

**RES22-295
Testimony**

MISC. COMM. 1

COUNCIL

COUNCIL Meeting

Meeting Date: Jan 3, 2023 @ 12:00 PM

Support: 0

Oppose: 0

I wish to comment: 3

| | | |
|---|---------------------------------------|--------------------------------------|
| Name: Natalie Iwasa | Email: iwasajunk@mail.com | Zip: 96825 |
| Representing: Self | Position: I wish to comment | Submitted: Jan 3, 2023 @ 12:01 AM |
| Name: Choon James | Email: ChoonJamesHawaii@gmail.com | Zip: 96762 |
| Representing: Self | Position: I wish to comment | Submitted: Jan 3, 2023 @ 11:18 AM |
| Name: Zhizi Xiong | Email: alohadivinedesign@gmail.com | Zip: 96817 |
| Representing: CARES Community Advocacy Research Education Services | Position: I wish to comment | Submitted: Jan 3, 2023 @ 11:49 AM |

TO: Honolulu City Council

FROM: Natalie Iwasa

DATE: Tuesday, January 3, 2023

SUBJECT: Resolution 22-295, Comments Related to Council Rules

Aloha Chair Waters and Councilmembers

Thank you for this opportunity to provide testimony on Resolution 22-295, which sets council rules.

Rule 1 E indicated interested persons must have the opportunity to provide testimony remotely. This rule was put in place to accommodate restrictions related to the pandemic. The current version of the resolution removes the rule entirely, but **Rule 32 A** states the council and committee chairs may allow remote testimony. Remote testimony provides another option for the public to testify on important matters impacting our daily lives. Please continue to allow testifiers the option of providing testimony remotely as well as in person and in writing.

Rule 3 A (10) requires at least a two-thirds affirmative vote for addition of items to the agenda that have not been properly noticed. HRS 92-7 only allows the addition of an item to the agenda that has not been properly noticed if it is not of “reasonably major importance” and “will not affect a significant number of persons.” I can’t even think of a measure that would fit that restriction. Given Council’s history of breaking that law, it would be prudent to specify the restrictive wording in the rule.

Rule 4 B (12) allows the presiding officer to cancel agenda items and “take reasonable steps to inform persons . . . of the cancellation.” **Please add, “including distribution of the revised agenda to persons who have signed up for digital notification of meetings”** or similar wording.

Rule 5 D requires the city clerk to make all written materials of public record available to the public in a timely manner. Prior to 2017, each piece of testimony was assigned a communications number and listed separately on the council’s website. It was easy to get an idea of how much support a measure had as well as who had submitted testimony on a particular item merely by looking at the bill or resolution status page.

Beginning in 2018, testimonies were lumped together by measure according to when it was received. Sometimes measures include hundreds of pages, and searching for a particular testimony or trying to get an idea of overall support or opposition is cumbersome at best. The inclusion of a summary page on each meetings testimonies is helpful, but I ask that the clerk return to posting each testimony separately.

Rule 8 F discussed who may be allowed to vote on committees in order to meet the two-thirds requirement to add items to agendas. The current version of the resolution removes this provision. Since the Sunshine Law restricts which items can be added to agendas after the six-day posting has occurred, I **support the removal of this rule.**

Rule 9A discusses advisory committees for standing committees. Any findings or recommendations and related meeting agendas, minutes and testimonies should also be made available to the public by posting them on the council's website.

Rule 10 A (6) and **Rule 12 A (6)** allow the Committee on Executive Matters and Legal Affairs and Committee of the Whole, respectively, to go into executive session to consider matters relating to the "solicitation and acceptance of **private donations.**" From the public's perspective, this just does not sound right and raises many questions. **Please delete these rules.**

Rule 11 discusses committee reports, and **Rule 5** discusses the clerk's requirement to prepare meeting minutes. The current version of this rule removes the requirement to include in committee reports the names of organizations and governmental agencies and the number of individuals who have testified on the measure.

In 2019 council committee meeting minutes transitioned to summaries for video record as allowed by a change in state law. Anyone interested in specific comments made by councilmembers and others must now go to the video to determine who made comments and what those comments were. This is very time consuming.

While I recognize that preparing the minutes also takes time and the video summaries are meant to be more efficient, I feel it is important for the public to be able to easily access this information.

In addition, I note that committee reports do not contain the same information that minutes previously did and may not be prepared at all in the case that measures do not pass out of committees. This makes it even more important that minutes provide certain basic information.

I therefore ask that minutes include at a minimum names of individuals, organizations and governmental agencies that testified on each measure.

Rule 13 discusses council votes. Members are allowed to vote "aye with reservations," and the current version of this rule adds "with reservations" and "reservations" all of which are deemed to be affirmative votes. While this makes sense on first or second readings, it should not be allowed on final readings. **Please restrict voting with reservations to votes other than on final reading.**

ORDER OF BUSINESS

INAUGURAL SESSION
TUESDAY, JANUARY 3, 2023
HONOLULU HALE
CITY COUNCIL CHAMBER
12 NOON

TESTIMONY

To: Honolulu City Council

From: Choon James

Re:

Resolution 22-295 <https://hnlldoc.ehawaii.gov/hnlldoc/document-download?id=16059>

Relating to the Rules of the Council of the City and County of Honolulu.

Aloha Chair Waters and City Council members:

HAPPY NEW YEAR to all.

Unfortunately, I'm unable to read through all the materials as yet. But at a quick glance, I wish to quickly submit these few observations:

Page 1

~~{E. At any meeting of the council or any of its committees, interested persons must have the opportunity to provide oral testimony on any agenda item remotely through such technology in such manner, and subject to such conditions and restrictions, as may be established from time to time by the council chair and described in the agenda for the meeting.}~~

Please do not delete this. The public must have the right to comment on any agenda. Already there are not many public participants for many good reasons. Please support public participation always.

Page 3

(12) To rezone lands identified by the state as important agricultural lands.”

This is a curious addition. What is this about? Why couldn't this be an item in the Planning and Zoning Committee. Why does it has to be isolated in this this Rules?

Page 6

(12) To prepare the agenda for meetings of the council. Except as provided in this subdivision

(12). the council chair shall decide which bills, resolutions, or other matters will be placed on the council agenda [Upon written request by a majority of the entire membership of the council (except as provided in

Rule 19.8) any bill or three reading resolution that has not yet passed first reading shall be included ee-theagee4efe#hei:eeeuneil-meij; provided that any bill, resolution, or other matter that has been referred to a standing committee shall not thereafter be placed on the council agenda by the presiding officer unless:

I'm concerned that this is already too heavy-handed and power-centered. Any city council member should be able to introduce bills and resolutions. If it's an irrelevant or "weird" bill, the public and the entire council can always vote it down. Otherwise the public will never know the mind of their city council member or their efforts.

Page 11

Written testimonies filed with the cleric at least 24 hours prior to the scheduled commencement of a council standing committee or council meeting that expressly pertain to an item on the meeting's agenda shall be posted by the cleric on the website at least 12 hours prior to the scheduled commencement of the meeting. The time periods in this subsection pertaining to the filing of testimonies exclude weekend and holiday hours, but the time periods prescribed for posting shall include [Er] ID. The clerk is authorized to perf ...

I'm severely concerned that this past year has been public-unfriendly towards public testimony submission.

Remember the council discloses the bills or resolution only 6 days before a meeting. It may be ok for the council but it's very difficult for the public. We all have other jobs and obligations, trying to fit and respond within 6 days is challenging.

The public testimony should be OPEN throughout the entire life of the bill or reso. There have been many times when I've been able to read and want to submit thoughts but the window of opportunity to submit written testimony is CLOSED. Diversity of thoughts and additional information ALWAYS provide decision-making in any issues.

As I've been unable to read this entire document, I may submit thoughts later on, if the window of written testimony is NOT closed.

We sincerely ask the City Council to always be vigorous advocates on the side of being helpful, friendly and transparent in promoting TRANSPARENCY, OPEN GOVERNEMENT and PUBLIC PARTICIPATION.

Mahalo,

Choon James
ChoonJamesHawaii@gmail.com
808 293 8888

Aloha Chair, Vice Chair & Members of the Committee,

My name is Zhizi Xiong. I testify on behalf of my grassroots organization, CARES, Community Advocacy Research Education Services, with comments. There is an amendment that needs to be addressed.

On Page 2, #2 .

“In light of the fact that some meetings may be conducted completely in person, removal of Rule 1 .E that interested persons must have the opportunity to provide oral testimony on any agenda item remotely at any meeting of the Council or any of its committees;”

When a meeting is being conducted completely in person, remote testimony does not have to be provided for regular participants who do not suffer from medical conditions. However, the remote testimony option should be an accommodation to be provided for disabled persons. By not providing this option for the disabled, it will be harder for him or her to access the meeting.

At the bottom of the page, # 8

“Removal of language in Rule 32 (Presentation of Oral Testimony at Council and Committee Meetings) that referenced Rule I .E, which is being deleted, but retains the Council and Committee Chairs’ authority to prescribe on their respective agendas the requirements for remote testifiers when remote testimonies will be accepted;”

The Council and Committee Chairs should continue to retain their authority to prescribe on their agendas the requirements for remote testimony for regular participants. However, providing remote testimony as a disability accommodation should not be an arbitrary decision. It should not be the decision of any council member if a disability accommodation is to be provided or not. This needs to be written in the rules and should be clearly enforceable. This accommodation should be provided for every meeting for disabled people, even if the meeting is to be conducted completely in person.

Remote testimony as a disability accommodation cannot be arbitrarily prescribed because disability accommodations is a civil right constituted by The ADA, the Americans With Disabilities Act, implemented through the Department of Justice’s Civil Rights Division.

ADA Title II “Subpart D—Program Accessibility

§ 35.149 Discrimination prohibited.

Except as otherwise provided in § 35.150, no qualified individual with a disability shall, because a public entity’s facilities are inaccessible to or unusable by individuals with disabilities, be excluded from participation in, or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any public entity.”

Title II of the ADA requires state/local governments to give people with disabilities an equal opportunity to benefit from all of their programs, services, and activities. Title II of the ADA prohibits discrimination against people with disabilities in State and local governments services, programs, and employment. State/local governments can’t deny people with disabilities the chance to participate or make them participate in different programs than available to others. Examples of state/local service, programs, or activities that need to comply with the ADA include:

- Public education (schools)
- Public Transportation
- Recreation

- Health care
- Social services
- Courts
- Voting
- Emergency services
- Offices where people go to:
 - Renew licenses
 - Apply for food stamps
 - Pay their taxes
 - Attend town meetings
 - Serve on boards and commissions
 - Conduct other government business

The ADA also includes specific requirements for state/local governments. For example, if you are part of a state/local government you must:

- Communicate with people with disabilities as effectively as you communicate with others.
- Make reasonable modifications to policies, practices, and procedures where needed to make sure that a person with a disability can access the state/local government's programs, services, or activities.
- Allow service animals to be with their person even if you have a no pets policy.

The Title II of the ADA explicitly addresses facilities and their methods of providing accommodations through redesign requirements. Although it does not explicitly say in Title II, Subpart D, § 35.150 that a remote option is one of the methods for making a facility more accessible for meetings, it can be reasonably concluded that a remote option does not put undue burden upon the public entity and it does not require the public entity to fundamentally alter the essential nature of their program or meeting, so therefore, it is a reasonable accommodation to be provided.

Although reasonable accommodations and modifications to procedures must be provided, there are several considerations to keep in mind. A state/local government does not need to modify a policy if it would fundamentally alter the nature of the program, service, or activity. The ADA does not require a public entity to take any action that would threaten or destroy the historic significance of an historic property. The ADA also does not require the public entity to be burdened by undue financial & administrative burdens caused by providing an accommodation or modification.

ADA requires the Department to issue regulations that include enforceable accessibility standards applicable to facilities subject to title II or title III that are consistent with the "minimum guidelines" issued by the Access Board, 42 U.S.C. 12134(c); 42 U.S.C. 12186(c), but vests in the Attorney General sole responsibility for the promulgation of those standards that fall within the Department's jurisdiction and for enforcement of the regulations.

Thank you for the opportunity to testify.

Blessings,

Zhizi Xiong