief and Police Chief.

Ms. Ching: I think that – I would suggest you start off with prior to number five you re-number it and insert a more detailed explanation about how you came up with that first section which is the Mayor to the County Auditor which is based on the CPI.

Chair Rainforth: That's right, we haven't discussed how we came up with these numbers in this transmittal.

Ms. Ching: So then you go to the motion of clearly explaining that based on the CPI the Resolution is recommending this for Part I. And then we have another section on Part II based on the CPI and the difficulty of recruiting for these positions and the fact that they require a higher level licensees or graduate educational degrees, we included a CPI and an additional extra amount of percent. So then it's very clear how you came up with Part I and Part II. Then you would go to five and six because even though there was a bump up for the County Engineer and the County Attorney, if you look at the County Engineer even though with the bump up – even with the Police there still is inversion. So, we want to make sure that the public and the Council realize that yes this is an increase but understand an inversion still exists and that gap still exists and if this Commission is going to move forward next year that thought of trying to address that inversion at least you'll have the bases for it that you laid in this memo in this year.

Ms. Kauai: Right.

Chair Rainforth: I like that. Are you recommending that we place this information between the current four and five?

Ms. Ching: Yes.

Chair Rainforth: So it will be a new number five?

Ms. Ching: Yes, so you would add a new number five and a new number 6 and then the current five now would become number seven and the current number six would become number eight.

Mr. Morimoto: Did you write this down Ms. Ching?

Ms. Ching: It's being taped isn't it? But I got it in my head.

Vice Chair Crowell: It looks like the current number six beginning with lastly might be best to throw into that paragraph that way you'll just eliminate that last paragraph.

Ms. Kauai: And make it while the Resolution will not address the inversions –make that the last paragraph.

Ms. Shimamoto: Right.

Ms. Kauai: I just had two comments and I don't know maybe we should just - I don't know if we should put it in the memo or when we present the Resolution that these are maximum salary caps and that the appointing authority has the opportunity to give up to that salary cap.

Mr. Morimoto: It's in the Resolution. But no harm in repeating it.

Ms. Kauai: And also when the County Council rates become effective because they felt uneasy about it. I know it's in the Resolution and I don't know if we should state that in the memo.

Mr. Morimoto: Communication theory repeat yourself three times.

Ms. Ching: Okay as a recap. After number four the new five will have an explanation of Part I which is basically the CPI. The new number six will fold into the old six which is lastly given the difficulty in filling positions that require technical knowledge and licenses that paragraph with an explanation of it CPI for Part II plus additional percentage due to the difficulty of filling those positions and the additional licenses and graduate level education that's needed and health and safety. So, that's the new six and we'll keep the number seven as is and what I heard was adding two others, one is that this is a salary cap and the last thing is when the Council salaries go into effect.

Chair Rainforth: I like it. It sounds good to me.

Vice Chair Crowell: Yes.

Chair Rainforth: I would like to change the end. Instead of saying given the foregoing, I think we should be direct and say something like the Salary Commission recommends that the Kaua'i County Council adopt the proposed maximum proposed salaries for elected and appointed officers or officials (I don't know) as submitted in Resolution 2019-1. Thank you. Something to tell them we want you to adopt the Resolution.

Vice Chair Crowell: Sounds good.

Ms. Shimamoto: As the last paragraph and not as a numerical.

Chair Rainforth: No, just as a closing statement. Okay, are there any other comments or additions you would like to make to our transmittal letter? Hearing none, I guess we need a motion to approve the transmittal memo as revised. Is there a motion?

Ms. Shimamoto: I moved that the transmittal letter be accepted as revised.

Ms. Kaii: Second.

Chair Rainforth: Any discussion? Before we vote, the Commissioners understands that Mr. Morimoto and Boards and Commission's Staff will be working on making the revisions on our behalf and I'll take a look at it before we send this because I have to sign it. I believe.

Ms. Kaii: We all have to sign it.

Mr. Morimoto: All of you have to sign the Resolution.

Chair Rainforth: Yes, I know. So, with that understanding those in favor of approving the transmittal letter as revised, please signify by saying aye. Those opposed. Hearing none. The motion carries 4:0.

**On a motion made by Ms. Shimamoto and seconded by Ms. Kaii, the Commission approved and accept the revisions to the draft transmittal memo by voice vote of 4:0.**

Chair Rainforth: Okay, the issue about having another meeting to have the Commissioners sign the Resolution or we could go to Ms. Ching's office.

Ms. Ching: Chair, if I can – Ms. Omo can you talk about what the process is once Chair Rainforth has approved the Resolution and the transmittal memo.

Ms. Omo: The approved transmittal memorandum along with the signed Resolution by all four Commissioners will be sent up to the Mayor's office for review and it they would transmit the Resolution over to the County Council for placement on the Council agenda. The placement usually happens within two weeks of the date of transmittal. In past, we would have all of the Commissioners come in to sign the resolution.

Mr. Morimoto: my goal is to because we are in such of a short fuse, my goal is to finish the transmittal memorandum as well as the revisions to the Resolution today.

Ms. Shimamoto: Okay, as soon as we hear from Ms. Omo we can all go to Boards and Commissions to sign the Resolution. Can you talk about the timeline, it has to get to Council by March 15, 2019 right?

Ms. Ching: Yes, which is next week Friday. I think that given the rate that this is going ideally, even with a little bit of give if we can transmit the packet up to the Mayor by Tuesday and then get it over to Council would be ideal because the Mayor has his State of the County Address on

Thursday and I don't want this to get lost in that. So, I would like to use the analogy to clear the hurdle by Tuesday.

Ms. Kaui: I'll be on O'ahu tomorrow but I can come in on Monday.

Ms. Omo: Okay.

Ms. Shimamoto: Chair, are you going to be lobbying the Councilmembers?

Chair Rainforth: Once the Resolution has been submitted to Council I'm going to talk to Jade and ask her to set-up appointments with the Councilmembers. And once I get scheduled, I'll give the schedule to Ms. Omo and she can share with the Commissioners and you all can let me know if you would like to attend one of the meetings with a Councilmember or not. Per the Sunshine Law only three members which is less than a quorum can meet at one time.

Ms. Kaui: That's the same for the Councilmembers.

Chair Rainforth: Okay.

Ms. Omo: Once the Resolution is on Council's agenda you can delegate two or three members to appear before Council to answer any questions Council may have.

Chair Rainforth: Right.

Ms. Shimamoto: From what I understood not all members can appear before Council.

Vice Chair Crowell: Yes, that's my understanding as well. I remember the last time the Commission went before Council there were only three members who went.

Mr. Morimoto: I'm trying to decide because the Commission's business in regard to the Salary Resolution would be done by the time it gets to Council and so theoretically there is no Commission business with regard to the Resolution that is going to be taking place.

Chair Rainforth: So, there shouldn't be a conflict.

Mr. Morimoto: Right, So, I'm thinking that the Sunshine Law may not apply to the Council meeting in regard to the Resolution once passed. But what I want to do is do some research on that issue and may call Office Information Practice ("OIP") to get their feedback from OIP and I'll let the Commission know by email. I'll send it to Ms. Ching and she can distribute it if that's okay.

Ms. Ching: Chair, I'm thinking ahead you know hope for the best and plan for the worst. Let's say

Chair Rainforth: You might want ask Jade Tanigawa if that would make the Councilmembers uncomfortable.

Mr. Morimoto: I'll let Ms. Ching do that. I'll do the legal research.

Chair Rainforth: Okay.

Ms. Ching: I believe if possible, the more Commissioners that can be present to respond to the Councilmembers questions that's it a positive thing because we already know going into it that the Councilmembers did have questions and concerns about the inversions and whether it really was an inversion or not because of the benefits for government employees versus private employees. I feel that the conversation and being able to respond to questions would be a benefit. So, as soon as Mr. Morimoto can give us some information about whether that's okay or not by Sunshine than we'll transmit. But if it's possible the more Commissioners that are present to respond to the Council's questions and provide them with information the better.

Vice Chair Crowell: I think along with that other Commission members (not Salary Commission) like Fire, Police, and Planning Chairs have come before the Council to testify. So, if this does come up they should be notified to attend the County Council meeting to testify.

Ms. Ching: Mr. Morimoto, I hate to add more to you but we did have a situation where there was a question as to how many Commissioners can attend a single meeting. From the handbook from OIP it says the board can assign two or more members but less than the number of members that would constitute a quorum of the board to present discuss or negotiate any position that the board has adopted.

Vice Chair Crowell: That's why I remembered the number three.

Ms. Shimamoto: So, it means in terms of meeting with Councilmembers as well as the Council meeting.

Ms. Ching: I would appear so, but I'm certainly new, at this so I'll rely on the knowledge of our County Attorney.

Mr. Morimoto: Again, I'm going to have to do some research on this issue. My gut tells me that once the Resolution is pau its pau, but given what Ms. Ching had just read it sounds like the law would overrule my gut.

Ms. Ching: So, let's give our County Attorney some time to make sure that we're on the right of this and we'll communicate that information to you.

Chair Rainforth: So you would need to coordinate who is going to attend if we are restricted by the numbers. I know that I'm not supposed to email everybody so it's going to need to come through Ms. Ching's office to decide who would volunteer to go or who can go.

Mr. Morimoto: Well, I'm looking at Hawai'i Revised Statutes 92-5 and it says that two or more board members etc., etc. may be assigned to present, discuss or negotiate any position which the board has adopted at a meeting provided that if the assignment is made and the scope of each member's authority is to find at a meeting of the board prior to the present, discussion or negotiation. So, if that is going to happen it has to happen at the next Salary Commission meeting. Normally, when permitted interaction group is formed there is a notice on the agenda and the board says okay we're here to discuss forming a "PIG" and who is going to participate and what their duties would be. I'm not certain if you can do that at this meeting. I think it might be better to notice it for another meeting. We have time council is going to get the Resolution by next Friday or there about and their staff will agenda it. So you'll have time to agenda another meeting and select your "PIG" members.

Ms. Shimamoto: I'm going out so the three of you can.

Vice Chair Crowell: I don't recall having a special meeting to just to form a PIG to go before Council.

Ms. Omo: In the past, the Commission would delegate the Chair and the Vice Chair to go before Council in case they have any questions.

Vice Chair Crowell: But that doesn't preclude other Commissions members to attend and testify.

Mr. Morimoto: Not at all.

Ms. Shimamoto: So what I'm hearing is three members can be designated to present but can a fourth member be there also. Because the last time we couldn't even go into...

Vice Chair Crowell: I think that the rule says no and yes, that is what happen the last time.

Mr. Morimoto: I have some concerns about that because in some respect it violates your First Amendment Rights and I would think that the First Amendment would trump the Sunshine Law. Let me do some quick research and I'll call the OIP to get a read from them and email you.

Mr. Morimoto: What we could do is agenda the meeting and if it's not necessary we can cancel.

Chair Rainforth: Okay.

Ms. Kauai: So March 21<sup>st</sup> okay?

Ms. Omo: Sorry, we have a function for the Status of Women.

Ms. Ching: Right, not the 21<sup>st</sup>.

Vice Chair Crowell: How long does it Council to get the item on the agenda? Does it automatically get on the agenda?

Ms. Omo: Yes, as soon as the Resolution goes over to Council it takes two weeks for the item to appear on the agenda. At previous Salary Commission meetings, the Commissioners would normally delegate two Commission members to appear before Council to answer any questions the Councilmembers may have.

Vice Chair Crowell: Can we form a PIG right now?

Ms. Ching: We have to agenda that we are forming one.

Vice Chair Crowell: Okay.

Ms. Shimamoto: Right, but I remember the Commissioners were notified via email and not at a meeting.

Vice Chair Crowell: Right, I think there was three of us.

Mr. Morimoto: Who else went with you?

Vice Chair Crowell: I think Cammie was one, but don't remember the third person.

Chair Rainforth: So are we going to have another meeting or not?

Ms. Kaui: Let's schedule a meeting for the 28<sup>th</sup> in case we need to meet and after Mr. Morimoto does his research and says it's not necessary to form a PIG then we can cancel the meeting.

Ms. Ching: Rather than March 21<sup>st</sup> is there another alternate date?

Ms. Kaui: How about March 28?

Ms. Omo: I'll check the meeting room availability.

Ms. Ching: Is Thursday's the date you guys can meet?

Vice Chair Crowell: We were meeting on Wednesday but we changed to Thursday's.

Ms. Ching: Maybe we can meet on March 20<sup>th</sup>.

Ms. Kaui: I cannot be here on the 20<sup>th</sup>.

Vice Chair Crowell: Okay.

Ms. Ching: On the 20<sup>th</sup> you are going to gain Leland Kahawai.

Ms. Kauai: Nice.

Ms. Ching: March 20<sup>th</sup> Mr. Kahawai is going to be on board.

Mr. Morimoto: What is the quorum for this?

Ms. Omo: It's a seven member board so we will need four members to make quorum.

Ms. Ching: Leland Kahawai will be on board on the 20<sup>th</sup>.

Ms. Shimamoto: The 20<sup>th</sup> is not good for me.

Ms. Ching: Okay, what about March 19<sup>th</sup>?

Chair Rainforth: Tuesday. Doesn't Planning Commission use this room?

Ms. Ching: Yes, we can schedule the meeting for a different room. What's Tuesday like for you  
Ms. Kauai.

Ms. Kauai: That works for me.

Ms. Ching: Already, I don't see the meeting going anything over 30 minutes the max.

Mr. Morimoto: So it's the 19<sup>th</sup> we're looking at?

Ms. Ching: Yes.

Chair Rainforth: I can't come in the morning? I have two doctors' appointments. I can come any time after 11:00 a.m.

Ms. Ching: Can you come in 11:00 a.m.?

Ms. Omo: Can you come at 11:30 a.m.?

Chair Rainforth: Yes. Okay, Tuesday, March 19, 2019 at 11:30 a.m.

Ms. Ching: The only reason why I'm pushing for that week is in order again, depending on what our County Attorney says about the information. But the reason why I'm pushing for that week is in order for our Chair to meet with the Councilmembers individually he needs time to schedule that and if other people can join him; that's why I want to push it earlier so that can be done before it gets on Council's agenda.

Ms. Kauai: Okay.

## **ADJOURNMENT**

Chair Rainforth: Before we adjourn, I wanted to talk about the future. We talked about needing to work on the 2020 Salary Resolution, but I think we all wanted a vacation at least for six months. Is that reasonable amount of time? We are going to have the same timeline when submitting the 2020 Salary Resolution in March of that year. So do you all want to start in September?

Ms. Kauai: Okay.

Vice Chair Crowell: Okay.

Ms. Omo: I'll find what dates are available in September. Just put it on your radar as the month the Commission is going to meet again.

Vice Chair Crowell: I think we need to wait to see how Council reacts to this proposal.

Chair Rainforth: Okay, is there a motion to adjourn the meeting?

Vice Chair Crowell: So move.

Ms. Shimamoto: Second.

Chair Rainforth: It was moved and seconded. All those in favor, please signify by saying aye. Opposed. Hearing none. The motion carries and the meeting is adjourned. Thank you.

**On a motion made by Vice Chair Crowell and seconded by Ms. Kauai, the meeting of the February 28, 2019 Kaua'i Salary Commission adjourned by a 4:0 vote.**

Ms. Ching: One last thing, I want to mention before everyone leaves is, I really want to thank Ms. Shimamoto for coming to all of the meetings and for her service because we definitely would not be where we're at without you. Thank you. At 10:50 a.m. the meeting adjourned.

Submitted by:

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Mercedes Omo Support Clerk

Approved by:

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Kenneth Rainforth Chair

Approved as circulated on: 9/5/2019

Approved as amended on: