

MINUTES

COMMITTEE OF THE WHOLE

August 10, 2016

A meeting of the Committee of the Whole of the Council of the County of Kaua'i, State of Hawai'i, was called to order by Mel Rapozo, Council Chair, at the Council Chambers, 4396 Rice Street, Suite 201, Lihu'e, Kaua'i, on Wednesday, August 10, 2016, at 12:25 p.m., after which the following Members answered the call of the roll:

Honorable Mason K. Chock
Honorable Gary L. Hooser
Honorable Ross Kagawa
Honorable Arryl Kaneshiro
Honorable KipuKai Kualii
Honorable JoAnn A. Yukimura
Honorable Mel Rapozo

Minutes of the July 27, 2016 Committee of the Whole Meeting.

Upon motion duly made by Councilmember Kagawa, seconded by Councilmember Kaneshiro, and unanimously carried, the July 27, 2016 Committee of the Whole Meeting was approved.

The meeting proceeded as follows:

- ES-863 Pursuant to Hawai'i Revised Statutes Sections (HRS) 92-4 and 92-5(a)(2), (4), and (8), the purpose of this Executive Session is to consider matters that require confidentiality under state law, to wit, the hiring of a County Auditor, including interviewing any candidates, and terms and conditions of employment. The further purpose of this executive session is to meet with the Council's legal counsel on questions and issues relating to the Council's powers, duties, privileges and immunities and/or liabilities, claims and/or potential claims, as such powers, duties, privileges and immunities and/or liabilities, claims and or potential claims relate to the foregoing item, and to take such action as the Council deems appropriate.
- ES-864 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 92-5(a)(4), and Kaua'i County Charter Section 3.07(E), the Office of the County Attorney, on behalf of the Kaua'i County Council, requests an Executive Session to brief the Committee of the Whole on matters regarding the Notice of Violation and Order (NOVO) from the State of Hawai'i Department of Health, Clean Water Branch for National Pollutant Discharge Elimination System (NPDES) Permit related violations and penalties at four (4) refuse transfer stations, and related matters. The 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.

Councilmember Kaneshiro moved to convene in Executive Session for ES-863 and ES-864, seconded by Councilmember Kagawa.

Council Chair Rapozo: Is there any discussion? Is there any public testimony?

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

Council Chair Rapozo: Mr. Syoks.

LONNIE SYKOS: For the record, Lonnie Sykos. In regards to the Executive Session relating to the issue of hiring a County Auditor, if you are not going to hire an Auditor in the next couple of weeks, could you please put an item to discuss why it is we cannot hire an Auditor on the agenda? The reason I am asking this is because when the Auditor was hired, he waited two and a half (2½) years to be provided any money to conduct an audit. I was at the Council Meeting when the Council was presented with the Auditor's first batch of audits in which all seven (7) Councilmembers objected to every one of the audits that the Auditor wanted to hold. Not one of the Councilmembers apparently had either so much as read the introduction to the "Yellow Book" because they did not understand that the Auditor did not choose the first audits. That selection is done by the audit process. All seven (7) Councilmembers objected to holding a fuel audit. They tried to prevent the Auditor from holding the fuel audit. Yes, Councilmember Yukimura. Do not shake your head. Go back and read the public record. All seven (7) Councilmembers objected to holding the fuel audit, and so the Auditor works for me. You hire him, you provide the funds, but he does not work for you. He is simply under the administrative control. The whole issue of the Chief of Police, the Auditor, the Fire Chief, and the Liquor Inspector, someone should have the authority to influence their decisions by threatening them with disciplinary action, undermines the absolute independence of their office, which is the necessity. It is mindboggling why it has taken so long to recruit a new Auditor. If you cannot do it in a timely fashion, please have a public hearing and explain to us why it is so difficult to hire an Auditor.

I will take my time now to say in regards to the second Executive Session, which is the apparent willful negligence of the County in regards to our health and sanitary violations at the transfer stations. My question is under our current system, not something theoretical, under our current system, what could the Department of Human Resources (HR) actually do in regards...

Council Chair Rapozo: Lonnie, hang on real quick. Is there anyone else wishing to testify? If not, you can have your second three (3) minutes.

Mr. Sykos: Okay. What could HR, or the Administration, or you actually do about our supervisors who apparently willfully have allowed this to occur? If our HR system functioned like a HR system is supposed to, the obvious answer is they could be fired. They could be disciplined, but they could be fired for willfully doing this. From the public testimony of our HR Director, because we have

nothing in writing, right? We cannot even write them a letter of reprimand because there is nothing in writing telling them not to do what they did. We want to know what could actually be done, and not specific to the people in this. Generically, if our supervisors, our administrators, willfully conduct themselves in this fashion, what can be done about it? HR just got done telling us "you cannot do anything." When is HR going to get cleaned up, which could well be another agenda item directly related to this? How do we control our managers who are going to get us sued? Our ten million dollar (\$10,000,000) surplus is going to go out the window if Occupational Safety & Health Administration (OSHA) or the Environmental Protection Agency (EPA) gets ahold of us. If EPA gets onto us and decides to fine us over this, you can kiss our ten million dollar (\$10,000,000) surplus good-bye. What do we do? I am a member of the public. I want to be protected from the malfeasance of the managers that cause things like this. Put HR on the agenda. How do we protect ourselves? All I heard was these people deserve pay raises, unless they quit and we cannot recruit anybody else. Thank you.

Council Chair Rapozo: Thank you.

There being no further testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: Is there any further discussion? I am just going to be very brief, the reason why we did not hire an Auditor is because no one accepted the job. We actively recruited. We spent a ton of money in advertisements everywhere. It is just a tough position to fill. As far as the second item Mr. Sykos talked about, we are limited as a legislative body to what we can do as far as the Administration of this County. I can tell you that if we had the authority to fire people, I think we would maybe have an employment problem in the County. We would have to go out looking for workers. But we do not have that ability. We can ask, we can send memorandums, we can do whatever, but bringing HR here...the answer is the concerns needs to be addressed to the Mayor who has that authority, or the Commissions that appoint their department heads. As far as the audit, I can honestly say that we have made an extensive effort. Today is a continuation. We are trying to do an interview. Hopefully we can come to an agreement at some point and get that Office filled. Councilmember Yukimura.

Councilmember Yukimura: Council Chair Rapozo, I appreciate your comment because that is the truth, the Council has been going through a very systematic and open process to recruit. We have looked for the most qualified person because we know that position is very important and that position does serve the community, not the Council or the Mayor. I am very proud of the process we have followed thus far, and I believe the commitment of all of us is to find the most qualified candidate for this position. As far as the issues that have arisen with the solid waste transfer stations, that responsibility in terms of supervisors and managers, is squarely on the Mayor as the Chief Executive Officer of the County. That is an administrative function that we are, by Charter, forbidden to partake of. If the public

is concerned about it, they really need to go to the Mayor's Office and direct their concerns there.

Council Chair Rapozo: Thank you. Today's agenda item is for us to discuss our options as a Council going forward to make sure that it does not end with the discussion that we had a little while ago. With that, roll call.

The motion to convene in Executive Session for ES-863 and ES-864 was then put, and carried by the following vote:

FOR EXECUTIVE SESSION:	Chock, Hooser, Kagawa, Kaneshiro, Kualii, Yukimura, Rapozo	TOTAL – 7,
AGAINST EXECUTIVE SESSION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

ALLISON S. ARAKAKI, Council Services Assistant I: Seven (7) ayes.

Council Chair Rapozo: With that, the Committee Meeting is adjourned. We will reconvene in Executive Session at 1:40 p.m.

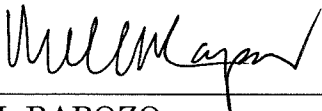
There being no further business, the meeting was adjourned at 12:36 p.m.

Respectfully submitted,



Allison S. Arakaki
Council Services Assistant I

APPROVED at the Committee Meeting held on September 14, 2016:



MEL RAPOZO
Chair, COW Committee