

COUNCIL OF THE COUNTY OF MAUI
GOVERNANCE, ETHICS, AND
TRANSPARENCY COMMITTEE

May 17, 2019

Committee
Report No. _____

Honorable Chair and Members
of the County Council
County of Maui
Wailuku, Maui, Hawaii

Chair and Members:

Your Governance, Ethics, and Transparency Committee, having met on May 2, 2019, makes reference to County Communication 19-1, from Council Chair Mike White, relating to the appointment and removal of administrative heads of departments.

By correspondence dated April 1, 2019, and received on April 4, 2019, the Mayor transmitted a proposed resolution entitled "APPROVING THE MAYOR'S APPOINTMENT OF ERIC NAKAGAWA FOR DIRECTOR OF ENVIRONMENTAL MANAGEMENT." The purpose of the proposed resolution is to approve the Mayor's appointment of Eric Nakagawa for Director of Environmental Management, pursuant to Sections 6-2(5) and 8-15.2 of the Revised Charter of the County of Maui (1983), as amended ("Charter").

Your Committee notes by Resolution 16-96, the Council proposed an amendment to the Charter be placed on the General Election ballot to require Council approval of the Mayor's appointment of administrative heads of departments and allow additional qualifications for administrative heads appointed by the Mayor to be established by ordinance. The proposed Charter amendment was approved at the 2016 General Election.

Your Committee notes Ordinance 4803 (2017), as amended by Ordinance 4840 (2018), established additional qualifications for the Director of Environmental Management in Chapter 2.14, Maui County Code. The effective date of the ordinance was January 2, 2019.

COUNCIL OF THE COUNTY OF MAUI
GOVERNANCE, ETHICS, AND
TRANSPARENCY COMMITTEE

Page 2

Committee
Report No. _____

Your Committee notes Charter Section 8-15.2 provides that the Director of Environmental Management shall be appointed by the Mayor with the approval of the Council. In addition, Charter Section 6-2(5) provides that the Council shall confirm or deny the confirmation within 60 days after receiving notice of the appointment by the Mayor, or the appointment shall be deemed confirmed. Accordingly, the deadline for the Council to confirm or deny the appointment of Mr. Eric Nakagawa as the Director of Environmental Management is June 3, 2019.

Your Committee notes it previously reported on this matter through Committee Report 19-11, which recommended adoption of the proposed resolution approving the Mayor's appointment of Michael M. Miyamoto for Director of Environmental Management and filing of the proposed resolution disapproving the appointment. At its meeting of February 15, 2019, reconvened on February 22, 2019, the Council adopted the recommendations in Committee Report 19-11 (Resolution 19-33).

Your Committee further notes Mr. Miyamoto resigned from the position on April 1, 2019.

Your Committee notes pursuant to Charter Section 6-2(5), within 60 days after a vacancy is created, the Mayor shall make a new appointment, and the Council shall confirm or deny the appointment within 60 days after receiving notice of the appointment by the Mayor.

At the request of the Chair of your Committee, the Department of the Corporation Counsel transmitted a proposed resolution entitled "DISAPPROVING THE MAYOR'S APPOINTMENT OF ERIC NAKAGAWA FOR DIRECTOR OF ENVIRONMENTAL MANAGEMENT." The purpose of the proposed resolution is to disapprove the appointment.

COUNCIL OF THE COUNTY OF MAUI
GOVERNANCE, ETHICS, AND
TRANSPARENCY COMMITTEE

Page 3

Committee
Report No. _____

By correspondence dated April 1, 2019, the Mayor transmitted the following: (1) County of Maui Job Description for the Director of Environmental Management; (2) Ordinance 4840 (2018), relating to the minimum qualifications of the Director of Environmental Management; and (3) Eric Nakagawa's resume.

As noted in his resume, Mr. Nakagawa served as the Wastewater Reclamation Division Chief, Department of Environmental Management, County of Maui, from March 2011 until the Mayor's April 2019 appointment of Mr. Nakagawa as Acting Director of Environmental Management. From April 2005 through March 2011, Mr. Nakagawa worked as a Civil Engineer VI for the County of Maui, heading the Design and Construction Section for the Wastewater Reclamation Division. From March 2001 through April 2005, Mr. Nakagawa worked as a Civil Engineer IV in the Division.

Your Committee further notes Mr. Nakagawa received a bachelor of science degree in civil engineering in June 1994 from Seattle University in Seattle, Washington, and is a licensed and registered professional engineer in the State of Hawaii.

The Mayor emphasized Mr. Nakagawa's many years of experience with the Department's Wastewater Division. He said Mr. Nakagawa is a quick learner and is supported by strong supervisors and division heads.

Your Committee met with Mr. Nakagawa. In his opening remarks, Mr. Nakagawa described his professional background as a wastewater engineer. He spoke of gaining supervisory experience and developing a broader view of how decisions such as the Department's rates, policies, and procedures affect the community. Mr. Nakagawa said he has worked on preparing and justifying budget requests. Although his experience is with the Wastewater Division, he explained how the Solid Waste Division and Environmental Protection and Sustainability Division are in many ways mirror images of the Wastewater Division, and how his experience with the Wastewater Division translates to the other divisions.

COUNCIL OF THE COUNTY OF MAUI
GOVERNANCE, ETHICS, AND
TRANSPARENCY COMMITTEE

Page 4

Committee
Report No. _____

Through his responses to your Committee's questions, Mr. Nakagawa demonstrated an openness to policy changes the Council may be considering, and a willingness to advise the Council of pros and cons associated with such policy changes. Among other areas of concern, your Committee questioned Mr. Nakagawa about the possibility of separating the Environmental Protection and Sustainability Division from the rest of the Department, considerations of sea level rise and prioritizing the relocation of wastewater facilities away from the ocean, a cost-benefit analysis for keeping the landfill open on Sundays, succession planning for personnel working in rural areas, planning for nonpotable uses of recycled water, adequacy of the Department's fees to generate revenues that would allow the sewer and solid waste funds to be self-sustaining, shifting strategies as new data and technologies emerge on uses and impacts of use of R-1 treated water, cost impacts of handling abandoned vehicles, and cesspool conversions to septic systems.

After reviewing Mr. Nakagawa's experience and capabilities, your Committee was satisfied Mr. Nakagawa met the minimum qualifications for the Director of Environmental Management position and recommended his appointment be approved. Your Committee was particularly impressed with his performance as Wastewater Division Chief to date, his continued progression of responsibility with the Department, his receptivity to policies the Council may be considering, and his ability to work well with his colleagues and the public.

Your Committee voted 9-0 to recommend adoption of the proposed resolution to approve the appointment and filing of the proposed resolution to disapprove the appointment. Committee Chair Molina, Vice-Chair Rawlins-Fernandez, and members Hokama, Kama, King, Lee, Paltin, Sinenci, and Sugimura voted "aye."

COUNCIL OF THE COUNTY OF MAUI
**GOVERNANCE, ETHICS, AND
TRANSPARENCY COMMITTEE**

Page 5

**Committee
Report No. _____**

Your Governance, Ethics, and Transparency Committee
RECOMMENDS the following:

1. That Resolution _____, attached hereto, entitled
"APPROVING THE MAYOR'S APPOINTMENT OF
ERIC NAKAGAWA FOR DIRECTOR OF ENVIRONMENTAL
MANAGEMENT," be ADOPTED; and

2. That the proposed resolution, attached hereto, entitled
"DISAPPROVING THE MAYOR'S APPOINTMENT OF
ERIC NAKAGAWA FOR DIRECTOR OF ENVIRONMENTAL
MANAGEMENT," be FILED.

This report is submitted in accordance with Rule 8 of the Rules of
the Council.



MICHAEL J. MOLINA, Chair

get:cr:19001(7)ab:cmn

Resolution

No. _____

APPROVING THE MAYOR'S APPOINTMENT OF ERIC NAKAGAWA FOR DIRECTOR OF ENVIRONMENTAL MANAGEMENT

WHEREAS, by letter dated April 1, 2019, Mayor Michael P. Victorino notified the Council he appointed Eric A. Nakagawa as the Director of Environmental Management, pursuant to Sections 6-2(5) and 8-15.2 of the Revised Charter of the County of Maui (1983), as amended; and

WHEREAS, Charter Section 6-4 authorized the Council to establish specific qualifications for administrative heads appointed by the Mayor in addition to any set forth in the Charter; and

WHEREAS, Section 2.14.030, Maui County Code, attached hereto as Exhibit "A," establishes additional qualifications for the Director of Environmental Management effective January 2, 2019; and

WHEREAS, Charter Section 6-2(5) requires the Council to confirm or deny the appointment within sixty days after receiving notice of the appointment by the Mayor; and

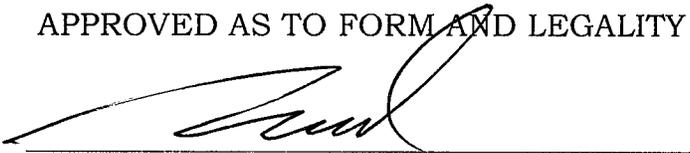
WHEREAS, Charter Section 8-15.2 states: "The director of environmental management shall be appointed by the mayor with the approval of the council"; now, therefore,

Resolution No. _____

BE IT RESOLVED by the Council of the County of Maui:

1. That it deems Eric A. Nakagawa to have satisfied the minimum qualifications for the position of Director of Environmental Management;
2. That it hereby approves the appointment of Eric A. Nakagawa as the Director of Environmental Management; and
3. That a certified copy of this resolution be transmitted to the Mayor.

APPROVED AS TO FORM AND LEGALITY

A handwritten signature in black ink, appearing to be "Paul", is written over a horizontal line.

Department of the Corporation Counsel
County of Maui

2019-1911
2019-04-01 DEM Dir Approval Reso (Nakagawa)

2.14.030 – Director of environmental management.

The director of environmental management shall have the following minimum qualifications:

1. As set forth in the charter, five years of experience in an administrative capacity, either in public service or private business, or both.
2. As a part of or in addition to the five years of administrative experience, three years of responsible managerial and budgetary experience.
3. As a part of or in addition to the five years of administrative experience, three years of experience in one or more of the following functions:
 - a. Supervising waste management, pollution control, recycling, or litter control in the protection of the environment.
 - b. Planning, designing, building, operating, or maintaining solid waste collection, processing, and disposal systems, including recycling programs.
 - c. Planning, designing, building, operating, or maintaining sewer treatment plants, pump stations, sewer lines, reclaimed water distribution systems, and related programs.
 - d. Guiding efforts to optimize opportunities for environmental and natural resource protection, sustainability, conservation, or restoration.
4. A bachelor's degree from an accredited college or university in engineering, environmental science, water resources, business administration, public administration, or other relevant discipline, or a combination of education and work experience substantially equivalent to such a bachelor's degree.

Resolution

No. _____

DISAPPROVING THE MAYOR'S APPOINTMENT OF ERIC NAKAGAWA FOR DIRECTOR OF ENVIRONMENTAL MANAGEMENT

WHEREAS, by letter dated April 1, 2019, received by the Council on April 4, 2019, Mayor Michael P. Victorino notified the Council he appointed Eric Nakagawa as the Director of Environmental Management, pursuant to Sections 6-2(5) and 8-15.2 of the Revised Charter of the County of Maui (1983), as amended; and

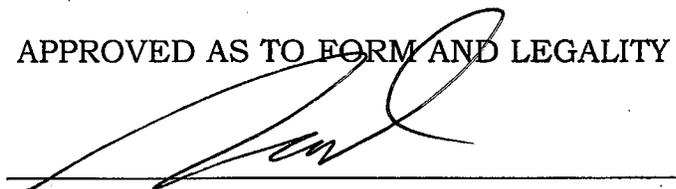
WHEREAS, Charter Section 6-2(5) requires the Council to confirm or deny the appointment within sixty days after receiving notice of the appointment by the Mayor; and

WHEREAS, Charter Section 8-15.2 states: "The director of environmental management shall be appointed by the mayor with the approval of the council"; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That it hereby disapproves the appointment of Eric Nakagawa as the Director of Environmental Management; and
2. That a certified copy of this resolution be transmitted to the Mayor.

APPROVED AS TO FORM AND LEGALITY



Department of the Corporation Counsel
County of Maui