

# Hawai'i State Association of Counties (HSAC)

Counties of Kaua'i, Maui, Hawai'i and City & County of Honolulu

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MINUTES  
HSAC EXECUTIVE COMMITTEE MEETING  
October 24, 2016  
Mission Memorial Hearings Room  
550 South King Street  
Honolulu, Hawai'i 96813

## I. CALL TO ORDER

The HSAC Executive Committee was called to order by HSAC President and County of Maui Councilmember Michael Victorino at 10:16 a.m. The following members comprising a quorum were present:

County of Maui:	President Michael Victorino, County of Maui Councilmember
County of Hawai'i:	Vice President Dennis "Fresh" Onishi, County of Hawai'i Councilmember
County of Kaua'i:	Secretary Mel Rapozo, County of Kaua'i Council Chair
City and County of Honolulu:	Treasurer Ikaika Anderson, City and County of Honolulu Councilmember
Others Present:	Gladys C. Baisa, County of Maui Councilmember  Honolulu staff Brandon Mitsuda, Council Liaison, Honolulu City Council Administrative Support Services; Honolulu staff Francisco Figueiredo, Legislative Aide, Office of Councilmember Ikaika Anderson; Honolulu Intern Nelson Mukai, Office of Councilmember Ikaika Anderson; Honolulu staff Kamakana Watanabe, Office of Council Services County of Maui staff Kit Zulueta, Communication Director, Office of Council Services; Kaua'i staff Jade K. Fountain-Tanigawa, County Clerk, Office of Council Services;



## II. APPROVAL OF AGENDA

Treasurer Anderson moved for approval of the Agenda as circulated, seconded by Secretary Rapozo, and unanimously carried.

## III. MINUTES

- A. Minutes of the September 26, 2016 HSAC Executive Committee meeting, as submitted by the HSAC Secretary.

Secretary Rapozo moved for approval of the Minutes of the September 26, 2016 HSAC Executive Committee Meeting, seconded by Vice President Onishi, and unanimously carried.

## IV. REPORTS

### A. Treasurer's Report

1. Treasurer's Report for the month of September 2016, as submitted by the HSAC Treasurer.

Secretary Rapozo moved to approve the HSAC Treasurer's Report for the Month of September 2016, seconded by Vice President Onishi, and unanimously carried.

### B. County Reports

1. City and County of Honolulu Report. Treasurer Anderson reported that the Honolulu City Council at its meeting on October 5, 2016 the Council passed the following:
- Bill No. 37 relating to the Executive Branch of the City and County of Honolulu. This Bill would update Chapter 2 of the Revised Ordinances reflecting changes in the names and functions of the Executive Branch.
  - Bill No. 46 relating to attendant parking facilities.
  - Bill No. 44 relating to flood hazard areas.
  - Bill No. 45 amending the O'ahu Water Management Plan.
  - Resolution No. 16-172, approving a conceptual plan for an interim plan development transit project for the Manaolana Place hotel and residential condominium development project on Kapi'olani Boulevard near the Hawai'i Convention Center. This project will significantly add to the "flavor" of the area and will enhance the overall desirability of the area.



The City and County of Honolulu's Legislative Branch is preparing to host the Early Learning Center preschoolers at its Halloween event. Treasurer Anderson recently returned from the Revolution Conference in San Francisco. Revolution has been the place to engage in thoughtful discussion with key policymakers and influencers with regards to rail mass transit. Treasurer Anderson thanked the HSAC Executive Committee for their comments and further consideration of Councilmember Trevor Ozawa's HSAC Legislative Package proposal relating to residential and commercial noise standards.

Councilmember Baisa inquired as to the Honolulu City Council's Residential "A" property tax classification and the legality thereof. Treasurer Anderson stated that he voted against the proposal as he was of the opinion that the proposal was not the best way to differentiate between who the City should charge more to in the form of real property taxes. Treasurer Anderson stated that former Mayor Mufi Hannemann previously split the residential property tax class into two (2) categories, homeowner and non-homeowner. The City Council later eliminated the non-homeowner classification a year later, which Treasurer Anderson stated he voted against. The City Council then put all residential properties back into one tax class. Mayor Caldwell then asked the Council to separate the tax class into two (2) separate tax classes, but into a Residential and Residential "A" split. Mayor Hannemann's approach was simple in that it stated that if you did not have a homeowner's exemption, you were automatically in the non-homeowner's category. Mayor Caldwell's approach differed in that he attached a minimum valuation (\$1,000,000) onto the property in question. Treasurer Anderson further explained that the Court has now ruled that the tax classification is unconstitutional and that will have to be defended in Court by Corporation Counsel who believes that the proposal is constitutional.

Treasurer Anderson further stated that his office is looking at establishing a separate tax category for luxury condominiums, as he feels that those owners are able to pay more in real property taxes.



Vice President Onishi explained that the County of Hawai'i has not defined what a Transient Vacation Rental (TVR) is. He further explained that he has been working to define TVRs and has taken portions of Kaua'i's and Maui's definitions of TVRs, against the wishes of the County of Hawai'i's Planning Department.

Treasurer Anderson stated that the City and County of Honolulu's definition is that if one does not have a non-conforming use certificate (NUC) for a short-term rental or stay of less than thirty (30) days, then the unit is illegal. Treasurer Anderson further explained that NUCs have not been issued since 1989 or 1990. Treasurer Anderson stated that in 2009, he introduced a measure that would have allowed the City to permit additional owner-occupied bed and breakfast (B&B) units, however that measure failed.

Vice President Onishi stated that in his district, parking has become a major concern as it relates to unpermitted TVRs and he has wanted to address the parking issue. He further noted that enforcement of these types of regulations have become a concern for the Planning Department in the County of Hawai'i.

President Victorino stated that the County of Maui has a definition of TVRs for short-term rentals which includes provisions for on-site parking, the number of occupants, and the number of parking per accommodation, etc. He further explained that these accommodations have to be permitted and licensed, and that the island of Maui has a limit of four hundred (400) TVRs and B&Bs. President Victorino further explained that parking issues need to be confined to the site of the TVR or B&B and that enforcement needs to be done by the police. He further noted that enforcement and the additional burden placed on the Planning and Police Departments are always areas of concern when dealing with getting a handle on illegal TVRs or B&Bs. President Victorino and Treasurer Anderson explained their experience with dealing with the problem of getting illegal operations into compliance while not punishing the legal operations that have been operating legally for many years.

Councilmember Baisa explained that she recently read that in New York, fines for illegally operating B&Bs have been instituted in hefty amounts, though in Maui County, the maximum is \$1,000 per day.



Secretary Rapozo explained that in Kaua'i County, the maximum fine is \$20,000 per day and that the County has gone through numerous contested case hearings to deal with the aforementioned issues relating to TVRs and B&Bs. He further explained that many of the investigations are done due to complaints received by the Council or Planning Department, including those regarding parking, and these are then investigated by the Planning Department.

President Victorino stated that all counties seem to be experiencing the same types of issues relating to TVRs and B&Bs and that the problem has come to the forefront due to the need for more affordable housing and rentals in all counties.

Vice President Onishi inquired as to the status of the plastic bag ban. Treasurer Anderson clarified that the matter (See Attached) has been referred to the Council's Public Works & Sustainability Committee chaired by Councilmember Carol Fukunaga. The matter has not been scheduled for a hearing in Committee. Secretary Rapozo stated that the County of Kaua'i has a total ban. Councilmember Baisa stated that the County of Maui has a ban, but thicker plastic bags are allowed. Treasurer Anderson stated that Councilmember Elefante's current plastic ban proposal is to legislate a thicker plastic bag requirement which essentially would make it so cost prohibitive that users would choose utilize other options.

2. County of Hawai'i Report. Vice President Onishi stated that the Hawai'i County Council is discussing the following pieces of legislation:
  - Legislation to propose to the State Legislature regarding high stakes bingo. The legislation did not pass. The legislation was introduced due to the Transient Accommodations Tax (TAT) concerns as another option to bring in revenue for the County.
  - A measure that would ban the use of herbicides by the County of Hawai'i. That measure was referred to the Environmental Committee of the Council for a public hearing. The ban would include all herbicides or pesticides that have a caution warning, including Roundup, and its environmentally friendly alternative Avenger. Concerns were raised regarding what options would exist if this ban were to go into effect and whether the County would be able to properly maintain its flood channels and other areas where herbicides are used to maintain vegetation overgrowth.



- A measure banning the use of sunscreen containing the ingredient that is leading to coral bleaching. Vice President Onishi stated he wants to know what percentage of coral bleaching is due to sunscreen use as opposed to other factors such as global warming, boating, snorkelers, etc.
- A measure relating to the ban of styrofoam containers by the County of Hawai'i, including Meals on Wheels, renters of County facilities, etc. (not individual restaurants or vendors).

Vice President Onishi stated that the Council also discussed overtime abuse with the Administration.

Secretary Rapozo inquired as to further clarification on high stakes bingo. Vice President Onishi clarified that the proposal was a Resolution asking the State Legislature to allow a pilot program in the County of Hawai'i to see how this option might work. Councilmember Baisa stated that House Speaker Joseph Souki had also introduced a similar proposal intended for use by the non-profit sector.

Vice President Onishi further explained that he has many concerns with the styrofoam ban and the numerous loopholes in the current proposal. He further noted that the ultimate issue regarding this ban is to curb the littering and potential impacts this could have on the environment; however, the current proposal does not address any heftier fines for litterers over the users of Styrofoam.

3. County of Kaua'i Report. Secretary Rapozo reported that environmental extremists are causing a lot of issues on the island, and in particular in regards to waterways and the accusations of waterways being diverted. Secretary Rapozo stated that these extremists destroyed permitted waterways which fed hydroelectric operations for the local utility company. This is a Federal offense and is an issue that all counties should be aware of. Secretary Rapozo expressed his concern with these extremists feeling like they are not getting their way, and causing harm to public and private property. Secretary Rapozo encouraged all counties to have discussions regarding the safety and security of elected officials and staff during Council or Committee Meetings, as the threat has already been identified, and there is no warning as to when a security event may occur.



Vice President Onishi inquired about the appeal for Bill No. 2491 relating to genetically modified organisms (GMOs). Secretary Rapozo stated that there has been no recent update.

Secretary Rapozo stated that the Mayor has decided to appeal to the Hawai'i Supreme Court, the decision of the courts as it relates to the powers and duties of the Mayor in disciplining the Kaua'i Chief of Police.

4. County of Maui Report. President Victorino reported that the Council appropriated \$5,000,000 worth of emergency funds for services related to the Wailuku River operations after the recent flooding. The emergency fund was up to approximately \$39,000,000 for these types of events. President Victorino stated that there was public outcry during this clean-up as to the County's and Wailuku Water Company's removal of rock from the river bed. Protestors occupied portions of the river and prevented work from occurring. President Victorino stated that the emergency work needed to be done to restore the river flow and prevent homes and businesses from being severely impacted.

President Victorino reported that the last day of operations of the Moloka'i Ferry will be on Thursday, October 27, 2016, which has been in operations for over thirty (30) years. The Ferry has decided to cease operations due to loss in revenue as ridership has declined due to airline competition and lower airfare prices.

President Victorino further reported the following:

- He heard concerns from tourists regarding an apparent decline in whale sightings.
- Discussions continue regarding Maui Hospital and their request for \$5,650,000 to improve services and thereafter transfer operations to Kaiser.
- Mayor Arakawa suspended all work on community plans citing dissatisfaction in the community about the process. Council Chair Mike White responded with an editorial in the local newspaper stating that the Mayor cannot issue a stop work order.
- Maui County has proposed five (5) major charter amendments, which include:
  - Requiring Council confirmation of the following Mayoral appointments: Managing Director, Prosecuting Attorney, Corporation Counsel, Director of Public Works, and Director of Environmental Management.
  - Allowing the Office of Council Services' attorneys to be able to provide advice and representation for the Council.



- Two (2) amendments to improve efficiency in the process of accepting supplemental petitions for initiatives relating to deadlines and the ability to withdraw names.
- Rename the Civil Defense Agency the Maui County Emergency Management Agency.

Treasurer Anderson moved to receive the foregoing County Reports for the record, seconded by Vice President Onishi, and unanimously carried.

There being no objections, the meeting recessed at 11:06 a.m. The meeting reconvened at 11:20 a.m. and proceeded as follows:

C. National Association of Counties (NACo) Report

Vice President Onishi stated that he and Treasurer Anderson are working with Councilmember Kualii to finalize a NACo Report.

There being no objections, the NACo Report was deferred.

D. Western Interstate Region (WIR) Report

Vice President Onishi provided a verbal report. A written report will be forthcoming. In his report Vice President Onishi noted the following:

- The WIR Board of Directors met October 5-7, 2016 in Ashland, Oregon. During this meeting, the Directors toured a local medical marijuana farm and met with an advocate who advocated for the statewide medical marijuana policy.
- During the meeting the Board entertained bylaw amendments, which will be provided to the HSAC Executive Committee with the written report.
- The Board also toured a forest stewardship project that aims to protect the forest watershed.
- NACo President Bryan Desloge received Vice President Onishi's resignation from the NACo Board due to reaching the maximum amount of terms allowable on the Hawai'i County Council. NACo President Desloge expressed his interest in filling the vacancy with a representative from the state of Hawai'i. Vice President Onishi stated that he had discussions with Councilmember Hokama, who suggested waiting until after the General Election to determine who can fulfill the role of replacing Vice President Onishi on the NACo Board of Directors. Vice President Onishi stated that President Desloge would really like a Director that is able to attend all required meetings and is an active participant.



- NACo President Desloge also mentioned that he wanted Hawai'i representation at the Presidential Meeting in Florida, and in particular requested Vice President Onishi's attendance. Treasurer Anderson stated that he will be attending this meeting, in addition to anyone else who was thinking of attending.

President Victorino stated that in consultation with Councilmember Hokama, he recommends further discussion regarding NACo and WIR representatives from Hawai'i be held after the General Election.

President Victorino noted that all Councilmembers need to be aware when taking NACo or WIR positions that HSAC will only pay for amounts listed in the HSAC Bylaws and that the Councilmembers need to understand their responsibility to secure any additional funding for the remainder of the costs to attend these meetings. President Victorino also clarified that HSAC will cover costs for Steering Committee participation, and not Standing Committee participation. President Victorino further stated that the individual counties will need to pick-up any remaining cost incurred.

Vice President Onishi stated that the difficulty with the current reimbursement policy is that those attending meetings or conferences in locations such as Washington D.C. will find it hard to find airfare, hotel, etc. within the \$2,000 reimbursement budget.

Treasurer Anderson moved to approve the verbal WIR Report provided by Vice President Onishi, seconded by Vice President Onishi, and unanimously carried.

## V. NEW BUSINESS

- A. Communication from Honolulu City Clerk Glen Takahashi submitting a State bill for inclusion in the 2017 Hawaii State Association of Counties Legislative Package, as approved by the Council on October 5, 2016. The bill would require the State Department of Health to regulate residential and commercial noise (Resolution 16-266).

Treasurer Anderson stated that the proposal introduced by Councilmember Ozawa would require the State Department of Health to regulate residential and commercial noise. President Victorino expressed his appreciation that the original proposal was amended, and stated that this version is satisfactory.

Secretary Rapozo moved to approve for inclusion in the 2017 HSAC Legislative Package, seconded by Vice President Onishi, and unanimously carried.



- B. Communication from Maui County Clerk Danny Mateo submitting four State bills for inclusion in the 2017 Hawai'i State Association of Counties Legislative Package, as approved by the Maui County Council on October 7, 2016. The bills have the following respective purposes:
1. To allow certain government records to be shared among councilmembers where no commitment to vote on the matter is made or sought (Resolution 16-124).
  2. To allocate \$250,000 to the counties in the next two fiscal years for the identification and mapping of Important Agricultural Lands (Resolution 16-125).
  3. To allow counties to petition the State Land Use Commission for regional district boundary amendments after adoption of general plan updates (Resolution 16-126).
  4. To allow a representative of each county council to participate as a non-voting member in bargaining unit negotiations, to allow each county council to receive updates on relevant bargaining unit negotiations, and to change the allocation of votes for Bargaining Units 11 and 12 (Resolution 16-127).

Government Records. President Victorino explained that sharing of information due to the Sunshine Law is very inefficient as Councilmembers need to wait until a Council or Committee Meeting to share information related to an agenda item. He further explained that this proposal will only facilitate the sharing of information and would not secure any commitment of a vote on the matter. President Victorino also stated that this proposal may help to allow Councilmembers to be better prepared for discussion with questions ahead of time, and may allow Councilmembers the opportunity to work on amendments in advance of the meeting. Vice President Onishi asked for clarification as to what records would fall under this provision. President Victorino explained that with this modification any communication or information not asking for a specific vote could be distributed in advance. Councilmember Baisa stated that this would also be beneficial to the public as they could get information in advance of the meetings as well.

Treasurer Anderson moved for approval of item 1 for inclusion in the 2017 HSAC Legislative Package, seconded by Vice President Onishi, and unanimously carried.

Important Agricultural Lands (IAL). President Victorino stated that the County of Kaua'i did receive funding for the IAL process, and that this funding request is supported by those in attendance at the recent Hawai'i Congress of Planning Officials Conference.



Vice President Onishi moved for approval of item 2 for inclusion in the 2017 HSAC Legislative Package, seconded by Secretary Rapozo, and unanimously carried.

State Land Use Commission Boundary Amendments.

President Victorino stated that regardless of the counties' planning processes and approval processes, if the project is over fifteen (15) acres, it still needs to go through the State Land Use Commission's approval process, which takes 18-36 months. This proposal will help to expedite the approval process for the counties' affordable housing and other projects, which have already been through the county approval process.

Secretary Rapozo moved for approval of item 3 for inclusion in the 2017 HSAC Legislative Package, seconded by Vice President Onishi, and unanimously carried.

Bargaining Units 11 and 12 Negotiations. President Victorino stated this might be the most controversial of all proposals submitted by the County of Maui. President Victorino explained that the Maui County Council received information from the State that there is no prohibition against this, but that the Mayors are the counties' representatives in these negotiations. The State also conveyed that the councils could also be briefed in executive session regarding collective bargaining items. President Victorino stated that the Maui County Council felt that if they are the funding source, they need to be prepared in advance of approving any type of collective bargaining cost items and not be blindsided by not having any information to make fiscal decisions. President Victorino further stated that he had experienced this feeling during the last collective bargaining negotiations for the ocean safety employees. Furthermore, President Victorino expressed his concern with the number of votes provided to the Governor, as the State does not fund increases for police and fire services with total funding coming from county general funds. Therefore this proposal includes a provision asking that a greater number of votes be given to the counties for these particular bargaining units that fall under the counties' purview.

Treasurer Anderson moved for approval of item 4 for inclusion in the 2017 HSAC Legislative Package, seconded by Vice President Onishi, and unanimously carried.



C. 2017 State Legislature update and discussion on lobbying efforts.

President Victorino reported that he and Councilmember Baisa received a call from Mr. Scott Ishikawa of Becker Communications, Inc. to further explain the written information that was provided in a previous agenda packet. Mr. Ishikawa conveyed to President Victorino and Councilmember Baisa that he has lined up all of the community partners and is ready to make contact with those partners on O'ahu to move forward with scheduling as soon as possible.

Councilmember Baisa further explained that both she and President Victorino will no longer be members of the Maui County Council after the General Election and had discussed having a meeting immediately following the Election to discuss the respective responsibilities of remaining HSAC members, as it relates to moving the HSAC efforts forward. Councilmember Baisa noted that Kit Zulueta from Maui Council Services is working to coordinate a list of Maui contacts and encouraged all other HSAC Executive Committee members to provide their contacts to Mr. Ishikawa as soon as possible.

VII. ANNOUNCEMENTS

A. Scheduling of the next meeting.

The next Executive Committee meeting is scheduled for November 28, 2016, 10:00 a.m. on O'ahu.

B. Other announcements.

President Victorino wished his colleagues who are running in the General Election success in their races.

Treasurer Anderson stated that he will be meeting with Mayor Bernard P. Carvalho, Jr. to get a better understanding of issues that the Hawai'i Council of Mayors (HCOM) may be addressing in the near future and to get Mayor Carvalho's personal perspective about the TAT issue. Treasurer Anderson also plans to meet with the mayors of the City and County of Honolulu, Maui Mayor Alan Arakawa, and Mayor-elect Harry Kim from the County of Hawai'i regarding the same subject matters.

President Victorino stated that he plans to meet with Common Cause and the League of Women Voters to get their input on Sunshine Law proposals. President Victorino will also be meeting with Governor Ige to get his feedback on the TAT and General Excise Tax (GET) issues.



VIII. ADJOURNMENT

There being no objections, President Victorino adjourned the meeting at 12:12 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Mel Rapozo", with a long horizontal flourish extending to the right.

MEL RAPOZO, Secretary  
Hawai'i State Association of Counties