

INAUGURAL MEETING

December 1, 2008

The Inaugural Meeting of the Council of the County of Kaua'i was called to order by Temporary Chair Mayor Bernard P. Carvalho, Jr., at the Kaua'i War Memorial Convention Hall, 4191 Hardy Street, Room 201, Līhu'e, Kaua'i, on Monday, December 1, 2008 at 12:02 p.m.

MAYOR BERNARD P. CARVALHO, JR.: I hereby appoint Peter Nakamura as temporary County Clerk. Are the credentials of the Councilmembers in order?

PETER A. NAKAMURA: The credentials committee has filed a report which shows that the credentials of the Councilmembers are in order, and that the oath of office has been given.

Mayor Carvalho: Mr. Clerk, please call for the roll:

Honorable Bill "Kaipo" Asing
Honorable Tim Bynum
Honorable Dickie Chang
Honorable Jay Furfaro
Honorable Daryl Kaneshiro
Honorable Lani Kawahara
Honorable Derek Kawakami

Mr. Nakamura: All present.

Mayor Carvalho: If there are no objections, the agenda is approved. Now I understand that there are some people in the audience who want to come up and speak, so at this time, we will have you come up to the mike and share your thoughts.

There being no objections, the rules were suspended.

Mr. Nakamura: Mr. Chair, I have Bruce Pleas who signed up to testify on the appointment of the Chair.

BRUCE PLEAS: Bruce Pleas for the record. Thank you for letting us speak at this meeting. On the agenda item for Chair, I would wholeheartedly ask the Councilmembers to go by what the people of Kaua'i voted. The number 1 vote getter on this island should, as far as my opinion, be the Chair of this Council. That is what I believe the people have voted for and I would fully support. So I ask you to look into what you campaigned for... supporting what the people, open government... I was there most of the meetings with you. Think about it. Look into

your heart and please elect the Council Chair that the people of Kaua'i voted for. Thank you.

ANDY PARKS: I would like to agree with my friend Bruce and ask you all to reconsider after all the publicity of the meeting from a couple of weeks ago. I really think that there is another way to go about this. You could even defer some matters especially matters later on this agenda if you are in a rush now. But I would like to personally throw my support behind Mr. Furfaro for Chair and ask that some of you change the way that you are planning on voting, please. I am sure there are a lot of people in this community who I represent especially after all the publicity after last Monday's meeting. Thank you very much for your consideration.

Mayor Carvalho: Are there any other members wishing to speak, people from the public? Mr. Taylor?

KEN TAYLOR: Mayor and members of the Council, my name is Ken Taylor. I, too, would suggest to all of you to really look deep in your hearts and follow what the voters of the community laid on the table. The largest vote getter was Councilmember Furfaro and I certainly believe that... in this particular situation that you should as you all indicated to the community, change and openness. This is the time to show what we are going to see for the next couple of years. I also... what I believe was your illegal meeting a couple of weeks ago raised the concern about the rules of how you are governed. Again, I would ask that you postpone this decision and have an open public meeting to discuss this. Again, showing the community that you are indeed ready to step forward, and show openness in government because some of these rules and regulations do need to be considered for change and the only way that I can see it can be done is an open public meeting. I believe that you adopt this resolution... this resolution today, we are going to be stuck with it for another two (2) years, so please reach down deep inside, and postpone this activity until early in January, so that we can have an open public discussion. Thank you.

Mayor Carvalho: Thank you Mr. Taylor. Is there anyone else wishing to testify? Mr. Kualii?

KIPUKAI LES KUALII: Aloha, I am Kipukai Les Kualii. I am a first time unsuccessful candidate for Council. Congratulations to all of you Mr. Mayor and Councilmembers. I am sitting here and I am kind of puzzled at what is going on. Today is a day of celebration and of aloha and respect for each one of you that has been elected by the people. So I am not sure that any individual can come up here and try and define what the change the voters was seeking was, you know. We do have three (3) new Councilmembers, so the seven (7) of you are empowered to act on our best behalf and if... when the seven (7) of you vote, you decide whatever you decide, you are acting on our behalf, and we appreciate that. I think there may be many individuals who are not brave enough... that want to come up here and say this. I was just sitting there and I wasn't planning to say anything, but I just

thought I should, and you are empowered to represent us. Even if the vote ends up being 4:3, we voted for seven (7) of you, and we trust in your decisions and I don't think anyone of us should come up here now, and try to influence that process one way or the other. You vote from your heart and from your mind and you represent us and we thank you for that work that you do. Mahalo.

Mayor Carvalho: Thank you Mr. Kualii. Is there anyone else wishing to testify? If not, the floor is now open to nominations for Council Chair.

The meeting was called back to order, and proceeded as follows:

DARYL W. KANESHIRO: I nominate Mr. Bill "Kaipo" Asing as Council Chair.

TIM BYNUM: Second.

Mayor Carvalho: Any further nominations? If not, nominations are closed. Any discussion?

JAY FURFARO: Yes, Mr. Mayor.

Mayor Carvalho: Mr. Furfaro?

Mr. Furfaro: I would like to thank the audience that is here today to reaffirm the fact that we had an organizational meeting in the spirit of the Sunshine law and I, in fact, passed my support for Mr. Asing. We are a body. No individual member should feel that they cannot speak in terms of where they cast their vote, and Mr. Asing had won that organizational leadership, and I intend to support the group's majority decision as a body. Thank you.

Mayor Carvalho: Thank you Mr. Furfaro? Anymore discussion?

Mr. Kaneshiro: Thank you Mr. Chair. I just wanted to make it clear that of the four (4) terms that I have served on the County Council, many times the highest vote getter wasn't necessarily Chairman of the Council. So I wanted to make that clear for the public. I also want to make it clear that what Mr. Taylor spoke about illegal, it is not. We have the OIP opinions and I also want to make that clear to the public. Thank you.

Mayor Carvalho: Thank you Mr. Kaneshiro. Anymore discussion?

LANI KAWAHARA: Thank you everybody for coming. I want to thank the people that did come up to speak and I want to say that is how good democracy works. We are all seven (7) up here going to work very hard for you despite the bumpy start. I know that we all intend to do our best for you and there is a majority as we have said, and I will respectfully be (inaudible)... to...

Mayor Carvalho: Thank you Councilwoman. Any further discussion? If not, all those in favor of Bill "Kaipo" Asing for Council Chair say aye. Those oppose say no. The ayes have it, and Bill "Kaipo" Asing is elected Council Chair.

(Mayor Carvalho relinquished the Chair's duties to Mr. Asing.)

BILL "KAIPO" ASING, COUNCIL CHAIR: Good morning and aloha everyone. I would first like to thank all the Councilmembers for their support. We are in trying times. Not only I see our great Senator here (Abercrombie) from the big city, and I can imagine what you see up there on what the country is facing today. Thank you for stopping by and I will be working with all of my colleagues to get our package together on the things that we see that we greatly need as far as infrastructure, bridges, roads... whatever we feel that can help us, so thank you very much. With that, we are back to the agenda. Mr. Clerk, you want to read that please?

Mr. Nakamura: At this time Mr. Chair, we are on appointment of the Council Vice Chairperson.

Chair Asing: Nominations are now open for Vice Chair.

Mr. Bynum: Mr. Chair, I nominate Jay Furfaro for Council Vice Chair.

Chair Asing: Can I have a second?

Ms. Kawahara: Second.

Chair Asing: Thank you very much. We have a motion to approve Councilmember Furfaro for Vice Chair. Any discussion? If not, can we have roll call.

Mr. Nakamura: Mr. Chair, we had some members of the public signed up to testify, but the indication is that they are not going to be testifying at this time. On the roll call for the Council Vice Chair.

Chair Asing: Peter, are you saying that someone wants to speak on this item?

Mr. Nakamura: No, they had indicated... they signed up, but they indicated that they didn't want to testify at this time.

Chair Asing: Can we have roll call please?

The motion to appoint Jay Furfaro as Council Vice Chair, was then put, and carried by the following vote:

FOR APPOINTMENT OF VICE CHAIR: Bynum, Chang, Furfaro, Kaneshiro,	
	Kawahara, Kawakami, Asing
	TOTAL - 7,
AGAINST APPOINTMENT OF VICE CHAIR: None	TOTAL - 0,
EXCUSED & NOT VOTING: None	TOTAL - 0.

Chair Asing: Thank you. Can we have the next item please?

Mr. Nakamura: The next items are resolutions. I believe we have people who have signed up to testify on the resolutions Mr. Chair. I have Bruce Pleas on Resolution No. 2009-02 and Resolution No. 2009-03.

Chair Asing: Thank you. Bruce?

There being no objections, the rules were suspended.

Mr. Pleas: Bruce Pleas for the record. 2009-02 which is the rules. There have been some changes since 2007. The first one that I would like to speak to you about is on page 9, it is rule number 5 (inaudible)... that is voting required... the new rules state, no member shall refrain from voting unless absent. We have had a Charter amendment passed that sets parameters on Councilmembers being there with a conflict of interest and participating in the proceedings. So this... what you have there, it says, (inaudible)... I would suggest adding, or prohibited by the County Charter which would cover the County Charter and anything that comes up over the next two (2) years. And Charter amendment was... disclosure of interest 20.04B, I would suggest that.

Mr. Furfaro: Mr. Chairman, may I answer that question. Bruce, thank you for these comments and, again, by County Charter, the fact of the matter is when an amendment is approved, it goes into effect 30 days after the vote, so this will be mandated that happened on December 4.

Mr. Pleas: Therefore, the rules will be changed at that time by amendment on the Council.

Mr. Furfaro: If the amendment passes... 30 days to implement that.

Mr. Pleas: I will look for it on the Council agenda. Also to rule number 8, disclosure of interest... it states now when a possible conflict of interest to any matter pending before the Council or any of its committees comes apparent to a member, the member shall promptly make a written disclosure to such a body. I would... we have to look at 20.04B again and what the process would be. Prior and what has been the Council's procedure at this point is that an oral disclosure of a

possible conflict of interest is given at the time that it comes on the agenda. Therefore, because sometimes a Councilmember will not recognize that it is a conflict of interest and I would hope that would be written into this. So the oral one is given at the time of a possible conflict of interest and the written one will follow the next week. That has been the procedure so far. It seemed to work fairly well on that. I am kind of used to having a table here.

Let's see. This is rule number 12, public hearings which would be E4(c)... persons testifying should clearly state their name, address, whom they represent, and where they are a registered lobbyist in compliance with H.R.S. Chapter 97, lobbyist (inaudible). If this is written as our rules and procedures, this needs to be followed. We are not following it as the public and I did not follow it as I came up here now. I think this is for public information... the only part that I would change is the address. I would like to see that instead of shall, may state their address. I believe that is somewhat personal information. I see no problem with stating your name, who you represent, and whether you are a registered lobbyist. I think that is something important that we have not done, and from now on, I will try to do those three (3)... I will write a note on that.

Chair Asing: Do you want to finish up? Do you have a lot more Bruce?

Mr. Pleas: I have a couple more here. I will skip the public information one... rule number 16, minutes, and this is "d". Upon approval of the written minutes, the tape recording shall be erased. I think this is a travesty to have the oral documentation of a Council meeting disappear and have written minutes take its place. ADA compliance, therefore, you have to have them in brail... I think tape recordings should be kept and what I would add is... the tape recording shall... I would delete be erased... be retained as a verbal record for the legally blind, recording may be compiled into a compact format that retains the original verbal record. You can put a lot on a CD these days and I think it is imperative that you... that people be able to go back and obtain the verbal record of Council meetings. I know in the future with the written record... if it does not carry what my notes have and I have no verbal record of actions that have transpired at the Council meeting, I have no leg to stand on.

Chair Asing: Do you want to finish up Bruce please?

Mr. Pleas: That is it. I want to thank you for letting me speak on 2009-02.

Chair Asing: Andy?

Mr. Parks: I want to explain to people here... the very first thing the Council does is pass their rules every two (2) years and they are never brought up again. So those of us who come to the Council meetings and care about

the rules, this is the only time we have to go over them. Really, that is why I am here. In these rules, I don't know whether... some of you are probably not aware of it. About four (4) years... until four (4) years ago, Council meetings occurred... every two (2) weeks at 1:30 in the afternoon. Four (4) years ago, that was changed to 9:00 a.m., and since then, people are unable to come to the Council meetings if they have something on the agenda that they want to talk about without taking a whole day off because they never know when they get there at 9:00 a.m... it could come up at 4 o'clock, it could come up at 2 o'clock. Not only that, I think it has been a good system for Council people who sometimes get communications early that morning the day of it and I have seen it all the time at meetings where you sit there and you have just gotten the answers to questions that you asked two (2) weeks ago. That could be help. If the Council meetings were at 1:30, it could increase participation of the public. There is no doubt about that. Not only that, the years before it was changed... the second committee meeting of the month was held at 4:30 which really enabled people who wanted to come on a specific piece of legislation to come and share their mana'o with you, otherwise, there is some people who can't take any time off from work and they are shut out from this Council... there is no opportunity for them if the meetings begin at 9 a.m. all the time. I am implore to please consider changing these rules to go back to 1:30 Council meetings like they had been for 30 years. They were only changed recently and to go back to that really good idea that Ron Kouchi started in the 90's of having one committee meeting at 4:30 because if a piece of legislation is important enough to have gone... to be important enough to the public, it will go through two (2) committee meetings and one of them will be late enough to give people the opportunity to participate in their own government. That is all that I am asking. Right now, I hear from people all the time who are totally shut out. They work from all day and there is no way they can even take, you know, anytime off, much less a whole day. Thank you very much and I really hope that you will consider deferring that section of the rules or putting it back on the agenda at the first possible moment. Please change those times back to 1:30. Thank you.

Chair Asing: Thank you Andy. Is there anyone else?

Mr. Nakamura: We have Mr. Ken Taylor signed up.

Mr. Taylor: Chair and members of the Council, my name is Ken Taylor. I certainly think that Andy has raised a very interesting point of starting the Council meetings at a later time. You might even want to consider doing some of the (inaudible) in the afternoon and the evening part of the meeting... get into specific projects that have affect on communities throughout the island. I think that would be very important, but as I said earlier, I think this whole resolution should be set aside... I talked with a number of people in the community that would have liked to have been here today and would like to talk about procedures that you follow and now we heard earlier that everything apparently was set in stone a couple of weeks ago and we are not going to get a chance to discuss these issues. But

I really do believe that this resolution would be set aside and brought back the first week of January for a full open discussion on it. Thank you.

Chair Asing: Thank you. Is there anyone else? What I would like to do, Mr. Clerk is, if there is anyone else who wants to speak on anything that remains on the agenda, can speak now, so we won't go in between items.

Mr. Nakamura: Mr. Chair, we have two (2) registered speakers for Resolution No. 2009-03. The first speaker is Mr. Bruce Pleas.

Mr. Pleas: Bruce Pleas for the record representing myself and I have no lobbying (inaudible). 2009-03, this is an appointment of Chairpersons and Chairs. I was in attendance on Monday for the meeting. I took in what happened and I really have no problem with this coming out. As a matter of fact, all seven (7) Councilmembers should have been there at the Council with a list to keep everything straight in their mind. I think that was something that was required of every Councilmember. Also, too, of the committee, the types of committees. As it is now, I would really like to have this Council defer the committee and the committee lineups, put them back on the first agenda, and have open discussion among all Councilmembers as to who each Councilmember thinks should be in each committee after deciding upon the committees. We have had a change in committee which happens all the time... every two (2) years, but there was no real discussion among the members. I think that would be very good for the members to discuss what committees will be over the next two (2) years and who would be on that because I think with you talking among each other... that we will come out with a consensus and a very good (inaudible). It is the same if I came forward and gave each of you three (3) cookies. One was burnt, one was medium well done, and one was rare, and I asked you to share it among yourselves because some persons may like rare cookies and some people may like well done ones. That is how government should work when you share your ideas and your preferences among each other instead of having it given to you on a piece of paper. Thank you. I will see much of you over the next two (2) years and we will have some lively discussions.

Chair Asing: Thank you Bruce. Andy?

Mr. Parks: I want to support what Bruce said and really ask that... I know that meeting that took place was legal and what the OIP has called the loophole in the Sunshine law. They actually called it that. You know, now that you are sworn in, there is the Sunshine law to consider and I would really like for you people to consider given what happened last time to consider going back and looking at the members of each committee, and the chairs of each committee in a public forum, so that people will know and have confidence in your decision making and know that everybody is happy with the committee that they are chairing and the committees that they are on. The rules can be changed to allow more people on a committee. It is up to you. There is no law saying that there has to be five (5) people. It is your resolution on a committee. You could have more, you can change

some of the chairs... I really urge you to have an open discussion and that is all that we are asking for. We are not necessarily asking for changes, we just want to know that everybody is happy. Thank you very much and I hope you will consider deferring both that and the rules.

Chair Asing: Thank you Andy. Is there anyone else who did not sign up and wants to speak at this time? If not, I will call the meeting back to order.

The meeting was called back to order, and proceeded as follows:

Chair Asing: Mr. Clerk, next item please?

Mr. Nakamura: Mr. Chair, we are on resolutions. The first is Resolution No. 2009-01.

RESOLUTIONS:

Resolution No. 2009-01, RESOLUTION APPOINTING THE COUNTY CLERK OF THE COUNTY OF KAUAI: Mr. Furfaro moved to approve Resolution No. 2009-01, seconded by Mr. Bynum, and carried by the following vote:

FOR ADOPTION:	Bynum, Chang, Furfaro, Kaneshiro, Kawahara, Kawakami, Asing	TOTAL - 7,
AGAINST ADOPTION:	None	TOTAL - 0,
EXCUSED & NOT VOTING:	None	TOTAL - 0.

Chair Asing: With that, what I would like to do is call for a short recess, so we can swear in the Clerk.

Mr. Nakamura: For the record, Mr. Chair, later on, on the agenda, I have submitted a letter reappointing Ernesto G. Pasion as the Deputy County Clerk.

Chair Asing: Yes, thank you.

There being no objections, the Chair called for a recess at 12:29 p.m. The meeting was called back to order at 12:31 p.m.

Mr. Nakamura: We are on Resolution No. 2009-02.

Resolution No. 2009-02, RESOLUTION ADOPTING RULES OF THE COUNCIL OF THE COUNTY OF KAUAI FOR THE ORGANIZATION OF COMMITTEES AND THE TRANSACTION OF BUSINESS:

Chair Asing: With that, Councilmember Furfaro.

Mr. Furfaro: Mr. Chair, let me move to approve, but so note the public testimony and the possibility in the very near future to re-evaluate the lobbyist rules, ADA compliance, as well as obtaining of the voice records and the filing of such. We can do that in a future meeting, but I would like to move to approve and thank those in the public that brought that to our attention.

Chair Asing: Thank you.

Mr. Furfaro moved to approve Resolution No. 2009-02, seconded by Mr. Chang, and carried by the following vote:

FOR ADOPTION:	Bynum, Chang, Furfaro, Kaneshiro, Kawahara, Kawakami, Asing	TOTAL - 7,
AGAINST ADOPTION:	None	TOTAL - 0,
EXCUSED & NOT VOTING:	None	TOTAL - 0.

Chair Asing: Next item please?

Mr. Nakamura: The next Resolution is 2009-03.

Resolution No. 2009-03, RESOLUTION RELATING TO THE APPOINTMENT OF THE CHAIRPERSONS, VICE CHAIRPERSONS, AND MEMBERS OF THE SEVERAL STANDING COMMITTEES OF THE COUNCIL OF THE COUNTY OF KAUAI: Mr. Kaneshiro moved to approve Resolution No. 2009-03, seconded by Mr. Kawakami, and carried by the following vote:

FOR ADOPTION:	Bynum, Chang, Furfaro, Kaneshiro, Kawahara, Kawakami, Asing	TOTAL - 7,
AGAINST ADOPTION:	None	TOTAL - 0,
EXCUSED & NOT VOTING:	None	TOTAL - 0.

Chair Asing: The next item please?

Mr. Nakamura: The next matter on the communications for receipt is communication C 2009-01.

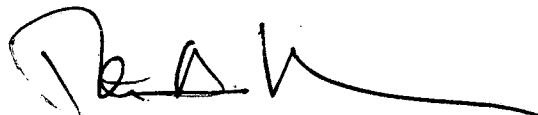
COMMUNICATIONS:

C 2009-01 Communication (11/25/2008) from the County Clerk-Designee submitting for informational purposes, the re-appointment of Ernesto G. Pasion as the Deputy County Clerk: Mr. Furfaro moved to receive C 2009-01 for the record, seconded by Mr. Bynum, and unanimously carried.

ADJOURNMENT.

There being no further business, the meeting was adjourned at 12:34 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'P. A. Nakamura', with a long horizontal flourish extending to the right.

PETER A. NAKAMURA

/lki