

<p style="text-align: right;">Page 1</p> <p style="text-align: center;">COUNTY OF MAUI, STATE OF HAWAII</p> <p style="text-align: center; font-size: 1.5em; font-weight: bold;">APPROVED w/changes 11/28/11</p> <p style="text-align: center;">CHARTER COMMISSION REGULAR MEETING</p> <p>Held at the Planning Department Conference Room, 250 South High Street, Wailuku, Maui, Hawaii, commencing at 10:05 a.m., on Monday, November 14, 2011.</p> <p>Reported by: Tonya McDade, CSR, CRR Certified Shorthand Reporters Maui Wells Street Professional Center 2145 Wells Street, Suite 302 Wailuku, Hawaii 96793 (808) 244-3376 reporters@csrmaui.com</p> <p style="text-align: right;">Page 2</p>	<p style="text-align: right;">Page 3</p> <p>(Monday, November 14, 2011, 10:00 a.m.)</p> <p style="text-align: center;">* * *</p> <p>CHAIR STONE: I'd like to say aloha to everyone for attending this public meeting of the Charter Commission. My name is Josh Stone and I'm the Chairman of the Commission. If you need, there are copies of our agenda of today's meeting available for everyone here with Lisa Kahuhu, who has put it on that table for you just in the front of the room. So if you need those copies, please grab them.</p> <p>Before we begin public testimony, we have a few items of business to address. Firstly, I'd like to call this meeting to order as of -- oh, bad Josh, 10:05 -- as of 10:05 a.m., and recognize our Commissioners who are present or excused.</p> <p>Lisa, do you have any excused Commissioners?</p> <p>MS. KAHUHU: Chair, Frank De Rego is excused from this meeting. And I'm sure Susan is on her way.</p> <p>CHAIR STONE: I'd like to put a negative mark to Frank De Rego for being missing from this meeting.</p> <p>No. Frank has -- he called numerous times to get himself excused, so Frank is officially excused.</p> <p>I'd also like to present our staff. We have Ed Kushi, Jr., sitting there in that nice white shirt, Deputy Corporation Counsel. We have Lisa Kahuhu, again,</p>
<p>ATTENDANCE</p> <p>BOARD MEMBERS PRESENT:</p> <p>Joshua A. Stone, Chair</p> <p>Wayne N. Hedani, Vice-Chair</p> <p>Artemio C. Baxa, Member</p> <p>Stephanie S. Crivello, Member</p> <p>David P. DeLeon, Member</p> <p>Clifford P. Hashimoto, Member</p> <p>Wayne N. Hedani, Member</p> <p>Susan A. Moikeha, Member</p> <p>Linda Kay Okamoto, Member</p> <p>Yuki Lei Sugimura, Member</p> <p>Flo V. Wiger, Member</p> <p>STAFF PRESENT:</p> <p>Mr. Edward Kushi, Jr., First Deputy Corporation Counsel</p> <p>Lisa Kahuhu, Supervising Law Technician</p> <p>ADMINISTRATION PRESENT:</p> <p>Michael Molina, Executive Assistant to the Mayor</p> <p>OTHERS PRESENT:</p> <p>Jim Smith</p> <p>Melanie Stephens</p> <p>Lloyd Fischel</p> <p>Erik Arensdorf</p> <p>Greg Jenkins</p> <p>Sally Raisbeck</p> <p>Bill Medeiros, Geographic Services Manager, County of Maui</p> <p>Barbara Ankersmit, QMark Research (via speakerphone)</p> <p>Tony Ramil</p> <p style="text-align: right;">Page 4</p>	<p>who is our Supervising Law Technician. Tonya McDade, our tireless court reporter. Tonya, how's it going?</p> <p>And, also, we have Mr. Mike Molina, who is EA from the Mayor's Office. Mike, thank you for being here.</p> <p>MR. MOLINA: Thank you, Chairman.</p> <p>CHAIR STONE: Also missing today, Commissioners, you may notice, is Sherry Broder, who is excused as well, who is our Commission Analyst. So we're going to have to keep the questions simple.</p> <p>I'd like to take this time to approve the minutes from our last meeting. You should have received those in your packets. Do I have a motion to approve?</p> <p>VICE-CHAIR HEDANI: So moved.</p> <p>MEMBER SUGIMURA: Second.</p> <p>CHAIR STONE: We have a motion, and seconded, to approve the minutes. Is there any discussion?</p> <p>(No Response.)</p> <p>CHAIR STONE: No discussion. All in favor of approving the minutes, say "aye."</p> <p>(A chorus of ayes.)</p> <p>CHAIR STONE: All opposed?</p> <p>(No Response.)</p> <p>CHAIR STONE: Very good. Motion passes.</p> <p>Minutes are approved.</p> <p>We'll now move on to oral testimony, but,</p>

<p style="text-align: right;">Page 5</p> <p>1 before we begin, I'd like to go over our oral testimony  2 rules. We'll call up each public testifier in the order  3 that they registered to testify. Each person will have  4 five minutes to testify on all items in our agenda  5 today. Following the testifier's testimony, I will ask  6 the Commissioners if any clarification of the presented  7 testimony.  8 Lisa, just for scheduling, how many testifiers  9 presently do we have signed up?  10 MS. KAHUHU: Six, Chair.  11 CHAIR STONE: Six. Okay. Thank you. Okay.  12 Please introduce the first testifier, Lisa.  13 MS. KAHUHU: Jim Smith.  14 CHAIR STONE: Mr. Smith, thank you for being  15 here.  16 ...BEGIN PUBLIC TESTIMONY...  17 MR. SMITH: Chair, Members of the Charter  18 Commission, thank you for being here.  19 I've submitted testimony as well as two items  20 with it. These are items I think are necessary to help  21 you with understanding the issues that we are faced.  22 One of them is a -- a copy out of a ruling by  23 the Clerk of the County, Roy Hiraga, on the -- on the  24 challenge by voter regarding the voter registration  25 status of Sol Kaho'ohalahala. And it, I believe, is</p>	<p style="text-align: right;">Page 7</p> <p>1 subdivides our community and turns us into dogs,  2 basically, when, right now, we're sharing. It may be an  3 ohana, it may be a family, but that doesn't matter,  4 because I got a vote, I can call it what I want. So  5 you're being asked to subvert that.  6 The second is a document that came from the  7 1991 meeting, December 15th, I believe. And it is a  8 recounting of the presentation of William Crockett. And  9 in it, he says, okay, that district voting hurts the  10 voter. District voting hurts the voter. And you are  11 being asked to hurt the voter on Molokai. And we are  12 embracing a concept of not superior good or superiority,  13 but common good. And that's low. And that means nobody  14 gets hurt. And you're being asked to hurt. And I say  15 table it. More important things. We need to look at  16 the executive abuse of power, not our legislative  17 connection.  18 So that's -- that was the testimony on that.  19 The second is, and this has to do with a  20 letter -- or a expression by a Commissioner of -- of  21 fundamental logic. Okay. And next is the Parks  22 Department. And quoting of a Mr. Helm, or not, about  23 the enormous advantage given to the Parks Department.  24 When you go back and look at the budget detail, for  25 1991, there were 16 parks people on Molokai and 146 on</p>
<p style="text-align: right;">Page 6</p> <p>1 Page 4 on that. There were two items, one is that -- in  2 your -- yeah. It's Page 4. And on it, at the bottom  3 paragraph -- I think you had it in your hand -- at the  4 bottom of the paragraph, it talks about the language of  5 the Hawaii Revised Statute. And it references Section  6 11-13 and several sub-paragraphs, and then it references  7 a Attorney General section in which it quotes, one state  8 of mind determines one place of residence. "Ones state  9 of mind determines ones place of residence." Now, that  10 gives legitimacy to at-large voting because what that  11 does is it says that residential areas are important,  12 not for the power and delegated authority of the voter,  13 but because the person from that area, okay, represents  14 a state of mind. Okay.  15 For me, that's -- and the whole argument for  16 district voting presumes that it's illegal based upon a  17 fact that districts exist and, therefore, there's  18 disproportionate numbers emerge. Okay. But it's the  19 state of mind in Molokai that I want to be involved with  20 and Lanai and Pat Kawano and Goro Hokama, okay, and  21 Velma Santos and all these good people who I've met with  22 as nobody, who said, you know what, let's look at that.  23 Let's look at that. Danny Mateo. It is the state of  24 mind that you are being asked to ignore -- to embrace an  25 economic issue. A fair market value issue which</p>	<p style="text-align: right;">Page 8</p> <p>1 the whole island. Within four years, there was 214 on  2 the whole island, and there was 17 on Molokai. By 2002,  3 there was 354 employees in the Parks Department, okay,  4 and I think there was 21.6 on Molokai. So that whole  5 notion of a disproportion of power is imaginary to serve  6 a result, an end, which is superiority. Let that one  7 go, I would say.  8 And these are numbers I got at MCC library,  9 the lady, (inaudible), I don't know her name, the  10 librarian, showed me right where this detail was. It's  11 the small numeral 6 and the number 17-1 on that big  12 book, that will take you where the Parks issue is  13 decided. But these are all coming to you as true. It's  14 unimaginative. But it's there, so I would ask you,  15 table this.  16 The other thing is this motion before you  17 regarding partisan and nonpartisan. You know, we hold  18 together with words --  19 MS. KAHUHU: Time.  20 CHAIR STONE: Mr. Smith, thank you so much.  21 Commissioners, questions for Mr. Smith? Yes,  22 Commissioner Sugimura.  23 MEMBER SUGIMURA: Can he just finish his last  24 sentence? Can you just say if you're against or --  25 MR. SMITH: I'm saying nonpartisan is a biased</p>

<p style="text-align: right;">Page 9</p> <p>1 word and it colors everyone when it should be open.  2 Okay. A primary result and not partisan. Partisan is a  3 gadget that they use to disassemble us to take our  4 values and break them apart, and if we are not strong  5 enough, if we connect to people like church or politics  6 and we're weak, we're inferior, then we are victims.  7 MEMBER SUGIMURA: Thank you.  8 MR. SMITH: Thank you.  9 MEMBER BAXA: Mr. Chair?  10 CHAIR STONE: Thank you. Yes, Commissioner  11 Baxa.  12 MEMBER BAXA: Mr. Smith, are you saying that  13 there should be no parties?  14 MR. SMITH: Not at all. I'm saying that there  15 should be a touchstone in the primary election that I  16 can relate to, not the name of an individual whom I  17 don't know running. I want to see a sense of where this  18 soul is as it relates to me and we. So if it's a  19 republican, then it's me, and if it's a democrat, then  20 it's we. Because "we" is kind of low and weak. And  21 "me" is strong. That's the way that works from my  22 perspective. I may be wrong on that.  23 MEMBER BAXA: So the reason I asked you that  24 question, Mr. Smith, is I just wanted to be sure whether  25 you are in favor of nonpartisan election -- I guess you</p>	<p style="text-align: right;">Page 11</p> <p>1 (Laughter.)  2 MEMBER BAXA: Thank you.  3 CHAIR STONE: Thank you very much.  4 Commissioners, further clarification?  5 (No Response.)  6 CHAIR STONE: No. Mr. Smith, thank you for  7 being here today.  8 MR. SMITH: You're welcome.  9 CHAIR STONE: Lisa, next testifier, please.  10 MS. KAHUHU: Melanie Stephens.  11 CHAIR STONE: Ms. Stephens, thanks very much  12 for coming.  13 MS. STEPHENS: Thank you for giving me the  14 opportunity. I'm Melanie Stephens from Makawao. And I  15 speak as a private citizen, although I am a part of a  16 couple of sustainability organizations that I can, not  17 necessarily represent, but speak about what's happening  18 with them.  19 I want to talk about -- I am in support, I'll  20 be very clear, of the adoption of the division of  21 sustainability and environmental protection. And my  22 reasons for that are both on the grass roots level, on  23 the business level, and on the County level.  24 I'm the president of Upcountry Sustainability,  25 which is a group of grass roots volunteers who gives up</p>
<p style="text-align: right;">Page 10</p> <p>1 question the word nonpartisan because --  2 MR. SMITH: Fundamentally.  3 MEMBER BAXA: Fundamentally. But you're  4 saying that when candidates come to you during election  5 time, they should identify themselves whether they are  6 democrats, independent or republicans, something like  7 that?  8 MR. SMITH: Most often, prior to this change,  9 I got a brochure that, on it, had a D or an R. When  10 somebody comes up to talk to me, I listen to them. I  11 don't ask them their -- their pedigree. I just say,  12 what you're saying -- if I want to talk to them, I say,  13 that makes sense, thank you, or I say, well, what about  14 this, that doesn't make sense. But when I -- when I go  15 into a -- a booth, and it's a primary election and I go  16 through my card and I say, well, these people who don't  17 identify themselves as republican, well, that's good,  18 but that's not for me, or these people who want to  19 identify themselves as green, meaning something is more  20 important than economics or equality, meaning something  21 is much more important than that, then I say that is for  22 me and this guy must carry with him that impulse. So  23 I'll go with that. But you've taken that away. All  24 you've left me is a name. And you're saying it's better  25 this way. And I'm saying, "Oh, not."</p>	<p style="text-align: right;">Page 12</p> <p>1 -- creates the opportunity for presentations on  2 sustainability issues twice a month. And we are getting  3 a lot of interest. Each time, it's different people  4 because they're interested in different subjects, but  5 we're getting 50 to 60 people at every meeting. And  6 there's a lot of both interest and concern about  7 sustainability issues. We have probably about 800-plus  8 people on our email list.  9 And our concerns are about the future, about  10 the long-term future, about Maui County's viability  11 seven generations from now. And it's a good -- seven  12 generations is a great benchmark, I think. And we're  13 also concerned about catastrophes and whether we're  14 ready as a populous to take on catastrophe where food is  15 not available. So we're worried about food, energy,  16 water, waste, and the environment.  17 We, as an organization, have been given going  18 to each of the County councilmembers and department  19 heads to talk to them about our concerns and about  20 what's happening in the county because we want to work  21 together. Wouldn't it be nice if there was one  22 organization that we could just be in full partnership  23 with, and -- you know, one County department or division  24 that we could be in full partnership with, everybody  25 working together?</p>

<p style="text-align: right;">Page 13</p> <p>1 Business-wise, I am participating in a survey  2 of 250 large businesses, large and middle size  3 businesses on Maui, about their interest in  4 sustainability practices. Research shows that  5 businesses are interested in improving their business --  6 their sustainability practices, but they don't know how.  7 And given the economic situation, it's a hard thing to  8 pay attention to.  9 So our thought is, in conjunction with the  10 Chamber, the college, the Sustainable Living Institute  11 of Maui, and the small grant from the Office of Economic  12 Development, let's help them, let's go directly to the  13 businesses and help them. Let's give them some interns  14 who have been trained in energy efficiency. So you can  15 see that, despite the County -- or that's the wrong  16 word, despite is not the right -- in conjunction with  17 the County, things are going on that are furthering our  18 goals of sustainability. But -- and the County could  19 say, great, that's good to hear, we don't need to put as  20 much energy into it, but I believe that Maui County is  21 the county that wants to lead and wants to look to the  22 future and has a tradition of that. And that part of --  23 part of the ability to do that will be creating this  24 division.  25 In the U.S., it has been proven, it has been</p>	<p style="text-align: right;">Page 15</p> <p>1 your mind, apply to everything, rather than just such  2 things as water, agriculture, those things. Does it  3 apply to businesses that have been here for the last 100  4 years?  5 For example, a lot of people complain about  6 sugarcane. Okay. Now, a lot of people don't -- a lot  7 of people who move here to Maui do not like that. They  8 want to get rid of that sugarcane because of the  9 burning. And/or perhaps because the -- the company  10 controls so much land here on Maui, and that's probably  11 their reason for thinking that way. If we can just get  12 rid of guys who control 35,000 acres of land, or perhaps  13 even more, we could buy land much cheaper. Perhaps,  14 would happen.  15 Now, there are a lot of things that are  16 involved in sustainability. I would think that if  17 you're talking about sustainability, you're referring to  18 many new things, the things that we'd like to see here.  19 And I'm not really sure that -- that spending money for  20 something that may be good. We should be spending money  21 on something that is good, that we know for a fact is  22 good.  23 For instance, do you like driving down bumpy  24 roads? I don't think so. Now, would we like to have  25 better roads on Maui? Of course, we do. We all do. I</p>
<p style="text-align: right;">Page 14</p> <p>1 shown, that counties that have created some kind of a  2 department or committee, the focus is on sustainability  3 issues ends up saving their -- internally end up saving  4 the county a lot of money. UH Manoa has saved hundreds  5 of thousands of dollars just in one building, by doing  6 energy efficiency and water -- water use management.  7 So I'm -- I -- our experience is that all the  8 County councilmembers and department heads are  9 interested in these things and that money is the thing  10 that gets in the way, understandably. But for  11 everybody to be -- business, citizens, the County to be  12 working together in the best way possible, I believe  13 there needs to be a point person, a point designated  14 division that can bring all of that together and move  15 forward for the best of our -- for our seventh  16 generation, for all of our descendants.  17 So thank you.  18 CHAIR STONE: Thank you very much. One  19 second.  20 MS. STEPHENS: Oh, sorry.  21 CHAIR STONE: Commissioners, any  22 clarification? Please, Cliff.  23 MEMBER HASHIMOTO: Yes, ma'am. Thank you for  24 coming and sharing your thoughts with us. My question  25 is -- is, does the word or the term "sustainability," in</p>	<p style="text-align: right;">Page 16</p> <p>1 do because I take the longest drive here every time I  2 come to this meeting, because I come from Hana.  3 So in those terms, how does the word  4 "sustainability" apply, your thoughts? Does it apply to  5 all businesses?  6 MS. STEPHENS: I think the first order of  7 sustainability -- and I haven't mentioned it -- is that  8 we all work together and respectfully, for the -- for  9 the benefit of all. So not -- not somebody being  10 disregarded or a business being put aside because it  11 doesn't work for everybody else, that we all work  12 together well. First order of sustainability.  13 I would say, in answer to your question, I  14 don't think it's an either/or, that I think  15 research-based information, which exists in our world,  16 is there to back up the -- an increase in sustainable  17 practices, whether it's water conservation, whether  18 it's -- you know, there's a big buzzword of zero waste  19 these days. So many different things are being  20 practiced and researched in different parts of the  21 world, and working and saving money and saving  22 resources.  23 So I think some -- you know, some of it is --  24 I think most of it is research-based. There are models  25 of it other places that can be used here. And I think</p>



<p style="text-align: right;">Page 17</p> <p>1 that the out-of-the-box thinking that's specific to  2 Maui, Maui County, that is -- I mean, there's a lot of  3 out-of-the-box thinking in sustainability that's  4 happening right now because, all over the world, people  5 are seeing us as a test area, a really good test area.  6 And lucky us. I'm really glad.  7 But I think it's really a combination. And I  8 agree with you, there are a lot of issues concerned with  9 sustainability, and it's not going to be helpful to do  10 all of them. So we have to figure out which of the ones  11 are going to be most doable and have the greatest impact  12 for the longest period of time.  13 Does that answer your question? Kind of?  14 Kind of, okay.  15 CHAIR STONE: Thank you.  16 Commissioners, further clarifications?  17 Commissioner Moikeha.  18 MEMBER MOIKEHA: Thank you for your testimony.  19 Did you have a chance to look at the Mayor's  20 recommendation for increasing the functions and powers  21 under the Environmental Management Director?  22 MS. STEPHENS: No.  23 MEMBER MOIKEHA: Okay. If you could take a  24 look at that, this document was -- or letter was sent to  25 us dated August 15th, 2011. And I just want to express</p>	<p style="text-align: right;">Page 19</p> <p>1 MS. STEPHENS: Oh, I'm sorry.  2 CHAIR STONE: No problem.  3 Commissioner Baxa.  4 MEMBER BAXA: Yeah. Following from the  5 questioning of Commissioner Moikeha, it appears that you  6 have not really read the proposal --  7 MS. STEPHENS: I haven't done my homework.  8 MEMBER BAXA: -- of the Mayor. If I  9 understand correctly, and the Commission which may  10 correct -- may correct me if I'm wrong, but I got the  11 impression from the Mayor that sustainability is a very,  12 very important thing within the County of Maui. That it  13 should not be only the concern of the State, or even the  14 Federal Government itself, but the County should have --  15 take the initiative to have sustainability within this  16 County. And that he would favor perhaps that this  17 sustainability should be a part of a department -- of a  18 division in a department. Comparing that to a situation  19 where they could just establish it as a part within the  20 Mayor's Office, because when the Mayor -- when the  21 Mayor's term expires, the next Mayor may elect not to  22 have that be in operation, while if it is a part of a  23 department, the department will carry. What is your  24 position on that?  25 MS. STEPHENS: It's the very definition of</p>
<p style="text-align: right;">Page 18</p> <p>1 that the rationale that he points out, which I agree  2 with, is that the Charter does not delineate divisions  3 and offices within departments. What he is recommending  4 is adding additional functions so that this would  5 probably give a foundation for a division to be created.  6 So I'd be interested in if you could look at those. And  7 it's Number 9 on his Matrix.  8 MS. STEPHENS: Okay.  9 MEMBER MOIKEHA: And there's two functions  10 that he lists there. And if you could, you know, either  11 email or provide further testimony, that would be great.  12 MS. STEPHENS: That's great.  13 MEMBER MOIKEHA: Thank you.  14 MS. STEPHENS: The Mayor, before he was -- or  15 in between mayorhoods, visited our Upcountry  16 Sustainability organization meetings often. And so we  17 had very good dialogue. And he's familiar with our  18 concerns of, you know, a small group. It's not like we  19 speak for everyone, by any means. But, you know, I -- I  20 like to know that he knows -- he's heard from us.  21 But thank you. I will.  22 MEMBER MOIKEHA: Thank you.  23 CHAIR STONE: Thank you.  24 MEMBER BAXA: Mr. Chair?  25 CHAIR STONE: One more question please.</p>	<p style="text-align: right;">Page 20</p> <p>1 sustainability. I mean, something that can disappear  2 next year --  3 MEMBER BAXA: No. What I'm saying is, would  4 you prefer that it be a part of a department or a  5 division of a department, like the Department of  6 Environmental Management?  7 MS. STEPHENS: If it can't be its own  8 department, then, yes.  9 MEMBER BAXA: Okay. Thank you, ma'am.  10 CHAIR STONE: Thank you. Commissioners,  11 further clarification?  12 (No Response.)  13 CHAIR STONE: No. Thanks for your testimony.  14 MS. STEPHENS: Thank you.  15 CHAIR STONE: Lisa, next testifier, please.  16 MS. KAHUHU: Lloyd Fischel.  17 CHAIR STONE: Mr. Fischel, thank you for being  18 here.  19 MR. FISCHEL: Thank you, Mr. Stone. Nice to  20 see all of you this morning.  21 I came here to share a few ideas relative to  22 the idea of district voting. And I recognize that  23 there's been -- you know, there's a lot of controversy  24 and discussion over this. This is not the first time,  25 of course. We know this has been discussed for, what,</p>

<p style="text-align: right;">Page 21</p> <p>1 20 years now.</p> <p>2 And the reason why is -- and this is what I</p> <p>3 want to point out. The reason why it's been discussed</p> <p>4 for 20 years is because we have, basically, a perfectly</p> <p>5 imperfect system. In other words, it's impossible to</p> <p>6 make our democratic system right and perfect for</p> <p>7 everyone, but we try. And that's why we have the system</p> <p>8 that we have today, because we all want to vote for all</p> <p>9 of the councilors. You do, all of you do, and so do I.</p> <p>10 We -- we don't want to just vote for one person. When</p> <p>11 we vote for our councilmen, we want to vote -- and</p> <p>12 councilwomen, we want to vote for all of them. And</p> <p>13 that's why the system is the way it is today.</p> <p>14 And certainly it's easy to figure financial</p> <p>15 and other kind of economic burdens relative to this,</p> <p>16 because that is because democracy is, basically,</p> <p>17 imperfect. And when we start tinkering with it, what do</p> <p>18 we do? It's a divide and conquer. And that's what the</p> <p>19 large corporations want. It's a divide and conquer</p> <p>20 mentality that's existed since Machiavelli's time. And</p> <p>21 we have to be big enough and strong enough and</p> <p>22 insightful enough to see it.</p> <p>23 Last point. I noticed the -- many of our</p> <p>24 constituents have written in. And I want to point out</p> <p>25 one of my good friends, Sally Raisbeck, has written in.</p>	<p style="text-align: right;">Page 23</p> <p>1 be able to vote for all the councilmen within this</p> <p>2 County?</p> <p>3 MR. FISCHER: Is that a question, sir?</p> <p>4 MEMBER BAXA: Yes.</p> <p>5 MR. FISCHER: I want to be able to vote for</p> <p>6 anybody that's running as opposed to one person that's</p> <p>7 representing an area where I live.</p> <p>8 And the people in Molokai, they will be the</p> <p>9 first ones screaming the blues if there's a change.</p> <p>10 Because, guess what? The large centers -- and this is</p> <p>11 what has happened all over the world, where this kind of</p> <p>12 change is made -- the large population centers are going</p> <p>13 to say, "But we have more votes, so we should decide."</p> <p>14 And then they're going to say, "Well, what about us."</p> <p>15 It's not a good solution to change this very fundamental</p> <p>16 aspect --</p> <p>17 MEMBER BAXA: Okay.</p> <p>18 MR. FISCHER: -- of our democracy.</p> <p>19 MEMBER BAXA: So in your case, you believe</p> <p>20 that the present system is a good system?</p> <p>21 MR. FISCHER: It's better than the one that's</p> <p>22 before you to decide that should go before the voters.</p> <p>23 MEMBER BAXA: Thank you.</p> <p>24 MR. FISCHER: Okay.</p> <p>25 CHAIR STONE: Thank you.</p>
<p style="text-align: right;">Page 22</p> <p>1 I think you've seen her letter. And Sally describes</p> <p>2 something that many of us have heard here. And that is</p> <p>3 the idea that the -- that the imperfect system is that,</p> <p>4 basically, the incumbents have an unbeatable advantage,</p> <p>5 as she writes, over the challengers. But that's -- to</p> <p>6 solve that is not to solve it by district voting. To</p> <p>7 solve it is to improve our society so that more people</p> <p>8 want to run and there's more voices. If we confuse the</p> <p>9 issues, we've confused our government at the most</p> <p>10 fundamental level.</p> <p>11 Our democracy allows us all to vote for those</p> <p>12 politicians or leaders that are representing us all.</p> <p>13 And that is the basis of ohana as well. And if this</p> <p>14 change is put before the public, the large corporations</p> <p>15 will do everything they can to twist the minds of the</p> <p>16 voters to think that this is a good idea. And it's not.</p> <p>17 It's a fundamentally flawed idea.</p> <p>18 And I want to thank you very much for this few</p> <p>19 minutes, yeah.</p> <p>20 MEMBER BAXA: Mr. Chair?</p> <p>21 CHAIR STONE: Thank you very much.</p> <p>22 Commissioner Baxa.</p> <p>23 MEMBER BAXA: Sir, I think I understood your</p> <p>24 position, but I just want to make it very clear. As a</p> <p>25 citizen of this County, you have one vote. You want to</p>	<p style="text-align: right;">Page 24</p> <p>1 Commissioners, further clarification?</p> <p>2 Commissioner Wiger.</p> <p>3 MEMBER WIGER: Thank you for your testimony,</p> <p>4 Lloyd.</p> <p>5 MR. FISCHER: Thank you.</p> <p>6 MEMBER WIGER: If you could -- I just want to</p> <p>7 be clear that I heard what I think I heard.</p> <p>8 CHAIR STONE: Commissioner Wiger, you've been</p> <p>9 out for a while, so I'm going to remind you, your</p> <p>10 microphone.</p> <p>11 MEMBER WIGER: He always reminds me to use the</p> <p>12 microphone. I always forget because I taught for many</p> <p>13 years, so my voice tends to just go. Sorry.</p> <p>14 You said at the beginning, I think you said,</p> <p>15 doing an inclusive "we." "We" all want to vote for</p> <p>16 everyone.</p> <p>17 MR. FISCHER: It was, perhaps, a grammatical</p> <p>18 error in discussing this. The idea being that all of us</p> <p>19 want the opportunity to vote for all of those that are</p> <p>20 running, to have a choice between all of the -- those</p> <p>21 that are running as opposed to having a choice only</p> <p>22 between people that are in our geographic area. That's</p> <p>23 what I was trying to say.</p> <p>24 MEMBER WIGER: Okay. And you've -- you've</p> <p>25 checked with everybody at this table to ensure that</p>

<p style="text-align: right;">Page 25</p> <p>1 that's --</p> <p>2 MR. FISCHER: Well, I can check right now. Is</p> <p>3 there anybody --</p> <p>4 MEMBER WIGER: No.</p> <p>5 MR. FISCHER: -- here that doesn't want to</p> <p>6 vote for everybody?</p> <p>7 MEMBER WIGER: I'm just saying --</p> <p>8 CHAIR STONE: Hey, buddy, I'm the chairman.</p> <p>9 All right?</p> <p>10 (Laughter.)</p> <p>11 MEMBER WIGER: I'm just saying I think that</p> <p>12 those are assumptions that -- and I'm not saying that</p> <p>13 everyone does or everyone doesn't. I know, as an</p> <p>14 educator, I'm always very concerned when people use the</p> <p>15 inclusive "we" to make assumption-based commentary that</p> <p>16 would then lead other people to come to conclusions that</p> <p>17 could be factually based or are not necessarily</p> <p>18 factually based. That's my only comment.</p> <p>19 MR. FISCHER: And I thank you. And I'd like</p> <p>20 to just say, that we look around our society today, we</p> <p>21 have nothing but unintended consequences, whether it's</p> <p>22 in the environment, whether it's in energy, whether it's</p> <p>23 in food. Unintended consequences.</p> <p>24 How did we get to a point where there's</p> <p>25 unintended consequences in every single thing we do?</p>	<p style="text-align: right;">Page 27</p> <p>1 There is no personal or professional gain in</p> <p>2 it for Greg and I other than to ensure that, as public</p> <p>3 servants, chief included, the processes are in place to</p> <p>4 ensure that we are held accountable. We were motivated</p> <p>5 because of the hurdles and shortcomings we and some of</p> <p>6 our brothers have encountered while dealing with the</p> <p>7 Fire Commission and other agencies within the County.</p> <p>8 Because of these interactions, we identified that the</p> <p>9 essence of the problems all came back to the vagueness</p> <p>10 of the language which, in turn, limited the Fire</p> <p>11 Commission's scope.</p> <p>12 All we are saying is that the change -- that a</p> <p>13 change in the language is necessary to ensure that there</p> <p>14 is accountability through the transparency of the Fire</p> <p>15 Chief and the Maui County Fire Department.</p> <p>16 Last meeting, the Mayor testified that he was</p> <p>17 not able to hold the Fire Chief accountable because the</p> <p>18 Fire Chief reports to the Fire Commission, and not to</p> <p>19 him; however, later, the Fire Chief stated, as the</p> <p>20 County Charter also states, that the Fire Chief is</p> <p>21 subordinate to the Mayor. How is this possible? If the</p> <p>22 Mayor says that he can't hold the Fire Chief accountable</p> <p>23 because the chief is under the Fire Commission, and the</p> <p>24 chief says he's subordinate to the Mayor, then, in</p> <p>25 essence, who is responsible to ensuring that the Fire</p>
<p style="text-align: right;">Page 26</p> <p>1 It's because things sound good. But, yet, when we look</p> <p>2 down the road, we find that there's tragedy. And that's</p> <p>3 happened all over the world in many cases.</p> <p>4 Look, the best minds of our world have created</p> <p>5 the economic trauma that we have today. And where are</p> <p>6 the corporations? Where are the bankers? We know the</p> <p>7 answer to that.</p> <p>8 CHAIR STONE: Thank you.</p> <p>9 Commissioners, further clarification?</p> <p>10 MR. FISCHER: Thank you.</p> <p>11 CHAIR STONE: Thank you very much for your</p> <p>12 time.</p> <p>13 MR. FISCHER: Thank you.</p> <p>14 CHAIR STONE: Lisa, next testifier, please.</p> <p>15 MS. KAHUHU: Erik Arensdorf.</p> <p>16 CHAIR STONE: Erik, thank you for being here.</p> <p>17 MR. ARENSDORF: Aloha. My name is Erik</p> <p>18 Arensdorf. And I've been a firefighter for almost 18</p> <p>19 years for the County of Maui, but I'm here to testify as</p> <p>20 a concerned citizen of the county.</p> <p>21 I'm here to stand in support of my brother</p> <p>22 Greg Jenkins to implore you, the Commission, to ask</p> <p>23 yourselves why would we, concerned citizens who happen</p> <p>24 to be firefighters, believe there is a need to change</p> <p>25 the Charter language.</p>	<p style="text-align: right;">Page 28</p> <p>1 Chief is being held accountable for his decisions,</p> <p>2 actions and inactions?</p> <p>3 In the rules and -- rules of practice and</p> <p>4 procedure for the Fire Commission, there is no specific</p> <p>5 language that directly states what specifically the Fire</p> <p>6 Commission is supposed to do to hold a Fire Chief</p> <p>7 accountable. Their powers and scope have been limited</p> <p>8 by weak ineffectual Charter language as interpreted by</p> <p>9 Corp Counsel.</p> <p>10 A review of Greg's report side by side with</p> <p>11 the rules of the Fire Commission will illuminate this</p> <p>12 glaring discrepancy. Therefore, actions and decisions</p> <p>13 of the Fire Chief go unchecked and no ensurement [sic]</p> <p>14 of fairness and equality as required under the law.</p> <p>15 In essence, the Fire Commission is a</p> <p>16 Rottweiler on a short leash with a muzzle. It's a whole</p> <p>17 lot of dog that looks like it can do something, but not</p> <p>18 able to back it up with action due to the limitations</p> <p>19 that have been placed upon it; in this case, ineffectual</p> <p>20 Charter language and Corp Counsel.</p> <p>21 Lastly, I would like to say there is no</p> <p>22 accountability without transparency. And the statement</p> <p>23 of policy as well as other changes proposed for the</p> <p>24 Charter language, which we are requesting, is the first</p> <p>25 step in ensuring it.</p>

<p style="text-align: right;">Page 29</p> <p>1 Thank you.</p> <p>2 CHAIR STONE: Thank you very much.</p> <p>3 Commissioner Okamoto.</p> <p>4 MEMBER OKAMOTO: Thank you for coming today.</p> <p>5 A simple question. Are you -- well, no, it's</p> <p>6 never simple. Are you looking simply to change and</p> <p>7 strengthen the language for the Fire Commission or are</p> <p>8 you in favor of putting the commission under the</p> <p>9 Mayor -- or the Fire Chief under the Mayor?</p> <p>10 MR. ARENSDORF: If the Fire Commission has the</p> <p>11 language to more effectually do its job without the</p> <p>12 vagueness and the limitations that it currently has,</p> <p>13 then there would be no need for it to be under the</p> <p>14 Mayor, in my personal opinion.</p> <p>15 MEMBER OKAMOTO: Thank you.</p> <p>16 CHAIR STONE: Commissioners? Commissioner</p> <p>17 Hedani, please.</p> <p>18 VICE-CHAIR HEDANI: Erik, you know the problem</p> <p>19 that I had when I came across the Fire Department</p> <p>20 section was there were maybe 20 different changes that</p> <p>21 could be made to the Charter.</p> <p>22 MR. ARENSDORF: Yes.</p> <p>23 VICE-CHAIR HEDANI: We're looking at trying to</p> <p>24 whittle that down to a couple really important changes.</p> <p>25 MR. ARENSDORF: Uh-huh.</p>	<p style="text-align: right;">Page 31</p> <p>1 MEMBER BAXA: And you suggested that there</p> <p>2 would be -- the best way to do this is to start from a</p> <p>3 statement of policy, is that correct?</p> <p>4 MR. ARENSDORF: Correct.</p> <p>5 (Audio feedback.)</p> <p>6 CHAIR STONE: Excuse us.</p> <p>7 MEMBER BAXA: But if I understand correctly,</p> <p>8 my -- my own conception of the policies, a policy is a</p> <p>9 statement which could be interpreted very broadly. I</p> <p>10 would probably want something more specific, some more</p> <p>11 specific language, as you suggested, as a direction as</p> <p>12 to what should -- what it should -- how it should be</p> <p>13 done.</p> <p>14 MR. ARENSDORF: I believe Greg addressed that</p> <p>15 in his report that he gave to you, that it was not</p> <p>16 really illuminated clearly in your agenda bullet points.</p> <p>17 MEMBER BAXA: Okay. I'm not too sure if I</p> <p>18 have the language there, but I would like to see the</p> <p>19 specific language so that myself and the other</p> <p>20 Commissioners can examine it carefully, whether it would</p> <p>21 satisfy the objective that we want to have.</p> <p>22 MR. ARENSDORF: Okay.</p> <p>23 MEMBER BAXA: Thank you very much.</p> <p>24 MR. ARENSDORF: Thank you.</p> <p>25 CHAIR STONE: Thank you. Commissioners,</p>
<p style="text-align: right;">Page 30</p> <p>1 VICE-CHAIR HEDANI: And I would like to, you</p> <p>2 know, be able to get back from you something that would</p> <p>3 boil the essence of the problem down to a few selected</p> <p>4 changes that could be made in critical areas.</p> <p>5 MR. ARENSDORF: I think, primarily, if there</p> <p>6 was a statement of policy, that would be a good start.</p> <p>7 That would be a good foundation to start off with. As</p> <p>8 for the rest of them, I think as long as it's</p> <p>9 strengthened as to the duties and scope that the Charter</p> <p>10 Commission has to conduct its review of the Fire Chief's</p> <p>11 decisions, actions or inactions, that that would also be</p> <p>12 beneficial. But I believe -- and I think Greg will tell</p> <p>13 you -- is that the statement of policy is -- is the --</p> <p>14 is the cornerstone to -- to starting that effectual</p> <p>15 change.</p> <p>16 MEMBER BAXA: Mr. Chair?</p> <p>17 CHAIR STONE: Yes, Commissioner Baxa.</p> <p>18 MEMBER BAXA: Sir, thank you for coming in. I</p> <p>19 don't want to lose focus from the subject matter that</p> <p>20 you have brought before us today. If I understand</p> <p>21 correctly, the gist of your testimony is to this effect:</p> <p>22 That it seems that there is no real accountability</p> <p>23 because there is no clear direction in the Charter as to</p> <p>24 what the Commission can -- can do. Is that correct?</p> <p>25 MR. ARENSDORF: Correct.</p>	<p style="text-align: right;">Page 32</p> <p>1 further clarification?</p> <p>2 (No Response.)</p> <p>3 CHAIR STONE: No. Thank you very much for</p> <p>4 your testimony.</p> <p>5 MR. ARENSDORF: Thank you.</p> <p>6 CHAIR STONE: Lisa, next testifier, please.</p> <p>7 MS. KAHUHU: Greg Jenkins.</p> <p>8 CHAIR STONE: Mr. Jenkins, welcome back.</p> <p>9 Thanks for coming today.</p> <p>10 MR. JENKINS: Aloha, Commissioners. Nice to</p> <p>11 see you, also. My name is Greg Jenkins. I'm visiting</p> <p>12 Maui today from my home island of Molokai. I'm</p> <p>13 testifying as an individual.</p> <p>14 The most effective way to deter government</p> <p>15 from acting in an unethical or ineffective manner is to</p> <p>16 utilize and improve the processes of government through</p> <p>17 existing new laws at the local and state level. At the</p> <p>18 local level, this is precisely what the Maui County</p> <p>19 Charter is for.</p> <p>20 As stated in the forward, the Charter</p> <p>21 establishes the structure and organization of government</p> <p>22 and defines responsibilities of our local government.</p> <p>23 And every 10 years, this becomes the Charter</p> <p>24 Commission's and people's responsibility to, as stated</p> <p>25 in the Charter Commission's declaration of policy -- and</p>

<p style="text-align: right;">Page 33</p> <p>1 I repeat, declaration of policy -- the Charter  2 Commission study and review of the operation of the  3 government. And, when deemed necessary, propose new  4 amendments that, of course, are designed to improve the  5 powers, duties and functions of the government, to  6 better operate in serving the people.  7 I was asked by some Commissioners to pick one  8 or two of the proposed Charter amendments for the  9 department from my report that I felt were most  10 important. Before I address this point, I admit I have  11 a tendency to look at any solution I propose very  12 comprehensively. I do not discriminate against one  13 other the over. Instead, I rely on the deliberation of  14 the decision-makers, you, to do their homework and  15 consider what is feasible or not.  16 That said, I don't believe proposed Charter  17 amendments should move forward or not based on the  18 amount of proposed amendments being considered. In  19 contrast, it should be if the amendment would make the  20 Charter language better as it concerns the quality of  21 operation of our local government, in this case the Fire  22 Department.  23 Remember, as I have stated before, the devil  24 lives in the details. Nevertheless, a couple of Charter  25 amendments that I have proposed for the Fire Department</p>	<p style="text-align: right;">Page 35</p> <p>1 fairness of the department, is through transparency.  2 Resultant transparency permits accountability.  3 So what is the problem, as I've been asked for  4 before? The department currently has no legally  5 established existence or purpose with any set of values  6 or goals for the provision of the services it provides.  7 A statement of policy as proposed is needed. The Fire  8 Chief also has the power to take all personnel actions  9 in a very discretionary manner, of which he is currently  10 not able to be held accountable by the commission based  11 on the current Charter language. This includes, but is  12 not limited to, hiring and promotions. In other words  13 the Fire Chief has some very critical and powerful  14 discretion without any real accountability.  15 The statement of policy and annual review by  16 the Fire Commission of department personnel actions will  17 enable the commission, the Fire Commission, to hold the  18 Fire Chief accountable for his actions regarding  19 specific powers, duties and functions that should be  20 enumerated more clearly in the Charter.  21 CHAIR STONE: Thank you.  22 Commissioners, clarification?  23 MEMBER BAXA: I have.  24 CHAIR STONE: Commissioner Baxa.  25 MEMBER BAXA: Mr. Jenkins --</p>
<p style="text-align: right;">Page 34</p> <p>1 are of a more critical nature than others. The two main  2 Charter amendments I proposed that I believe to be  3 absolutely critical to the safe and effective operation  4 of the department are 8.7.5, the proposed -- which is  5 the proposed statement of policy, that would establish  6 our system of fire service and the basis and method in  7 which the service is achieved, in accordance with  8 standards for recruitment, fair and ethical promotions  9 and personnel actions, and appropriate quality training.  10 The second is a portion of 8.7.7, which is  11 specific -- the specific part dependent on the proposed  12 statement of policy that would expand the powers, duties  13 and functions of the Fire Commission to review the  14 personnel actions of the department annually.  15 These two sections are critical in that the  16 Fire Department provides a service to the people. That  17 service is dependent upon mayor-based recruitment and  18 promotion of fire personnel who must demonstrate  19 competency, safety and professionalism. Thus, the  20 public must demand that the department be held  21 accountable to public to maintain integrity and  22 fairness.  23 The quality of our fire service and  24 firefighter performance is anchored to training. The  25 only way to measure all of this, quality, integrity and</p>	<p style="text-align: right;">Page 36</p> <p>1 MR. JENKINS: Yes, sir.  2 MEMBER BAXA: -- thank you, sir.  3 So if I conclude from your remarks,  4 Mr. Jenkins, you are saying to the Commissioners that  5 the area is too much filled with discretion, that there  6 is nowhere -- there is no real area where you can point  7 accountability. So are you suggesting, then, that some  8 language should be put there to be more specific to curb  9 that discretion among the powers invested with the Fire  10 Department or the Fire Chief?  11 MR. JENKINS: Yes, I am, Commissioner Baxa,  12 but I -- I need to -- to respect that, you know, several  13 Commissioners have made it -- made it a point -- and I  14 have to respect the point -- that there are many Charter  15 amendments being proposed. And what I wouldn't want to  16 do is miss an opportunity to put foundational language  17 in first.  18 MEMBER BAXA: I see. Okay.  19 MR. JENKINS: A house needs to be built on a  20 foundation. And I believe a statement of policy,  21 because it's effectual and sets goals, we already have  22 in the County Charter for the Fire -- Fire Department  23 the organizational structure, which includes the  24 commission separately from the chief separately from  25 necessary staff. That says nothing to -- to any effect</p>

<p style="text-align: right;">Page 37</p> <p>1 of what the department is -- exists for or what it's  2 required to do or the values in which it exists for the  3 people. And so I believe that statement of policy will  4 be a foundation to allow any other types of language to  5 grow out of it, that your Commission would -- this  6 Commission would consider.</p> <p>7 And, yes, there was many -- not many, but  8 several proposals, including one I felt critical, which  9 is the review of personnel actions, because without  10 integrity of our personnel, we have no service.</p> <p>11 MEMBER BAXA: Yeah, I noted that. Review  12 personnel actions. Yeah, I understand that very well.  13 That the policies are the very foundation for which  14 these other rules would come out.</p> <p>15 MR. JENKINS: Yes, sir.</p> <p>16 MEMBER BAXA: And that should be a guideline,  17 indispensable guideline. But, at the same time, if we  18 do not point out some of these things that you want to  19 be included in there, to curb that discretion, we might  20 be going all over the place. So --</p> <p>21 MR. JENKINS: In -- in my report, Commissioner  22 Baxa --</p> <p>23 MEMBER BAXA: Yeah, I think --</p> <p>24 MR. JENKINS: I have an Appendix B. In that  25 Appendix B, I've also provided that to -- to the --</p>	<p style="text-align: right;">Page 39</p> <p>1 to follow this. I think that's what you want.</p> <p>2 MR. JENKINS: Well, I think you bring up a  3 absolute critical point that I -- I wasn't planning on  4 addressing this morning. But what you're talking about  5 also has its foundations in our -- in our federal laws.  6 However, as you would know as a -- as a judge, that --  7 that it's very difficult to -- to take those federal  8 laws and apply them locally. But, yet, our state laws  9 and our -- and our local Charter laws embody that. And  10 it comes back to accountability. The President of the  11 United States and Congress doesn't hire and fire the  12 chief. The Governor doesn't hire and fire the chief, or  13 hold them accountable. It is -- it is the commission  14 and the accountability that rests in the Mayor to lead  15 this organization and to deal with these matters that  16 we're bringing before you, not these other laws up the  17 chain. Even though the intent of them is found in our  18 Charter and in our State Constitution and in our revised  19 statutes. And so that's why it is so critical that --  20 and I -- and, again, I say I can't ask you to -- to -- I  21 mean, I can't expect consideration of all the things  22 I've included in my report, but I would be remiss if I  23 didn't include the most foundational important ones.  24 And I truly believe that -- that these problems can be  25 fixed with strong language at the local level for our</p>
<p style="text-align: right;">Page 38</p> <p>1 through the commission staff, that highlights the exact  2 language that also currently exists in the County of  3 Hawaii's Charter and in the City and County of  4 Honolulu's Charter.</p> <p>5 I also would like to point out that you're  6 absolutely correct, that that statement of policy is  7 critical to encompass that strong foundational language.  8 And we felt that was achieved in the other two counties  9 well. And I think the only added language that we put  10 in had to do with Section 2 -- Subsection 2 of that  11 policy as proposed which focuses specifically on  12 personnel actions being complying with all applicable  13 laws. So that language has been provided to the  14 Commission very specifically. And I appreciate that you  15 bring that up, because you are correct.</p> <p>16 MEMBER BAXA: Yeah. I just brought this up  17 because -- this may be out of context, but like, for  18 example, within the court system, where the court --  19 where the law gives some discretion to the -- to the  20 enforcement officer, or even to the judges on how to  21 make the decisions. They can do that when they are so  22 empowered by the law. But when there is a law that says  23 this is it, so that means that it takes away the  24 discretion of the decision-making power. And so the  25 judge would say, I have no discretion as to this, I have</p>	<p style="text-align: right;">Page 40</p> <p>1 commission to hold the chief and the department  2 accountable to what is required and what the public  3 expects.</p> <p>4 MEMBER BAXA: Yeah. So let me just follow it  5 up. Just one last question, Mr. Chair. So in this  6 case, there may be discretion on the part of the  7 director, but what I'm saying, what I understand from  8 you, is that there is a difference between who exercises  9 the discretion, should the director or the commissioner.  10 Who should exercise the discretion, should it be the  11 commissioners or the director?</p> <p>12 MR. JENKINS: Let me use an example with  13 regards to the reviewing of personnel actions. I'm not  14 suggesting any change in the County Charter that  15 currently exists that enables the chief to have powers  16 to take those personnel actions; however, it -- I would  17 say that the Fire Commissioners need the power to  18 review, though. We're not saying to approve or to  19 micromanage the chief, to review those in a transparent  20 way so that those actions can be seen if they are  21 compliant with standards of law and the statement of  22 policy. And if there are discrepancies to the powers  23 the commission has, for example, currently, to  24 investigate, that they have the latitude and the scope  25 to accomplish that, to see if there is -- is</p>

<p style="text-align: right;">Page 41</p> <p>1 misfeasance, malfeasance or nonfeasance as it's  2 established in the rules with regards to the chief's  3 actions. And if those things exist, then they can be  4 addressed. They can be addressed at the -- at the venue  5 that was designed to address those things, which is the  6 commission.  7 And I feel that the Mayor has a responsibility  8 and -- and deserves the right to -- to see that in  9 regards to it being an activity of the commission  10 considered in their annual report. Of course, redacting  11 anything that's in violation of HRS with regards to  12 information, but that that information is transparent to  13 a point. And so the Mayor knows what's going on in his  14 department, his or her department, and can be  15 accountable to the people. And if there's a problem,  16 which we have venues and methods to fix it. But if the  17 commission is told every time, hey, that's interfering  18 with administrative affairs, you can't -- you don't have  19 that enumerated power in the Charter, you're really not  20 guided by a principle or a value that even encompasses  21 these -- these key attributes of providing that service.  22 If that doesn't exist, we basically have -- we have  23 nothing except the traditional service that just happens  24 to be provided to the people, with no accountability.  25 MEMBER BAXA: Thank you, sir.</p>	<p style="text-align: right;">Page 43</p> <p>1 course, that would be something that would be -- they  2 would be remiss of doing. But I think what's more  3 important in your question is, also, not only including  4 Subsection 2, but in any strengthened enumerated power  5 that would be -- could be identified to really give the  6 commission the latitude to do what they're intended to  7 do.  8 It does make, as Erik said, with the muzzle on  9 a dog -- that was a great analogy -- to handcuff  10 commissioners. I mean, consider yourself in your role  11 right now, if you were told that you had -- didn't have  12 the scope to do this and didn't have the scope to do  13 that, and that the Charter said that and the statement  14 of -- and the declaration of policy which you currently  15 have for your Commission are someplace else. That would  16 limit the positive benefit you could have in doing this  17 task for the people.  18 And so I tried to identify to the best of my  19 ability those things in the report. But, yes, it would  20 hold the -- the Fire and Public Safety Commission  21 accountable, but I -- I don't see that in a negative  22 way. We're not directing it like -- it's in a very  23 positive sense of -- of another tool they have to do  24 what's -- what's pono.  25 MEMBER CRIVELLO: Thank you.</p>
<p style="text-align: right;">Page 42</p> <p>1 CHAIR STONE: Commissioner.  2 MEMBER CRIVELLO: Aloha, Greg.  3 MR. JENKINS: Aloha, Auntie Stacy.  4 MEMBER CRIVELLO: Thank you for trekking over.  5 So, in your opinion, and I'm looking at your  6 subset number 2, does this hold the commissioners or the  7 Fire Commission more accountable to the public for the  8 department as well? Where it says promotions and other  9 personnel actions, et cetera. I recognize it will also  10 hold the administration of the department accountable,  11 but do you feel this also strengthens that the  12 commission is held accountable in a strong sense?  13 MR. JENKINS: Your question is very important  14 in that when we use term "accountable to the  15 commission," I look at it as one of three parts to it,  16 to our organizational structure. And you as a former  17 Fire &amp; Public Safety Commissioner, I consider you as a  18 sister in our organization, but you're separate. And it  19 does hold the commission accountable to -- in a way that  20 they're required to review something that is now  21 established and enumerated in the Charter as a matter of  22 law. And it gives the commission the scope and the  23 latitude to accomplish doing something that ensures the  24 integrity of our organization. And if the commission  25 does not take that responsibility, then -- then, of</p>	<p style="text-align: right;">Page 44</p> <p>1 CHAIR STONE: Thank you.  2 Commissioners, further -- Commissioner  3 Sugimura.  4 MEMBER SUGIMURA: Thanks, Greg, for being so  5 diligent. I was looking -- just looking at the Charter.  6 And speaking of the commission, the last item under  7 their duties, it says, Number 8, "Exercise such other  8 powers and duties as may be assigned" -- oh, I'm  9 sorry -- to the chief, rather -- "Exercise such other  10 powers and duties as may be assigned by the commission  11 or as may be provided by law." So, therefore, that's  12 telling me that the commission, then, has the authority  13 over the chief now without making these changes to the  14 right things in terms of, you know, hiring. It sounds  15 like there's a problem with hiring or clarification of  16 hiring and authority.  17 MR. JENKINS: What you just described was the  18 exact section of the Fire Chief's powers, duties and  19 functions. And at the end of the current Charter with  20 regards to the commission, it states that -- I'm  21 summarizing, I'm not speaking verbatim, but they can --  22 let me just turn to that section here because I have it.  23 Have such other powers and duties as may be provided by  24 law. The key point here is it has to be enumerated in  25 the Charter.</p>

<p style="text-align: right;">Page 45</p> <p>1 I've seen time after time after time where  2 Corp Counsel will give an interpretation if it's not  3 clearly enumerated within the scope that it will be  4 considered interfering with the administrative affairs  5 of the department. And where that initially comes from  6 and who initiates it is -- is not my place to say, but  7 it happens. And I've seen it -- it limit the scope of  8 the commission.  9 And by -- and so the chief, basically, is not  10 held accountable to many of the powers, duties and  11 functions that that chief would have. And that is where  12 the critical issue lies, is that any power, duty and  13 function that the chief has, all of them, whether it's  14 in the County Charter under his description, or  15 someplace else in the executive powers, that says  16 something about the Mayor's powers or the Executive  17 Branch of our County government -- and I brought that up  18 before -- that those actions, in their proper place,  19 need to be held accountable for. And -- and some of  20 them would be held accountable by the Mayor. Some --  21 some probably the Council.  22 But with regards to the chief's duties and  23 powers and responsibilities, that he or she is directly  24 responsible for, such as personnel actions, as an  25 example, it has to be within the review powers of the</p>	<p style="text-align: right;">Page 47</p> <p>1 -- as you've already kind of alluded to, isn't that more  2 an action underneath the Fire Chief? And why is it  3 necessary that the commission have that power to review  4 that?  5 MR. JENKINS: Currently, under the executive  6 powers of our Charter, it says that all department heads  7 have the power to take all personnel actions. The  8 accountability for the Fire Chief in personnel actions,  9 let's say in this case specific to recruitment and  10 promotions, who -- who holds the chief accountable to --  11 to following the merit principle? It's identified, for  12 example, in our Charter and -- and in our revised  13 statutes. Who is going to -- who is going to use that  14 as an evaluation tool to hold the chief accountable or  15 to consider if that chief is -- maintains their job or  16 -- or doesn't, or makes suggestions for improvement? It  17 is the commission. It's not -- it's not necessarily the  18 Mayor that has that power. It's not the personnel  19 director. It's no one else except that commission.  20 And that -- that particular example, why I  21 feel it's so important, is that every service that I --  22 if I -- and forgive me, if I respond to any one of you  23 Commissioners as a firefighter, it all falls back on --  24 on these things I'm bringing up, training, integrity,  25 fairness. I have -- I am competent and well trained</p>
<p style="text-align: right;">Page 46</p> <p>1 commission. It has to be. It's critical.  2 CHAIR STONE: Thank you, Commissioner.  3 MEMBER SUGIMURA: So can I just continue,  4 then? Can I ask Junior, from Corp Counsel, a question,  5 just to answer what he's saying and this discrepancy?  6 Or is that not the right time?  7 CHAIR STONE: He's hiding behind his  8 doughnuts. Hang on one second.  9 (Laughter.)  10 MR. KUSHI: I don't think it's the right time.  11 CHAIR STONE: Yeah, this is probably not the  12 correct moment. We can do that later.  13 Commissioner Moikeha.  14 MEMBER MOIKEHA: Thank you for your testimony.  15 And just to kind of follow up with what Yuki  16 Lei was saying, I see Number 7 under the commission's  17 guidelines or -- and, also, Number 8, which you just  18 read, too, underneath the Fire Chief's powers and  19 duties, as kind of a check and balance. And I'm looking  20 through your document of August 19th. And particularly  21 where you made more suggestions to some of those powers  22 and duties of the commission. And one of them is review  23 the personnel actions within the department for  24 conformance with the policies under Section 872, which  25 is your statement of policy. Don't you see that as more</p>	<p style="text-align: right;">Page 48</p> <p>1 and -- and not a harm to myself or others in the  2 performance of my duties. And that is critical in my  3 existing duties, when I'm trained from a recruit all the  4 way up to if you advance through the ranks. And if that  5 isn't done in conformance with laws that are established  6 that come down all the way from the feds through our  7 state -- our State Revised Statutes, then -- and the  8 chief doesn't execute it that way, it erodes the most  9 important aspects of the services that are provided by  10 firefighters. It's just people helping people.  11 And the venue that we're supposed to use as a  12 public or firefighters to go to that commission if we  13 have an issue and if there's a complaint, it can get  14 investigated. If there's a concern, it stops there --  15 or not stops there, but it can be initially handled  16 there.  17 And I might want to add that these are things  18 that are outside of that which are covered in our  19 collective bargaining agreements as unionized members.  20 When the employer denies a grievance or when the union  21 chooses not to continue with the grievance, that doesn't  22 take away the actions of an administrator against the  23 personnel of the department and how that affects the  24 community. That -- that administrator still needs to be  25 held accountable if that complaint is not resolved,</p>



<p style="text-align: right;">Page 49</p> <p>1 because it could have been for technical reasons. And  2 so there needs to be a public venue process where the  3 chief can be reviewed in those actions. And the only  4 way that's able to be done if it's enumerated in the  5 Charter.</p> <p>6 I would -- I would -- I would bet my house  7 that Corp Counsel would say that's interfering with --  8 with a power, duty and function of the chief that's  9 empowered to them by the Charter, and, therefore, it's  10 interfering with administrative affairs and you cannot  11 get information that would support an investigation, you  12 cannot talk about this area further with the Fire Chief.  13 And you have -- we really don't want your review, we  14 don't care what you think, commissioners, because that's  15 a power of the chief.</p> <p>16 Well, who else is there to hold the chief  17 accountable currently? We've heard from the Mayor that  18 the Mayor thinks the chief answers to the commission.  19 We heard from the chief and, actually, correctly the  20 chief stated that he's a subordinate to the Mayor. But,  21 again, as I said before, how is that effectually and  22 practicably done?</p> <p>23 I see it rests with the Charter language. And  24 forgive me for --</p> <p>25 MEMBER MOIKEHA: No. I understand, and</p>	<p style="text-align: right;">Page 51</p> <p>1 broad, but they are very, very consistent with our state  2 laws. And -- and very poignant. It can refer back to  3 any one component of Chapter 76 of the revised statutes,  4 and be very familiar in review of the Charter with  5 regards to Department of Personnel Services.</p> <p>6 The only aspect of -- of the powers, duties  7 and functions of the commission that I relate to, that I  8 explained, was that one component of reviewing the  9 personnel actions annually of the department. And the  10 reason is we can have a statement of policy -- which,  11 remember, we have the chief, the commission, and the  12 necessary staff, but if that -- that statement of policy  13 is an umbrella over all those groups for us to be  14 accountable to. So it can effectively be all of that.  15 But the chief still maintains that executive authority  16 to take those actions. And I'm saying that any action  17 that the chief has should be subject to review of the  18 commission in this particular area.</p> <p>19 You'll see other -- other examples of proposed  20 language I submitted. And while I'm not saying they're  21 not important, none of them are as critical as this  22 because you -- how do you think a firefighter like me  23 comes up and stands before you? How is it that I'm  24 ensured currently that I'll be treated with fairness and  25 integrity when I'm up for promotion? I'm speaking very</p>
<p style="text-align: right;">Page 50</p> <p>1 appreciate your comments.</p> <p>2 My problem with this is that you're tying it  3 to your statement of policies, which, when I look at  4 them, again, in the same referenced letter that you sent  5 to us August 19, it's very general. I mean, it's very  6 general. So this must -- there must be personnel  7 actions going on now.</p> <p>8 MR. JENKINS: Yes, there are.</p> <p>9 MEMBER MOIKEHA: Without your statement of  10 policy tying it to your -- so there's a system already  11 in place.</p> <p>12 MR. JENKINS: That's correct.</p> <p>13 MEMBER MOIKEHA: Are you saying that's  14 ineffective? And it can only be more effective if you  15 have a statement of policy?</p> <p>16 MR. JENKINS: I'm saying that the statement of  17 policy clearly defines a responsibility of the existence  18 and service and -- and goals of the department to take  19 actions in that manner. Otherwise, the chief -- as far  20 as the department's concerned, the chief isn't driven by  21 any set of values other than what would be provided by  22 the Charter, let's say, under the Department of  23 Personnel Services or further review under state law or  24 under the purview of actions taken by the Civil Service  25 Commission. But these statements are -- they may seem</p>	<p style="text-align: right;">Page 52</p> <p>1 -- very honestly and sternly with you without crossing  2 the line of exercising some First Amendment  3 whistleblowing rights. I'm trying to behave myself.  4 And I don't believe that, unless -- and what I want to  5 do is respect you, Commissioner Moikeha, is that if  6 that's something that you need from me, I would request  7 you (inaudible) that question to the Chair, that if  8 there's an Executive Session where that question needs  9 to be answered to -- to protect the integrity and  10 respect for the organization that I happen to work for,  11 I'm willing to provide with you that. But I don't think  12 this is the venue to -- to do that. And I apologize for  13 saying that.</p> <p>14 So I'm trying to use the Charter on the  15 Charter, you know, and just leave it there. But I think  16 you can read through my statements that I do believe  17 that there's a process in place and that there is needed  18 change.</p> <p>19 CHAIR STONE: Thank you.</p> <p>20 MEMBER MOIKEHA: Thank you.</p> <p>21 MEMBER BAXA: Mr. Chair?</p> <p>22 CHAIR STONE: Actually, Commissioner Baxa, I'm  23 going to give Commissioner Hashimoto the floor.</p> <p>24 MEMBER HASHIMOTO: I can see where the --  25 where the problem lies, I believe. The Police</p>

<p style="text-align: right;">Page 53</p> <p>1 Department and the Fire Department have specific duties  2 and they're trained to do those things. Nobody else in  3 the county, for example, are trained to do that.  4 Only -- only these specific people are trained that way.  5 And the duties that the -- that they perform, each of  6 these perform, is not delegated to anybody else in the  7 county but to the Fire Department, for their purposes,  8 as well as the Police Department. Just like looking at  9 the military. Fortunately, the Congressmen can't run  10 the military from where they sit. So it seems to me  11 that the commission shouldn't have anything to do with  12 the operations of the -- of these departments in any  13 way. I believe they -- personally, I believe that the  14 commissions are a problem with many departments, they  15 shouldn't exist. The hiring and firing policy should  16 probably be written by -- by these departments, by the  17 department heads, so -- so that they can get a specific  18 kind of personnel that are hired to come in to be  19 trained. Because very few firefighters or policemen are  20 trained before they even get there, unless you hire them  21 from some -- from another police department or fire  22 department.  23 So I think to resolve the problem is to get  24 rid of the commission and give them specific duties  25 only. And that is perhaps to hire and fire the chief,</p>	<p style="text-align: right;">Page 55</p> <p>1 powers versus executive powers. And I believe that the  2 only current executive power that exists is in the  3 appointment and dismissal of the chief. And if we want  4 to cross over a little bit, we can say the submission,  5 not the approval, but the submission, of the budget to  6 the Mayor. That's provided to the commission by the  7 chief currently. I have no issues with -- with either  8 -- either one of those. And I know it's been a source  9 of debate. However, what I'm trying to say with regard  10 to the commission is who is it in this county -- and I  11 am going to cross the line here a little bit. And let's  12 just say these are hypothetical. If the fire -- if the  13 Fire Chief approves promotions based on his friends, if  14 the Fire Chief approves promotions based on who works on  15 his house, if the Fire Chief makes promotions based on  16 who's in favor with that particular Fire Chief's  17 direction for the department, and if you're not with it,  18 you're out, if the Fire Chief makes decisions regarding  19 personnel actions that are directly opposite and against  20 people from former fire administrations that worked with  21 the County, who -- who protects the firefighter from  22 this currently? Who does it?  23 We can go -- we can go call our EEOC  24 coordinator. And we'll get a long list, as Judge Baxa  25 knows, how federal law actually applies to anything</p>
<p style="text-align: right;">Page 54</p> <p>1 but -- not to fire him, but to hire him. And have  2 nothing to do with the hiring of each fireman. That  3 should be left up -- based purely on the rules that are  4 written, that kind of person that you want. And that  5 should be given to the Personnel Department, for  6 example, and they would hire those kinds of people,  7 through whatever means they use.  8 So let's say that the commission was removed  9 and taken out of the -- I guess the role they have now.  10 And that their only duties then would be to -- to  11 investigate examples of misconduct between a fireman,  12 say, and a citizen. What would -- how -- how would that  13 work for you?  14 MR. JENKINS: That was a great -- great  15 overview of a lot of -- a lot of information. I'm going  16 to -- I'm going to -- I'm going to address your last  17 pointed question first. And I don't think it would work  18 for me, but I have a reason for that. I apologize if it  19 was -- if it was understood that I'm suggesting that the  20 commission have any power to take personnel actions.  21 That was not what I wanted to suggest. Rather, that the  22 personnel actions that rest in the authority of the  23 chief as currently provided in the Charter do have a  24 degree of review. I think there's a very strict  25 differential in the Charter between review and recommend</p>	<p style="text-align: right;">Page 56</p> <p>1 other than Title 7 matters. It is -- it was told to me  2 by a friend who is a former Assistant Attorney General  3 for the United States, goes back to the Reagan era, that  4 it's not illegal for the government to act stupid. You  5 know, it may be unethical. I watched my dad lose his  6 pension for the same type of thing. "Hey, Mr. Jenkins,  7 Lane" -- my dad's Lane -- "yeah, what Xerox did to you  8 really wasn't illegal, but it wasn't ethical, but,  9 sorry." And so what I'm saying is that -- is that I've  10 been told by that same friend that you got to look at  11 the state and local level to solve these types of  12 problems when it deals directly with the scope of how  13 government provides services of the people. Outside of  14 those Title 7, for example, type issues regarding  15 employees.  16 But who does that now? Who -- who holds that  17 director accountable for that power? I beg you to tell  18 me where you can find it in the Charter currently.  19 Because -- because if the Civil Service Commission hears  20 it, what action are they going to take with regards to  21 the Fire Chief? That's not their boss. That's not the  22 Fire Chief's boss. So I'm suggesting only that review  23 and recommendation power to -- to see transparently that  24 -- those -- those -- not say, hey -- I'm not suggesting  25 that a commission says, hey, chief, we want you to move</p>

<p style="text-align: right;">Page 57</p> <p>1 this person over here and promote this person. I am not  2 saying that. I'm saying that when those actions are  3 taken by that executive, that they're above water, and  4 the people can see it.  5 And if a firefighter says, hey, I'm not  6 trained, or, you know -- or whatever it is, or I need  7 this or I need that, or -- or this action was unfair,  8 and unethical, that they have a venue to go and ensure  9 that they're treated fairly. And I'm talking about the  10 merit principle. You can tell this issue really doesn't  11 get me any personal gain, but it does give me the  12 greatest gain. As a citizen first, and a public servant  13 second, that I know that -- that who's riding on that  14 fire truck has been deemed by every possible standard  15 and best practice to be held accountable to that -- to a  16 standard, that they've met it. And when they come into  17 your -- into your lives, or that of your family or  18 friends, that you can ensure that there's a process that  19 was clear, transparent and accountable, that the  20 services provided to you are the best. And Maui County  21 has no problem with talented firefighters or people that  22 could be firefighters. We have a tremendous talent pool  23 when compared to other places in the United States. And  24 I'm biased. And someone will probably be upset with me  25 for saying that, but I believe it.</p>	<p style="text-align: right;">Page 59</p> <p>1 commissioners, it follows that the Commissioners should  2 review the actions of the director because the director  3 is responsible to the Commissioners.  4 That is my last word on this.  5 MR. JENKINS: Thank you.  6 MEMBER BAXA: Thank you.  7 CHAIR STONE: Thank you.  8 Commission Moikeha.  9 MEMBER MOIKEHA: You know, I'm looking at your  10 statement of policy. And I can see fairly easily how  11 these could fit in under the functions. For instance,  12 just to take Number 3. And I don't want to minimize how  13 important the statement of policy is to you and others,  14 but, in just thinking about it, I'm looking at Number 3,  15 where it says "appropriate training shall be provided to  16 the maximum extent possible and practicable," you can  17 actually fit that in under the duties of the Fire Chief,  18 under Number 4, where it says, "Train, equip, maintain  19 and supervise the force of firefighting and emergency  20 rescue personnel to the maximum extent possible and  21 practical."  22 So, you know, in the event you're not going to  23 get the statement of policy, is there any other way  24 where you could add some of these things under the  25 current functions, either the commission or the Fire</p>
<p style="text-align: right;">Page 58</p> <p>1 The issue is how we manage that. Who is the  2 coach? And what are you doing with the Michael Jordans  3 on the bench, or the -- you know, the Shane Victorinos  4 on the bench with all this talents, how are you managing  5 them, how are you promoting them. I'm saying there's a  6 major problem there.  7 And I -- and I beg that the commission have  8 that power to -- to just review it, make sure it's above  9 water and we can fix things. And we're not running to  10 the Council asking to investigate and audit the  11 department, because that's the only other venue we have  12 besides the Civil Service Commission.  13 CHAIR STONE: Thank you.  14 MR. JENKINS: And these are clumsy.  15 CHAIR STONE: Commissioner Baxa.  16 MEMBER BAXA: Mr. Jenkins, I really don't want  17 to be redundant. I think that your suggestion about  18 statement of policy is very important to be considered  19 by the Commissioners. But, again, a statement of policy  20 is just a general statement, a guide, it should be  21 there. But in order to have meat in that policy, I  22 think one of the main recommendations that you're making  23 is that the commissioners shall review official actions  24 of the director. I can understand that. Because the  25 Fire Chief is hired and subject to firing by the</p>	<p style="text-align: right;">Page 60</p> <p>1 Chief? And, you know, I don't need that answer today,  2 but maybe think about that.  3 I'm just struggling with a statement of policy  4 because I don't see that in any other department within  5 the structure underneath the Charter. And it's not to  6 say that it shouldn't be or should be. It's just -- I  7 mean, there's so many things that, if we had a couple  8 years, we could sit down and really, really get into and  9 maybe make it even better. But we don't have that kind  10 of time or resource. So if this is something that could  11 strengthen the duties of the commission or strengthen  12 the powers, duties and functions of the Fire Chief, then  13 maybe that's another way to look at it.  14 CHAIR STONE: Thank you.  15 MR. JENKINS: One statement I'd have,  16 Commissioner Moikeha, is that the Maui County Charter  17 Commission is a declaration of policy. And it says the  18 Charter Commission -- in summary, the Charter Commission  19 to study, review the operation of government of the  20 County, (inaudible) amendments or new Charter and  21 propose amendments or to draft new Charter. And that's  22 a summary of it. So there is -- we don't call it  23 statement of policy, there's nothing wrong with calling  24 it a declaration of policy, but there are declarations  25 of policy that exist in our Charter.</p>

<p style="text-align: right;">Page 61</p> <p>1 And I would -- I'm actually thankful that you  2 took the time to look at that particular component of  3 the chief's powers, duties and functions. And -- and,  4 yes, it would -- it would apply to the chief, but the  5 problem is, it only applies to the chief.  6 We have to understand that any -- any power,  7 duty and function of the commission, as well as  8 necessary staff, need to be held accountable to a value  9 as well. And I think that the fire chief did --  10 correctly stated that we do have a mission statement.  11 That is not a statement of policy. So we have to look  12 at the true components of the organization, which don't  13 just include the powers of chief, it includes the  14 commission and necessary staff, which includes  15 firefighters. So that main goal of the service's  16 existence, as you can see, and those main values are --  17 are applied to everybody. And the commission has power  18 to submit a budget and other things that we're talking  19 about. And -- and what I don't want to do, to keep the  20 Chair from throwing something at me, is -- is go down  21 all the other lists of powers, duties and functions that  22 I did propose. And, again, I don't want to take away  23 from those, but I was asked by you guys to narrow it  24 down to a couple. And I really tried do that and take  25 the time to -- to respond and respect your guys'</p>	<p style="text-align: right;">Page 63</p> <p>1 hypotheticals, Greg, if a Fire Chief were to promote  2 people based on whether or not they work on his house,  3 you know, or whether or not they're related to him or  4 whatever, to me that would be grounds for -- as a  5 commission member on the Public Safety Commission, for  6 canning his ass. That's the way it is. That's the way  7 it should be.  8 I'm hoping that with the -- with the move  9 towards accreditation, if the department pursues  10 accreditation and gets accreditation, that that is  11 something that would establish very clear and distinct  12 criteria for controlling all of that kind of nonsense.  13 The craziness that I'm dealing with, to some  14 degree, is, you know -- I think Erik brought up the idea  15 of a muzzled Rottweiler. The problem is if you take off  16 the muzzle from the Rottweiler and you take off the  17 leash from the Rottweiler, what you have is a Rottweiler  18 that's going crazy. And sometimes what you wish for  19 might come true. In this particular case, a commission  20 with nine members -- nine?  21 MEMBER CRIVELLO: Uh-huh.  22 VICE-CHAIR HEDANI: -- saying, chief, you got  23 to hire my cousin because he needs a job, you know, he  24 has to be in the department, and the chief's accountable  25 to the commission. When they get involved in those</p>
<p style="text-align: right;">Page 62</p> <p>1 request. And it was hard for me. And so if you guys  2 think there's other language, I -- by all means, I  3 encourage you to look at it. But I would -- I would  4 caution you that, if there's something else you want to  5 see in that statement of policy, I'm all ears. I'm  6 trying to also be consistent with what's in Honolulu and  7 Big Island.  8 And -- and for me -- and I know a lot of other  9 firefighters -- you know, when we're away from our  10 families -- we need to be treated fairly. We need to go  11 home. And our family members need to know that we're  12 being treated fairly. And that we can do our jobs  13 effectively and get home safely. And this is everything  14 to do with that. It's everything.  15 I can't tell you the -- the importance that  16 has. And the respect of those retirees and those that  17 will retire. And most importantly, the people, you  18 know. If I can't be assured I'm properly trained, I  19 can't be assured that I'm held accountable to do  20 anything that serves you unless there -- there is review  21 of those personnel actions. Because I am a great big --  22 any employee is a great big personnel action, in all  23 ways. So --  24 CHAIR STONE: Commissioner Hedani.  25 VICE-CHAIR HEDANI: In the world of</p>	<p style="text-align: right;">Page 64</p> <p>1 kinds of personnel decisions, that makes it even worse,  2 you know, from my perspective. You can have the  3 craziness come from the opposite side. So it's a  4 question of how do you structure it.  5 And, to me, like when I look at review the  6 operations of the Department of Fire and Public Safety  7 and the Civil Defense Agency, make recommendations for  8 changes that may be desirable to improve performance of  9 emergency functions and provision of public safety,  10 those kinds of things can be expanded by the commission,  11 the Public Safety Commission, to ensure fairness in the  12 system that -- the way that the system works.  13 MR. JENKINS: Commissioner Hedani, I would --  14 on the last part, I think -- I think it's noble to say  15 that the commission could do that, but they -- they  16 currently aren't enumerated that power. And they will  17 be told currently that they are interfering with  18 administrative affairs.  19 Again, I need to make very clear, I am not  20 suggesting that the commission meddle with the actions,  21 but that there are -- Chapter 76 of our Hawaii Revised  22 Statutes is very clear on this issue. Our -- our  23 policies of our County are very clear on this issue.  24 Yet, it is the chief who given this executive power and  25 -- and if the chief isn't held accountable to doing</p>

<p style="text-align: right;">Page 65</p> <p>1 what's required by law and in best practices as required  2 by law, then it won't exist.  3 I also appreciate your -- your suggestion  4 regarding accreditation; however, accreditation is -- is  5 simply based on national consensus standards with  6 regards to what the organization would do to be --  7 there's a lot of details here. There's a  8 self-assessment, there's certified and accredited  9 training involved. And the chief's working very hard to  10 accomplish that. And that's, actually, also that these  11 personnel matters are part of -- of -- I'm aware of the  12 public document, of the Master Strategic Plan, that  13 these things are trying to be addressed. But I also  14 will assure you that -- that they don't go past  15 reviewing the current position descriptions we have.  16 They don't follow the intent of 29 CFR 1607 of the  17 Uniform Practices and Employment Guidelines for -- for  18 guiding employers in their practices and -- which has to  19 do with Title 7, it has to do with other things. But  20 what we're talking about is that -- that in -- there are  21 many aspects besides racial discrimination and age and  22 gender that evolve inside these government  23 organizations. And they are -- they are behind the wall  24 of the appearance of what is ethical. And -- and unless  25 those are able to be brought forward when the complaint</p>	<p style="text-align: right;">Page 67</p> <p>1 is there actually, in fact, instances when the  2 commission would scold the butt out, that this was not  3 their kuleana?  4 MR. JENKINS: I have in public commission  5 meetings physically witnessed determinations that -- on  6 matters that concern -- that were deemed to concern the  7 administrative affairs of the department, which included  8 some operational questions in a review sense, that it  9 was not -- it was, basically, considered the commission  10 was meddling in the powers that rested in the chief.  11 So, yes, that's a case.  12 What I am also aware of -- and I will not say  13 specifically -- that there are examples of -- at the --  14 at the most important levels of the rules of the  15 commission that are established there with regards to  16 investigations, that -- that the commission's been very  17 limited. And firefighters do not feel comfortable  18 bringing matters forth. And, specifically, also,  19 because that -- that directly ties into how they're  20 treated when they do.  21 MEMBER DELEON: Greg, I'd like to follow  22 with -- being explicit, are we dealing with -- are we  23 dealing with personnel issues here in these cases? Was  24 it specifically personnel issues or grievances or some  25 kind of complaint in reference to the way people were</p>
<p style="text-align: right;">Page 66</p> <p>1 exists, I promise you, from my humble opinion, that  2 things will only get worse. And I want to assure you  3 that, in no way, am I insinuating that the commission  4 should choose who gets promoted, but simply they make  5 sure that we're held accountable to the applicable laws  6 and standards, and the chief does such. And -- and  7 that's it.  8 I respect your point of view, but I -- and I  9 understand where you're coming from. You don't want --  10 you don't want the commission beating up on the chief,  11 but -- and I'm not suggesting that, either. I'm not  12 suggesting that.  13 VICE-CHAIR HEDANI: I want the commission to  14 beat up on the chief if something's not right.  15 MR. JENKINS: But if the commission -- if the  16 commission doesn't have that enumerated power, they --  17 they have no authority to do that. Currently, there is  18 nothing that will enable them to do that.  19 CHAIR STONE: Commissioner DeLeon.  20 MEMBER DELEON: So I have to bring some levity  21 into this. It reminds me the old joke: What has four  22 legs and an arm? A Rottweiler.  23 (Laughter.)  24 MEMBER DELEON: My question -- my question is,  25 has this been brought to the commission in the past and</p>	<p style="text-align: right;">Page 68</p> <p>1 treated?  2 MR. JENKINS: It could be anything. But --  3 but, yes. Actually, I don't know of -- I mean, I can't  4 speak to the details behind a complaint that's been made  5 before the commission. I -- I --  6 MEMBER DELEON: Okay. Thank you.  7 MR. JENKINS: I know I'm violating some rule,  8 but -- but if the commission does not have the  9 enumerated power, then they will not be given that  10 latitude.  11 MEMBER DELEON: Okay. Thank you.  12 CHAIR STONE: Commissioner Wiger.  13 MEMBER WIGER: Thank you, Greg. I always  14 enjoy listening to you because I learn so much from what  15 you bring to the table, both in your written commentary  16 and your oral -- your oral testimony. And I want to  17 thank you for that. Very comprehensive.  18 When you distill -- or when I'm distilling  19 everything down that I'm hearing today, I think -- I  20 want to be sure about this -- what I'm hearing from you  21 is that what you are seeking, somehow, as the end  22 goal -- and there's a number of ways of getting there,  23 as we've heard -- what you are seeking is a level of  24 transparency in terms of people being able to look at  25 what's going on, how people are being treated, the</p>

<p style="text-align: right;">Page 69</p> <p>1 operational process, so that, at least looking at it in  2 a more transparent way, there's a sensibility to it  3 that, in some cases, may not currently exist, and,  4 incorrectly or correctly, people could come to negative  5 assumptions about the way the things get done, and, with  6 a greater level of transparency, perhaps some of those  7 assumptions that are negative would be set aside. Am I  8 close?</p> <p>9 MR. JENKINS: Yes, in the sense that if you're  10 suggesting that through accountability of the chief to  11 the commission that would be accomplished. But one  12 thing I did leave out with regards to what you're  13 saying, a statement you made triggered a thought, was  14 that it also creates the greatest deterrent of doing  15 wrong. If the chief knows that there's going to be  16 transparency, if chief knows what they're held  17 accountable to, that the commission has the ability to  18 see that and -- and address it and review, and  19 recommendations, then that's the greatest deterrent of  20 all of doing any wrongdoing in the first place.</p> <p>21 MEMBER WIGER: Thank you.</p> <p>22 CHAIR STONE: Thank you. Commissioner Baxa.  23 And following Commissioner --</p> <p>24 MEMBER BAXA: Mr. Chair --</p> <p>25 CHAIR STONE: I'm sorry.</p>	<p style="text-align: right;">Page 71</p> <p>1 Lisa, do we have any other testifiers?</p> <p>2 11:30. Let me just check. Tonya, are you --</p> <p>3 okay.</p> <p>4 Please call the next testifier.</p> <p>5 MS. KAHUHU: Sally Raisbeck.</p> <p>6 CHAIR STONE: Sally, thank you. We didn't  7 want to stall you out.</p> <p>8 MS. RAISBECK: Thank you.</p> <p>9 I've been watching -- is this turned on? You  10 hear me? Okay. I've been watching politics on Maui for  11 30 years. And I would hope that all of you listen very  12 carefully, and particularly anybody who was gone last  13 time, to the testimony from Jonathan Starr about  14 elections, because he told it the way it actually is. I  15 mean, a lot of people come to you with theories and so  16 on. He was telling you how it really works. And how it  17 really works -- when you have a single district with  18 everybody votes for nine, how it really works is that  19 the representation isn't there.</p> <p>20 Jim Smith said, "I like people to come to my  21 door." I wonder how many of the candidates for Council  22 last election came to Jim's door. I doubt even one did.</p> <p>23 We have lost the connection between our  24 representatives. And one of the things Jonathan pointed  25 out was the closure, the symbolic closure of the Eighth</p>
<p style="text-align: right;">Page 70</p> <p>1 MEMBER BAXA: -- I smile because I said that  2 was my last one. But --</p> <p>3 (Laughter.)</p> <p>4 CHAIR STONE: Yeah, as I recall. I would like  5 to remind you of that.</p> <p>6 (Laughter.)</p> <p>7 MEMBER BAXA: Am I allowed to break my word?</p> <p>8 (Laughter.)</p> <p>9 CHAIR STONE: This will be the last question,  10 because we do need to take a break for our court  11 reporter.</p> <p>12 MEMBER BAXA: I just -- I just want to make  13 this last comment. In my own mind, regardless of  14 whether there are or not present personnel actions, to  15 me that is immaterial to the subject matter. The only  16 issue is whether the commissioner -- commission shall  17 have the power to review the personnel actions of the  18 director, take away whether there are existing problems  19 or not.</p> <p>20 Thank you.</p> <p>21 CHAIR STONE: Thank you.</p> <p>22 Commissioners, no further clarification?</p> <p>23 (No Response.)</p> <p>24 CHAIR STONE: Greg, thank you so much for  25 being here today. It's always appreciated. Thank you.</p>	<p style="text-align: right;">Page 72</p> <p>1 Floor. No ordinary person now gets in there to walk  2 from office to office and talk to the councilors, if  3 they're available, or to their staff, and find out  4 what's going on. No ordinary person can do that.</p> <p>5 How it works now is we're electing a class of  6 professional politicians with lifetime jobs, if they  7 want them, you know, 10 years, take two off, come back  8 another 10 years, collect your pension while you're  9 taking your second 10 years. I mean, we have  10 professional politicians up on the Eighth Floor. And I  11 don't like that.</p> <p>12 Going back to partisan elections. I was here  13 when we had partisan elections. There was a very narrow  14 gate controlled by the unions for the democratic  15 candidate. There's a very narrow gate controlled by the  16 republicans. And, boy, that gate would be even narrower  17 nowadays. And you had to pass through those narrow  18 gates to get on to the final election. Now, at least,  19 we have two popular candidates who may be greens, who  20 may be republicans, who may be two democrats, who knows,  21 but we at least have two known popular candidates with  22 nonpartisan elections.</p> <p>23 Talking about commissions. I'm against all of  24 these -- practically all of the commissions. I served  25 on two. I served on the Board of Water Supply, I served</p>

<p style="text-align: right;">Page 73</p> <p>1 on the Board of Variances and Appeals for five years.  2 The reason I came to you earlier and said, "Please,  3 don't go into executive session," was every time there  4 was a matter that mattered to the Administration, we  5 would go into elective -- executive session, and our  6 Corp Counsel, Deputy Corp Counsel, would say to us, vote  7 this way, because if you don't vote this way, then we  8 will not -- the County will not defend you if you are  9 sued. That happened many times while I was on the Board  10 of Variances and Appeals. So that the Corporation  11 Counsel's Office, in, you know, most, I would say most  12 commissions, has the deciding power.  13 And people come on it, very, you know,  14 intelligent, well intentioned people. And they are  15 told, no, you can't do that, you can't do this, you --  16 it's -- it's a poorer system. It's meant -- well meant,  17 and the people on it are very well meant, and some of  18 them are very skilled, but most of the commissions are  19 controlled by the Deputy Corp Counsel that advises them.  20 That's why I did not want you going into  21 executive session all the time like a lot of commissions  22 do.  23 Okay. Scenarios. You've got four scenarios  24 here. Every single scenario doesn't put the three --  25 the three little guys together. Every single one of</p>	<p style="text-align: right;">Page 75</p> <p>1 Jonathan's talk about power centers and how  2 they control the elections as it is now, that was right  3 on the mark. And we don't have a very democratic system  4 right now.  5 Thank you.  6 CHAIR STONE: Thank you very much.  7 Commissioners, any clarification questions for Sally?  8 No. Sally, thanks so much.  9 MS. RAISBECK: Thank you.  10 CHAIR STONE: Oh, one second. Commissioner  11 DeLeon.  12 MEMBER DELEON: I got kind of confused there  13 toward the end. So you're promoting a six and three  14 kind of concept?  15 MS. RAISBECK: Well, it just struck me that  16 you had left it out. It's the simplest, easiest, it's  17 an obvious one. And it's not --  18 MEMBER DELEON: So you would have a district  19 like the 13th District? You would have a district like  20 the 13th District?  21 MS. RAISBECK: Yeah. Yeah. Lanai, Molokai --  22 MEMBER DELEON: Could you imagine trying to  23 represent that district, physically?  24 MS. RAISBECK: Can you imagine trying to  25 represent Lanai and Molokai, anyway? Lanai is a feudal</p>
<p style="text-align: right;">Page 74</p> <p>1 these four scenarios has Molokai separated from Lanai,  2 and some of them have Hana with Molokai, some have Hana  3 with Lanai, I guess. You have ignored, in these four  4 scenarios, the easiest one.  5 MS. KAHUHU: Time.  6 MS. RAISBECK: Thank you.  7 CHAIR STONE: Thank you very much, Sally.  8 Commissioners?  9 MEMBER CRIVELLO: Finish up your --  10 CHAIR STONE: Commissioner Crivello.  11 MS. RAISBECK: The easiest one, as Bill  12 Medeiros said at your last meeting -- which I watched on  13 TV, thank you very much -- the easiest one is to take  14 the six areas that have been for our state  15 representatives, take those six areas, and three  16 at-large, and the three at-large could be from anywhere.  17 If Riki Hokama was running, if Danny Mateo was running,  18 they would undoubtedly take some of those at-large  19 seats.  20 I think it's a very poor idea to mix  21 residential districts with the attempt to have true  22 district voting.  23 And the reason we need it is to bring back the  24 connection between the voter and the candidate. And  25 right now, I don't see any connection.</p>	<p style="text-align: right;">Page 76</p> <p>1 society. I mean, let's face it. 98 percent of the land  2 is owned by one man? How can you represent that?  3 MEMBER DELEON: Thank you.  4 CHAIR STONE: Thank you.  5 Commissioners, any further clarification?  6 (No Response.)  7 CHAIR STONE: No. Thank you, Sally, very much  8 for being here.  9 MS. RAISBECK: Thank you.  10 MEMBER OKAMOTO: I won't go there.  11 (Laughter.)  12 CHAIR STONE: And I will ask any member of the  13 public, who has not testified, if they would like to  14 testify at this time, please come forward.  15 (No Response.)  16 CHAIR STONE: No. Thank you very much. With  17 that, I will be closing oral testimony at this time,  18 without objection.  19 ...END PUBLIC TESTIMONY...  20 CHAIR STONE: And, also, without objection,  21 the Chair will accept and file all public communications  22 for the record.  23 I would like to take a short recess, 10  24 minutes. So let's -- I'm going to call this recess as  25 of 11:40, and we'll meet back here at 11:50. Thank you</p>

<p style="text-align: right;">Page 77</p> <p>1 very much.  2 (Recess, 11:40 a.m. to 11:55 a.m.)  3 CHAIR STONE: I would like to call this  4 meeting back into session at 11:55. And we will be  5 moving on down our agenda. You'll note Agenda Item  6 Number III, Proposed Charter Amendments Matrix, there  7 are no new proposals, so no action to be taken there.  8 And moving down the agenda to Item IV,  9 Proposed Charter amendments Active Proposal List, we  10 would start with number A -- or letter A, PowerPoint  11 presentation by Bill Medeiros, Geographic Services  12 Manager. We'd like to take this time to thank Bill for  13 being here. Thank you very much, Bill.  14 MR. MEDEIROS: Yes. I'm Bill Medeiros, I'm  15 the Geographic Services Manager for the Maui County. At  16 our last meeting -- or your last meeting, we talked  17 about districting scenarios. And I got four scenarios  18 from the Commission.  19 There are handouts. Each handout will have an  20 overview map, a detail map of Maui Island, because most  21 of the districts are in Maui Island. And then some  22 charts showing the population by district and comparing  23 the populations using a chart. They will also show up  24 in my PowerPoint, so anybody at home can see it.  25 So, again, these are the districts --</p>	<p style="text-align: right;">Page 79</p> <p>1 specifically, West Maui and Waihee, so the division  2 between those two areas. And the new Kihei/Upcountry  3 boundary that's being proposed in the State House  4 district.  5 For now, Kahoolawe and Molokini remain in the  6 West Maui district. That's how it is in the current  7 Charter. And unless the Commission directs me  8 otherwise, I'm not making those changes. That's kind of  9 up to you.  10 I did my best to stay within the plus or minus  11 two percent deviation. For the most part, I did that.  12 If you'll notice, there's one or two scenarios --  13 there's one or two districts in one of the scenarios  14 that exceeds the plus or minus two percent.  15 And then in order to get to approaches, I had  16 specific starting points. So I started from the north  17 and the West Maui/Waihee district and worked my way  18 around that area. And from the south, I started the  19 southern part of South Maui and worked my way up towards  20 Central Maui. And for East Maui, you have two choices.  21 You can go south shore into Upcountry or north shore  22 into Paia. So I used the north shore boundary.  23 I did these the same for each scenario. So  24 that the variation you see is based on the scenarios and  25 not -- I didn't want to arbitrarily change starting</p>
<p style="text-align: right;">Page 78</p> <p>1 districting scenarios that were presented by the Charter  2 Commission.  3 From the June 13th meeting, these are the  4 guidelines that we established, which were to define the  5 population target, the number of districts, and the  6 amount of deviation, define canoe districts, define  7 preferred starting points, and the fact that districts  8 follow block boundaries. So, on occasion, you will get  9 neighborhoods split because these boundaries, for the  10 most part, follow the streets.  11 The three -- I mean, the four scenarios  12 included the three-district scenario which was proposed  13 by Tony Ramil; the nine-district scenario with Molokai  14 with the Wailuku area and Lanai with West Maui;  15 nine-district scenario with Molokai with East Maui,  16 Lanai with West Maui; and then, finally, seven districts  17 relatively equal on the Island of Maui, and Lanai and  18 Molokai as individual districts.  19 In developing the scenarios, these are the  20 rules that I followed each -- the -- I should say with  21 Scenarios 2, 3 and 4. Scenario 3 was defined by  22 Mr. Ramil, but 2, 3 and 4 are these little boundaries --  23 or the starting points and boundaries that I used.  24 First of all, I used the proposed State House  25 district boundaries whenever possible. So,</p>	<p style="text-align: right;">Page 80</p> <p>1 points because, then, you would be looking at  2 differences in starting points in scenarios. So I tried  3 to keep it as straightforward as possible.  4 Places to watch. So if you -- if you imagine  5 in your mind moving from the northern part from the  6 southern part and from the eastern part, the changes  7 occur in the southern part of West Maui, North Kihei and  8 Maalaea, Waikapu, Maui Lani, and then Paia, Haiku to  9 Makawao. So what happens as you change scenarios, those  10 are areas where the boundaries kind of move around.  11 Okay. And that's just because of the population, trying  12 to keep the population safe. So I just want to let you  13 know in advance that that's where you're going to see  14 most of the changes.  15 These are the current Council Districts. This  16 is a slide I showed many months ago, when we first  17 talked about this. And I just wanted to make sure I had  18 it in the PowerPoint in case people had questions about  19 it. But that's the current boundaries as of the current  20 -- in the current Charter  21 Okay. This is Scenario 1. This is three  22 districts proposed by Mr. Ramil. What he proposed was  23 taking the Lanai, West Maui -- the existing Lanai, West  24 Maui and Wailuku districts, and put them together. The  25 South Maui, Kahului and Molokai districts, and put them</p>



<p style="text-align: right;">Page 81</p> <p>1 together. And the Paia, Makawao and Upcountry, East  2 Maui districts, and put them together. Target  3 population for three districts is 51,611.3333, but I'm  4 -- I'm rounding the numbers off.  5 And so that's the overview of the three  6 districts. That's the detail of Maui Island using the  7 three districts. And then, finally, these are the  8 population numbers. And so you can see that it ranges  9 from 41,000 to 59,000. These bar charts show the  10 population, and that's the approximate target for  11 51,611.  12 When he did these districts, he mentioned that  13 he used the voter counts and not the population counts.  14 And that's what you're seeing is the variability in the  15 three-district scenario.  16 Any discussion on this one before we go to  17 Scenario 2?  18 MEMBER OKAMOTO: Yeah, question. I believe  19 then he, also, within each district, divided it up so  20 that one would come from each. Did you divide those up  21 to show what that would be?  22 MR. MEDEIROS: His suggestion was that, within  23 each district, that you would use the current boundaries  24 as residency districts. So the current residency  25 districts would be the same, but that he would aggregate</p>	<p style="text-align: right;">Page 83</p> <p>1 councilman, yeah. That is a part of the proposal that  2 they understand.  3 MR. MEDEIROS: I think -- I might be wrong,  4 but I think the way this is proposed that, in the case  5 of District 1, Lanai, West Maui, Wailuku, that the Lanai  6 representative would be a resident of Lanai, but would  7 be elected by all of the voters within Lanai, West Maui  8 and Wailuku.  9 MEMBER OKAMOTO: Yes.  10 MEMBER BAXA: That was not my understanding,  11 though. My understanding was that the people of Lanai  12 will vote for their own councilman.  13 MEMBER DELEON: So will Wailuku and --  14 CHAIR STONE: Commissioner Baxa, I don't think  15 that was the proposal. And, again, I --  16 MEMBER BAXA: I think it was the proposal,  17 but, in order to clarify this, we may have to bring  18 Mr. Ramil, because I want to take a look at this --  19 CHAIR STONE: Uh-huh.  20 MEMBER BAXA: -- proposal. But that is the  21 understanding that I had.  22 CHAIR STONE: Very good. We can, obviously,  23 invite him back.  24 MEMBER BAXA: Yeah. I would -- I would  25 suggest that.</p>
<p style="text-align: right;">Page 82</p> <p>1 them this way and that there would be technically  2 at-large voting, but within each of the three districts.  3 And so I can pull it up when we get to the -- if you get  4 to the end and you want to see, I can pull up the  5 districts because I have the district boundaries.  6 CHAIR STONE: Sorry. Commissioner Baxa.  7 MEMBER BAXA: Yeah. The way I understand it  8 is that the three districts are most divided equally in  9 terms of population, more or less?  10 MR. MEDEIROS: No. These districts -- his  11 proposal of the three districts will be the existing  12 Council residency districts now aggregated into three  13 districts.  14 MEMBER BAXA: Yeah, okay.  15 MR. MEDEIROS: So they're not -- they're not  16 equal in population.  17 MEMBER BAXA: Yeah. But I do not see much  18 discrepancy there, more or less.  19 MR. MEDEIROS: Yeah.  20 MEMBER BAXA: Yeah. But there is an  21 additional scenario to that. And it is that -- what is  22 that, first district, Lanai's included there in the West  23 Maui, Wailuku district. There is a population number  24 there, but, the way I understand it, the people from  25 Lanai, in that area, will be able to elect their own</p>	<p style="text-align: right;">Page 84</p> <p>1 CHAIR STONE: Okay. Question from the Chair:  2 In looking at the deviation percentages and then -- I  3 don't know if you guys had a chance to look at Sherry's  4 letter concerning deviation limits, but we'll get into  5 that later. So this was -- we could, if, say, this  6 proposal was something we wanted to start work on, is  7 that we could, for example, increase District 3's  8 population to make it -- to make them fall into the  9 deviation levels?  10 MR. MEDEIROS: Sure. I think that's -- when  11 we get to the very end, we'll talk the next steps. And  12 that's one of the next steps, if you choose something  13 you like.  14 One of the things I mentioned -- prior to the  15 meeting somebody was asking about that -- the simplest  16 way geographically, okay, not to get into any other  17 issues, but just the geographics, if you go with the  18 three-district scenario, the simplest thing would be to  19 go with the State Senate districts, which are three  20 districts, then define within the district how you want  21 to break those up. That makes it easy because, then,  22 you'll have population. The State uses plus or minus  23 five percent. You'll have relatively equal districts.  24 And it makes it a little bit easier for people to  25 understand, yeah, my district is the same as the State</p>

<p style="text-align: right;">Page 85</p> <p>1 Senate district. And so that's an option we can take a  2 look at. If you decide to go with this -- or continue  3 to look at this scenario. Then, when we adjust  4 boundaries, we can overlay them, you can say, why don't  5 we use this district, remove this district, those kind  6 of things.</p> <p>7 CHAIR STONE: Very good. One question,  8 though, Commissioners. Commissioners, correct me if I'm  9 wrong, but the idea behind this was that the residency  10 requirements for the three people, the three councilmen  11 from each district, we would have residency requirements  12 that one would come from Lanai, for example, in District  13 1, is that correct? Am I -- just trying to recall it.  14 Okay. Thank you.</p> <p>15 MR. MEDEIROS: Okay. Let's go to Scenario 2,  16 nine relatively equal districts, Molokai with Waihee,  17 Lanai with Lahaina. You can see the population counts.  18 The target for nine districts is 17,204. Again, just to  19 point that out, also, we are excluding Kalawao County,  20 which is Kalaupapa. So 17,204. That gives you an idea  21 of the overview of the districts. And this is the  22 detailed districts.</p> <p>23 So as I mentioned earlier, take a look at  24 Maalaea. In this case, Maalaea is part of the south  25 central, which would be District 5, and south central</p>	<p style="text-align: right;">Page 87</p> <p>1 balancing the numbers. But if you -- what will  2 happen -- and same thing with Kihei. So as you come  3 north from Kihei, that's where it hits 17,000, right  4 about -- I believe it's Kulani Hakoi Street. So we can  5 adjust that to then put Maalaea and North Kihei, and  6 then see how it moves the boundary in the northern part.  7 But you're going to get -- when we get to the next  8 district, you're going to see that you'll still get some  9 people out of Central Maui into that.</p> <p>10 MEMBER DELEON: Okay.  11 CHAIR STONE: Commissioner Hashimoto.  12 MEMBER HASHIMOTO: Yes. In District 7 that  13 you show on this map --  14 MR. MEDEIROS: Uh-huh.  15 MEMBER HASHIMOTO: -- my question is, are all  16 the -- your numbers -- are the numbers that are shown  17 the permanent residents of Maui? Is that the way it's  18 shown?  19 MR. MEDEIROS: Yes and -- well, yes. In this  20 case --  21 MEMBER HASHIMOTO: In all cases, from that --  22 that green section, District 7 --  23 MR. MEDEIROS: Yes.  24 MEMBER HASHIMOTO: -- part of 5, and then over  25 to part of 2 and 3, I suspect that we have a lot of</p>
<p style="text-align: right;">Page 86</p> <p>1 also extends up into Maui Lani. And this -- Waikapu  2 would be with the Olowalu and South -- West Maui. And  3 so those are the areas that changes.</p> <p>4 If you look at District 7, which is South  5 Maui, that mauka boundary is the new State House  6 district boundary. So it's different from the current  7 boundaries, but my idea was might as well use the 2011  8 and -- yeah.</p> <p>9 CHAIR STONE: Bill, one question from  10 Commissioner DeLeon.</p> <p>11 MEMBER DELEON: Bill, you know, when I was  12 visiting this concept, I was thinking of three leeward  13 districts. So you would have a Lahaina, middle --  14 Olowalu through North Kihei, then on South Kihei, Kihei,  15 Wailca district. I realize this is putty, you can move  16 this around. Could you move that down and create that  17 kind of district instead of creating a south -- I mean,  18 a leeward district that wraps into Waikapu like that one  19 does?</p> <p>20 MR. MEDEIROS: Yeah. We can take a look at  21 that. But what's going to happen is, in the case of  22 West Maui, when you start from the north and you come on  23 down, by itself, 17,000 people puts you right at  24 Lahainaluna Road. When you add the 3,000 from Lanai, it  25 moves it up a little bit. It's just a matter of</p>	<p style="text-align: right;">Page 88</p> <p>1 people who only live here several months a year and  2 they're not permanent residents, but I understand that  3 they can vote if they're here.</p> <p>4 MR. MEDEIROS: Okay. This uses the census  5 data that was collected April 1st, 2010. 2010. So that  6 my -- my understanding is that if you have two -- two  7 residences, it counts where you are on April 1st, 2010.  8 The way you say you are a resident at that time. So  9 it's kind of self-reporting. But there is no -- there's  10 no other way for us to look at that except through --  11 and it's the federally accepted population. So that's  12 what drives reapportionment, anyway. So --</p> <p>13 MEMBER HASHIMOTO: Doesn't it work both ways?  14 In other words, if I --  15 CHAIR STONE: Commissioner Hashimoto, your  16 mic, please?  17 MEMBER HASHIMOTO: Does that work both ways, I  18 mean, for all states? For example, if I went to Kansas  19 City, for example, if I was there on April 1st, could I  20 vote there?  21 MR. MEDEIROS: Well, okay. The question is,  22 are you counted. Okay. You know, we're talking about  23 census data. So the question is, you know, if you're in  24 Kansas City on April 1st, are you counted in Kansas City  25 or are you counted in Hana or wherever, you know. And</p>

<p style="text-align: right;">Page 89</p> <p>1 so the idea being is that's kind of up to you. You get  2 -- you get that form in the mail and you fill that form  3 out, and you submit it and say, yeah, I live in this  4 area, this number of people and so on. And so it's up  5 to you when you submit the form. And the idea being is  6 that you're not -- you're not supposed to be counted  7 twice.</p> <p>8 MEMBER HASHIMOTO: Uh-huh.</p> <p>9 MR. MEDEIROS: Okay. So, again, we don't  10 control the counts, but the count is supposed to be that  11 you're not counted twice, in two different areas. And,  12 yes, so that -- that's always the issue.</p> <p>13 The other thing is there are always those  14 people who refuse to fill the form out. So there are  15 some issues of undercounting. But, again, from our  16 points of view, we can't assume that.</p> <p>17 And just to jump into another issue, when  18 doing this through the State application, we have a  19 software application on the web, I noticed there were  20 four missing people. And so I contacted them and said,  21 okay, you know, I add these numbers up that we've gotten  22 from that application and there's four missing. And  23 that is the change that the State did when they decided  24 to take temporary residents and count them in other  25 locations. So the infamous military issue. And it</p>	<p style="text-align: right;">Page 91</p> <p>1 two percent.</p> <p>2 CHAIR STONE: Commissioners, any clarification  3 on that?</p> <p>4 (No Response.)</p> <p>5 CHAIR STONE: No. Thanks, Bill. Continue.</p> <p>6 MR. MEDEIROS: This is Scenario 3. So this is  7 nine districts again, Molokai with East Maui, Lanai with  8 Lahaina. We have the member counts here, target is the  9 same, 17,204. In this case, because of the change with  10 Molokai out of Wailuku and into East Maui, you can see  11 the changes in the Makawao area and in Kihei. So as  12 Commissioner DeLeon mentioned earlier, the idea of  13 having Maalaea and North Kihei together in this case,  14 the North Kihei makai of the highway and Maalaea is all  15 within that -- the same as Olowalu, all the way out to  16 Waikapu. And Kahului, because of the -- the East Maui  17 pushes out, that makes Paia push into Kahului, takes  18 part of Kahului, then Kahului comes down and it picks up  19 the upper part of the northern part of Kihei mauka of  20 the highway. And so it changes a little bit.</p> <p>21 So that's -- again, because -- because I  22 started from the three directions of Maui, you know,  23 from the northern part, the eastern part and the  24 southern part, the overflow happens in that southern  25 part of Central Maui. So it's a little bit different.</p>
<p style="text-align: right;">Page 90</p> <p>1 turns out that there were only four they could document  2 from the Island of Maui that were actually counted  3 elsewhere. Okay. So it's not a significant number.</p> <p>4 And the guy went through the explanation of  5 where those four people are from, and it was kind of --  6 so if you -- if you want to pursue that, that's  7 separate. But I just wanted to cover that, too. So  8 even using the State guidelines which count temporary  9 residents, the only difference here is four, for 154,834  10 people.</p> <p>11 CHAIR STONE: Thank you.</p> <p>12 Commissioners, any further clarification on  13 this scenario? Commissioner Hedani.</p> <p>14 VICE-CHAIR HEDANI: What is your standard  15 deviation on that?</p> <p>16 MR. MEDEIROS: Standard deviation?</p> <p>17 VICE-CHAIR HEDANI: Oh, I'm sorry.</p> <p>18 MR. MEDEIROS: The standard. Okay. Let me --</p> <p>19 VICE-CHAIR HEDANI: What's the percentage?</p> <p>20 MR. MEDEIROS: Sorry. Let me go to the next.</p> <p>21 And that's the deviation. So as you can see, the  22 highest number was 1.75 over, the lowest was 1.44 under.  23 And so it's all within the plus or minus two percent.  24 And, again, the chart is almost meaningless here, but it  25 just shows that everybody is within the plus or minus</p>	<p style="text-align: right;">Page 92</p> <p>1 Again, that's the detail. It shows you, look  2 further, the changes. Right here. This is northern  3 part of Kihei, up to the highway, goes this way and then  4 Kahului comes back down. And most of this is empty  5 land. There's almost no population. So it has to get  6 all the way down here to pick up enough population to  7 balance everything out.</p> <p>8 And those are the numbers. If you notice,  9 Kahului and Kihei north is minus 238, so it's slightly  10 over the two percent. The problem is, as you -- it's a  11 fairly high density area of Kihei. You move -- you move  12 a road, you move 2,000 people, and, all of a sudden, it  13 drops the other direction. And so it's possible to move  14 that boundary, but it's -- I tried -- I tried to make it  15 as logical as possible and -- but it's -- it's close,  16 2.33. You may -- I might make adjustments with that,  17 but that's kind of where Scenario 3 goes.</p> <p>18 CHAIR STONE: Very good.</p> <p>19 Commissioner DeLeon.</p> <p>20 MEMBER DELEON: Bill, where is the boundary  21 here between 1 and 6. Is that Maliko Gulch?</p> <p>22 MR. MEDEIROS: Let me take a look. Yes. It  23 looks like it's pretty close to Maliko Gulch, but then  24 it jumps out and there's a bunch of folks over here.</p> <p>25 MEMBER DELEON: Kokomo is kind of consumed in</p>

<p style="text-align: right;">Page 93</p> <p>1 there?</p> <p>2 MR. MEDEIROS: Huh?</p> <p>3 MEMBER DELEON: Kokomo is kind of consumed in</p> <p>4 this.</p> <p>5 MR. MEDEIROS: We'll zoom in when we get to</p> <p>6 the application to look at the specifics.</p> <p>7 MEMBER DELEON: I was just curious.</p> <p>8 MR. MEDEIROS: It's kind of up in the upper</p> <p>9 part of Makawao in order to get enough people into</p> <p>10 Upcountry and down into the Paia, Kahului district. So</p> <p>11 it kind of splits Makawao a little bit, yeah.</p> <p>12 And this is Scenario 4. So this is seven</p> <p>13 districts of Maui relatively equal in population, and</p> <p>14 Molokai Lanai as separate districts. When you go to</p> <p>15 seven districts in Maui, the target population is</p> <p>16 20,635, and Lanai and Molokai kind of not counted. So</p> <p>17 this is the overview.</p> <p>18 And the detail, what happens now, is that you</p> <p>19 notice that the -- Olowalu, Maalaea, Waikapu district is</p> <p>20 much larger, not have to pick up, you know, an</p> <p>21 additional 3,000 people. So it picks up most of the</p> <p>22 northern part of Kihei. And Kahului and then Wailuku.</p> <p>23 And then, again, East Maui extends all the way out to</p> <p>24 the airport in order to pick up the extra people to make</p> <p>25 20,000. And Upcountry extends down into Makawao.</p>	<p style="text-align: right;">Page 95</p> <p>1 the numbers get bigger and now you're picking up a lot</p> <p>2 more area, including lots of area that has nobody in it,</p> <p>3 but -- and then trying to follow a -- one road as</p> <p>4 opposed to zigzagging on the road.</p> <p>5 CHAIR STONE: Uh-huh.</p> <p>6 MR. MEDEIROS: The deviation goes a little bit</p> <p>7 higher. Most are within the two percent range, but</p> <p>8 Olowalu to Central Maui is 3.3.</p> <p>9 CHAIR STONE: Very good. Commissioners, any</p> <p>10 further clarification? Commissioner Moikeha.</p> <p>11 MEMBER MOIKEHA: Not for Bill, but I had a</p> <p>12 question on Scenario 2, 3 and 4, there is no area</p> <p>13 residency requirements as in Scenario 1?</p> <p>14 CHAIR STONE: I believe it would be resident</p> <p>15 requirements of each separate district.</p> <p>16 MEMBER MOIKEHA: Okay. So within their</p> <p>17 district. It's not as it's portrayed in Number 1, where</p> <p>18 we're assured that Lanai gets its own representative?</p> <p>19 CHAIR STONE: Right.</p> <p>20 MEMBER MOIKEHA: Okay. Hana and Molokai?</p> <p>21 CHAIR STONE: Exactly. Correct.</p> <p>22 MEMBER DELEON: Well --</p> <p>23 CHAIR STONE: Number 1 was the only one that</p> <p>24 was proposed in --</p> <p>25 MEMBER DELEON: No. Number 4 also includes</p>
<p style="text-align: right;">Page 94</p> <p>1 MEMBER DELEON: Mr. Chair?</p> <p>2 CHAIR STONE: Commissioner DeLeon, question.</p> <p>3 MEMBER DELEON: This was proposed in reference</p> <p>4 to Thomson v. Brown. According to what we've got back</p> <p>5 from staff, of course, this is not going to work, but</p> <p>6 that -- it was a shot at a compromise where you take</p> <p>7 geography out and you take it into consideration and --</p> <p>8 CHAIR STONE: Uh-huh.</p> <p>9 MEMBER DELEON: -- do away with equal</p> <p>10 districts. And those two cases were challenged by</p> <p>11 geography.</p> <p>12 CHAIR STONE: Okay. Bill, just quickly,</p> <p>13 there's no deviation percentage on this page for Molokai</p> <p>14 and Lanai. Is that just because it's --</p> <p>15 MR. MEDEIROS: Well, because the definition</p> <p>16 said Molokai and Lanai are separate, are separate</p> <p>17 entities. Right? So then there is no deviation. They</p> <p>18 are geographic entities, right, so it's zero.</p> <p>19 MEMBER DELEON: Like (inaudible) for Lanai and</p> <p>20 --</p> <p>21 MEMBER WIGER: It would be so large, it</p> <p>22 wouldn't be a deviation.</p> <p>23 MR. MEDEIROS: But in order to point out, the</p> <p>24 Olowalu, Central Maui, is 3.23. So in this case, the</p> <p>25 deviation is a little bit harder to deal with because</p>	<p style="text-align: right;">Page 96</p> <p>1 that.</p> <p>2 CHAIR STONE: Of course, yes. Well,</p> <p>3 obviously.</p> <p>4 MEMBER DELEON: Yeah, that was the point.</p> <p>5 CHAIR STONE: Right.</p> <p>6 MEMBER BAXA: Yeah.</p> <p>7 CHAIR STONE: Right.</p> <p>8 MEMBER MOIKEHA: Okay.</p> <p>9 CHAIR STONE: Okay. Any further</p> <p>10 clarifications, guys?</p> <p>11 (No Response.)</p> <p>12 CHAIR STONE: No. Wow. Had a good</p> <p>13 presentation. Very good.</p> <p>14 MR. MEDEIROS: Well, final thing, if the</p> <p>15 Charter Commission decides to further go on, we can</p> <p>16 adjust the boundaries and move things around and then</p> <p>17 redo them, I'll give you numbers again. Again, each</p> <p>18 scenario requires about two weeks to set up the</p> <p>19 scenarios. This time we -- and that extra week we had</p> <p>20 worked out very good because it was -- it was -- it's</p> <p>21 easy to think about it; it's a whole different thing</p> <p>22 when trying to --</p> <p>23 (Laughter.)</p> <p>24 MR. MEDEIROS: And so it took -- it would --</p> <p>25 yeah, so at least two weeks out. I have to throw in at</p>

<p style="text-align: right;">Page 97</p> <p>1 least.</p> <p>2 And then, finally, we had suggested discussion</p> <p>3 with elections staff from the Clerk's Office to review</p> <p>4 whatever scenarios we're doing, to see what impacts it</p> <p>5 might have in terms of elections requirements.</p> <p>6 And then, finally, for people at home, in case</p> <p>7 they want to call me up and either complain or have</p> <p>8 suggestions, that's my contact info.</p> <p>9 CHAIR STONE: Very good. And, Bill, with that</p> <p>10 said, looking at Scenario 1, does it look realistic to</p> <p>11 find a sample deviation percentage with those just three</p> <p>12 districts?</p> <p>13 MR. MEDEIROS: Okay. In fact, we'll go to --</p> <p>14 we'll actually pull up the GIS program, and let's take a</p> <p>15 look at Scenario 1 and the State Senate districts and</p> <p>16 see how the boundaries compare.</p> <p>17 CHAIR STONE: Very good. And then</p> <p>18 Commissioner Moikeha had a question as well.</p> <p>19 MEMBER MOIKEHA: That was my question. I</p> <p>20 didn't know he was going to do that now. So if he's</p> <p>21 going to explain that, that's fine.</p> <p>22 CHAIR STONE: Cool.</p> <p>23 MR. MEDEIROS: And I may sit down in the pilot</p> <p>24 seat to fly this.</p> <p>25 CHAIR STONE: Bill, if you could take the</p>	<p style="text-align: right;">Page 99</p> <p>1 MR. MEDEIROS: It is.</p> <p>2 CHAIR STONE: But it's the State District</p> <p>3 boundaries?</p> <p>4 MR. MEDEIROS: It's State Senate boundaries.</p> <p>5 So the State Senate boundaries -- and I'm trying to look</p> <p>6 for my labels here so I can make sure I tell you the</p> <p>7 right ones. State Senate is -- there's three districts</p> <p>8 in the County. The canoe district, which is Senate 6,</p> <p>9 is Lanai, Molokai and East Maui. All right. So that's</p> <p>10 the current -- the current State Senate boundaries like</p> <p>11 that. But these show the 2011 boundaries, so the</p> <p>12 revised boundaries.</p> <p>13 There's Senate District 5, is West Maui down</p> <p>14 into South Maui and then includes Kahoolawe.</p> <p>15 And then Senate District 4 is Wailuku,</p> <p>16 Kahului, and out a little bit into Puunene.</p> <p>17 And so that's the Senate boundaries. And this</p> <p>18 is Scenario 1.</p> <p>19 CHAIR STONE: What's the deviation in the</p> <p>20 Senate boundaries?</p> <p>21 MR. MEDEIROS: I can check that. They're</p> <p>22 using generally plus or minus five. And so these are</p> <p>23 the deviations here. So one is plus 0.51, one is minus</p> <p>24 4.34, and one is minus 0.16.</p> <p>25 CHAIR STONE: Thank you.</p>
<p style="text-align: right;">Page 98</p> <p>1 microphone down there with you, also, that would be</p> <p>2 awesome. Thank you.</p> <p>3 Bill, before we get started, just a quick</p> <p>4 question for Lisa. Lisa, is there a specific time we</p> <p>5 have that call in? Or you just need a few minutes to</p> <p>6 organize it.</p> <p>7 MS. KAHUHU: Chair, it just is before 1:00.</p> <p>8 CHAIR STONE: Very good. Thank you. We have</p> <p>9 a lot of time.</p> <p>10 MR. MEDEIROS: Okay. So this is Scenario 1.</p> <p>11 I'll drop -- I have roads that we can put on, in case</p> <p>12 you need to take a look at what exactly it follows. In</p> <p>13 addition, since we discussed it, these are the State</p> <p>14 Senate boundaries. Let me turn the roads off. So these</p> <p>15 are the proposed State Senate boundaries at the current</p> <p>16 level. They're going through the lawsuit and so we're</p> <p>17 not sure exactly when it's going to be finalized, but</p> <p>18 those are the boundaries. And I did try to follow the</p> <p>19 State House boundaries everywhere I could. So the big</p> <p>20 difference will come in right in here. Right at this</p> <p>21 point. Whereas they show their district going this way,</p> <p>22 and this district going this way. In this case, the</p> <p>23 District 2 -- let me make sure about that.</p> <p>24 CHAIR STONE: That looks very similar to</p> <p>25 Scenario 1.</p>	<p style="text-align: right;">Page 100</p> <p>1 MR. MEDEIROS: My eyesight's not that good</p> <p>2 after many years of doing this. And so the</p> <p>3 population -- if you look at the population numbers,</p> <p>4 right, so the smallest one is 49,400, and the largest,</p> <p>5 53,971. And so that's the range from the Senate</p> <p>6 Districts.</p> <p>7 CHAIR STONE: Commissioners, I just want to</p> <p>8 point out, too, if you guys have any questions that come</p> <p>9 up, now would be the time so they go on the record and</p> <p>10 we make sure that Lisa can present them to GIS. So as</p> <p>11 we're going through this, please present your questions</p> <p>12 so we don't forget.</p> <p>13 MEMBER DELEON: Mr. Chair?</p> <p>14 CHAIR STONE: Yes, Commissioner DeLeon.</p> <p>15 MEMBER DELEON: It would be helpful to see</p> <p>16 this in color code so we can see how it works. But I</p> <p>17 also want to point out, if we're going to put Molokai</p> <p>18 and Lanai together with East Maui, Lanai is going to</p> <p>19 have its own councilmember, Molokai is going to have its</p> <p>20 ow councilmember, and East Maui is going to share one</p> <p>21 councilmember in that scenario.</p> <p>22 MEMBER MOIKEHA: Why would that be?</p> <p>23 MEMBER OKAMOTO: Is that one of the -- that</p> <p>24 wasn't one of the proposals, was it?</p> <p>25 MEMBER DELEON: Even an at-large system. So</p>

<p style="text-align: right;">Page 101</p> <p>1 you put the three components together. So if you were  2 to use the Senate districts as they're up there, then  3 you have those three together, you have Molokai,  4 Lanai --  5 CHAIR STONE: With a resident.  6 MEMBER DELEON: -- and East Maui together, and  7 then you'd have the resident councilmembers, you would  8 have a Lanai councilmember, you would have a Molokai  9 councilmember. And what's now three councilmembers on  10 the Council will be in East Maui.  11 MEMBER OKAMOTO: Okay. But that is not the  12 proposal that's on these papers, correct?  13 MEMBER DELEON: No. No. That's -- that's  14 just if we use the Senate districts.  15 MEMBER OKAMOTO: Okay. Thank you.  16 MEMBER CRIVELLO: The Senate district, but not  17 the Senate representation, because --  18 MEMBER DELEON: Yeah, right, because it's only  19 one senator instead of three.  20 MEMBER CRIVELLO: Right.  21 MEMBER MOIKEHA: Chair?  22 CHAIR STONE: Yes, Commissioner Moikeha.  23 MEMBER MOIKEHA: Can you start with Scenario 1  24 and just even out the numbers a little bit, as I think  25 Josh asked that in the beginning?</p>	<p style="text-align: right;">Page 103</p> <p>1 difference in an at-large system.  2 CHAIR STONE: Thank you, Commissioner DeLeon.  3 Commissioner Moikeha.  4 MEMBER MOIKEHA: In my opinion, I think this  5 is a great compromise. And it was proposed by a member  6 of the public, Mr. Ramil. I think it shows and  7 addresses some of the testimony I had in support of  8 district voting, equal population. So that's why I'm --  9 I would support trying to even that out more.  10 I think, also, it's -- instead of nine, you're  11 streamlining it down to three kind of at-large and  12 you're still retaining the residence -- area residency  13 of the outer lying communities such as Hana, Lanai and  14 Molokai.  15 I think it's a great compromise. And, you  16 know, all of the testimony I've heard to date, there has  17 been general comments about we want district voting,  18 that some -- that people have proposed for us. And my  19 struggle has been what is a fair and equitable model.  20 And I had not seen one until this one right here.  21 So, yes, it may still have characteristics of  22 at-large system. I really believe we're in a transition  23 period. And as I read through a lot of analysts'  24 comments and information they provided to us, the  25 concept of at-large voting started at a very, very early</p>
<p style="text-align: right;">Page 102</p> <p>1 CHAIR STONE: Yeah. What would be interesting  2 to look at, I think that some of the -- some of our  3 Members are interested in, the Commissioners, is that  4 this Scenario 1 is an interesting scenario, so what we'd  5 like to see is to see if it's possible to find a  6 deviation percentage that would make sense on Scenario  7 1.  8 MEMBER DELEON: Mr. Chair?  9 CHAIR STONE: Commissioner DeLeon.  10 MEMBER DELEON: I don't understand the point  11 of that. It's an at-large system. They're not going to  12 be equal. I mean, you're not going to vote equal,  13 you're going to have a councilmember from Lanai that's  14 going to represent 3,000 people. I mean, they're not  15 going to vote together on the Council as a group. I  16 mean, they're individuals on the Council, and they're  17 going to be representing districts like they do now.  18 This is a miniaturized version of what we got  19 now. You can say it works better, you can say that you  20 have an easier chance for competition, and you can argue  21 the -- the guys in Wailuku are going to vote for the guy  22 in Lahaina and Lanai and -- and they're going to be  23 residents there. And the incumbents are still going to  24 have a large advantage to the system. So you can even  25 it out all you want, it really doesn't make any</p>	<p style="text-align: right;">Page 104</p> <p>1 age of Maui's politics. And we've always had some form  2 of it. And back when we became nine Council Districts,  3 at-large voting, and now we've moved to this state --  4 one of the things that stands out in my mind is  5 something that referenced the increasing population.  6 And I think this wasn't a big issue years ago when the  7 population of Maui overall was very small. But as we've  8 grown as a community of 150,000 people, maybe we do need  9 to take another look at change and see where we need it  10 make a transition.  11 So while maybe we're not ready -- at least I'm  12 not able to see a way to have true district voting -- I  13 think this is a hybrid. And maybe this is what Maui  14 needs to look at when they go to make a -- a choice at  15 the polls. Here is one example, and it's a transition.  16 It's not the purest form of district voting, but it is a  17 transition. Are the people willing to take that step at  18 this time. Yet, it still preserves what we have heard  19 in those who oppose this.  20 And I was very much interested in the QMark,  21 how much the people of Lanai, Hana and Molokai are up on  22 political issues. Far more than the Island of Maui.  23 And, you know, they know what they want. And they need  24 to have area residency. I think this is an example of  25 what I would be looking towards getting an opinion from</p>

<p style="text-align: right;">Page 105</p> <p>1 the people when we take it out in December. Nothing  2 else right now meets my criteria of what I think is  3 going to work.  4 And I do not believe that "do you want  5 district voting" is a question -- is a Charter amendment  6 in itself. That's a survey question. And this is not  7 what we're doing here. We're not collecting survey  8 questions. We're collecting changes to the way we vote  9 for our representatives in a model.  10 So, yes, if I need a formal motion, I'll be  11 glad to make that.  12 CHAIR STONE: Not yet.  13 One second, sorry, Commissioner Baxa.  14 Lisa, for the record, I have two questions  15 that I'd like to present to Sherry.  16 Number one: What's the legality to require  17 residency of smaller portions of a district. In other  18 words, if we're talking about a district of 53,000, that  19 smaller population of 3,000 would require residency.  20 Just curious.  21 And is this general -- what is the legality of  22 the overall scheme. I'd like to get her opinion on  23 that.  24 Thank you.  25 Commissioner Baxa.</p>	<p style="text-align: right;">Page 107</p> <p>1 be looked at, but, among the other proposals, to me,  2 this is also the one that probably -- if it passes the  3 constitutional mark, I would strongly suggest that we  4 take a look into it because it approximates the ideal.  5 You can see the representation here. There may be a  6 small deviation, but there is not too much. But we are  7 saying that this could be remedied. So I would say that  8 this is still the best.  9 If you read the memo, there is a suggestion in  10 the memo that even the suggestion about seven districts,  11 seven districts, with Lanai and Molokai having their own  12 representatives, that would be hard to pass  13 constitutional mark.  14 This one, process A, I think we should  15 seriously consider it.  16 CHAIR STONE: Thank you. Very good.  17 MEMBER BAXA: But we have to have Ms. --  18 Professor Broder or Van Dyke be here to answer that  19 question.  20 CHAIR STONE: Clear. And, again, we'll get  21 that from her in writing, which is why it's very  22 important that that question goes to her as soon as  23 possible.  24 MEMBER BAXA: Thank you.  25 CHAIR STONE: Thank you.</p>
<p style="text-align: right;">Page 106</p> <p>1 MEMBER BAXA: Mr. Chair, I think you have  2 already alluded to that. I was hoping that Professor  3 Broder would be here today because we are in a very  4 important subject matter today. I have tried to --  5 (Audio feedback.)  6 MEMBER BAXA: There must be something in my  7 voice.  8 MEMBER DELEON: We got the best in the system.  9 MEMBER BAXA: I have tried to read very  10 carefully the memo written by Professor Broder and  11 Professor Van Dyke. It is -- I must say, and we have to  12 thank them, it is very carefully written. There was one  13 case that was presented to us, but it was one -- it was  14 simply one case. And, normally -- for us, sometimes one  15 case is enough, but the way the system works is that so  16 many cases are interrelated. And as the memo suggests,  17 shows, many cases decided by our courts, from the  18 Supreme Court to the lower courts, are conflicting in  19 some way. They are interrelated, but they could be  20 reconciled.  21 And from the very beginning, I was not averse  22 to one man, one vote. That is the ideal, as I have  23 always said. But there are other considerations as  24 well.  25 In my own mind, the present system could still</p>	<p style="text-align: right;">Page 108</p> <p>1 Commissioner Okamoto.  2 MEMBER OKAMOTO: We're not really discussing  3 the proposals now, are we?  4 CHAIR STONE: Well --  5 MEMBER OKAMOTO: I'm just -- because I just  6 have a question.  7 CHAIR STONE: In a sense -- in a sense --  8 MEMBER OKAMOTO: I mean, I know we are, but I  9 was wondering how that  10 CHAIR STONE: Since we have GIS here, we --  11 we're not going to go and take any actions as of right  12 now --  13 MEMBER OKAMOTO: Okay. That's --  14 CHAIR STONE: -- because Mr. Medeiros is here  15 on his time.  16 MEMBER OKAMOTO: Okay.  17 CHAIR STONE: What we are going to do, though,  18 is if we do have questions, for example, of seeing if  19 this scenario could possibly work, I think it's the time  20 to get it because we have him sitting right there.  21 MEMBER OKAMOTO: All right. Then my question:  22 On Number 1, we -- we can see, I think, that he divided  23 up District 1 to show one person would be Lanai, one  24 West Maui, one Wailuku. That was my understanding of  25 Ramil's. 2 is divided up into three, but the 3 is not</p>

<p style="text-align: right;">Page 109</p> <p>1 divided up into three. And we don't see a division on  2 3. So that would be the one I would wonder how the --  3 the division is, the residency.  4 CHAIR STONE: You mean the residency --  5 MEMBER OKAMOTO: Yeah. Because 3 just shows  6 one big one there. And everything else is -- is  7 separated.  8 MEMBER DELEON: Well, you don't see the  9 difference between Lanai and Molokai, either -- I mean,  10 Lahaina and Wailuku.  11 MEMBER OKAMOTO: Yeah, you do.  12 MEMBER DELEON: That's when you look at the  13 senatorial line.  14 MEMBER OKAMOTO: Oh. But I'm assuming that  15 was the way -- that is not the way he --  16 CHAIR STONE: I think he --  17 MEMBER OKAMOTO: Oh, okay. We need to see  18 that.  19 CHAIR STONE: Yes, Kay. In our discussion of  20 Scenario 1, we would be the ones who discuss what would  21 make sense as far as residency requirement.  22 MEMBER OKAMOTO: Okay. So that is not  23 necessarily the way it would come out. Okay. Thank  24 you.  25 CHAIR STONE: Right.</p>	<p style="text-align: right;">Page 111</p> <p>1 resident is voted in by the entirety of District 1, so  2 they would have to -- just because they're a resident of  3 Lanai, they would still have to answer to the people of  4 District 1. And, I mean, as of right now, they have to  5 answer to the entire island. So, I mean, I don't see it  6 as -- that issue as being that big of an issue.  7 MEMBER DELEON: It's still not walkable  8 districts. And it's still not -- it's not like it's an  9 easy thing to run in these kind of districts. I'm just  10 trying to -- trying to picture somebody in Kihei trying  11 to understand why they're voting for somebody on  12 Molokai. I mean, it's the same problem we have now.  13 CHAIR STONE: Thank you.  14 Commissioner Okamoto.  15 MEMBER OKAMOTO: Well, obviously, we are  16 discussing the issue.  17 Personally, I see it as a compromise. One of  18 the biggest ones that we keep hearing is it costs so  19 much to run in these big districts. Well, that does  20 help that. It brings it down to a little more viable.  21 However, you know, it's not going to change  22 that we have the same people running every time. That's  23 not going to change no matter what. That is a fact of  24 politics. If you look at what goes on in the national,  25 that's just -- they don't go together. And I think</p>
<p style="text-align: right;">Page 110</p> <p>1 Commissioner DeLeon.  2 MEMBER DELEON: I've tried to describe this to  3 some folks. And, invariably, they just look at me  4 cross-eyed and say, "What? Why?" I mean, I watched it  5 in here. I mean, I watched a variety of our own Members  6 get it wrong. So try to take this out before you go too  7 far with this and see how well it goes when you try to  8 explain it to somebody. See whether it works or not. I  9 think, in the long run, probably the existing system  10 makes more sense because at least you're voting for  11 everybody.  12 MEMBER OKAMOTO: Thank you. I approve of  13 that, Dave. We'll stay with the existing.  14 (Laughter.)  15 MEMBER DELEON: It was a relatively -- it was  16 a relative statement.  17 (Laughter.)  18 CHAIR STONE: Commissioner DeLeon, I tend  19 to -- at the moment, this scenario is interesting to me  20 for the same reasons that Commissioner Moikeha and  21 Commissioner Baxa mentioned, is that there is some  22 resolution here and, what I call common ground, as a  23 compromise solution on district voting. I understand  24 what you're saying, that, yes, a resident of Lanai City  25 would become -- have -- have a Council seat. But that</p>	<p style="text-align: right;">Page 112</p> <p>1 that's something that we've been hearing over and over,  2 oh, the incumbents keep getting elected. And I just --  3 every time I hear that, I go "that's all over." That  4 has nothing to do with this.  5 CHAIR STONE: Commissioner Okamoto, but one  6 argument that I believe it does resolve is the one man,  7 one vote argument. And that, I think, is one of the  8 biggest --  9 MEMBER DELEON: (Inaudible) at-large.  10 CHAIR STONE: -- issues -- it -- it's --  11 everybody has their opinion.  12 MEMBER OKAMOTO: Yes.  13 CHAIR STONE: Everybody is entitled to their  14 opinion.  15 MEMBER OKAMOTO: Yes.  16 CHAIR STONE: So, Commissioner DeLeon.  17 MEMBER DELEON: I mean, how's -- I don't see  18 how it resolves one man, one vote. You still have 3,000  19 people on Lanai having their own representative. I  20 mean, that's -- that's the way -- I mean, that's what  21 we're trying to resolve here. And that's -- I was  22 willing to compromise with the seven-member district --  23 the seven equal districts and then the neighbor islands  24 having -- I mean, I don't -- I don't really see this as  25 really resolving an issue. It's still at-large and it's</p>



<p style="text-align: right;">Page 113</p> <p>1 still -- I mean, yeah, of course -- and you still have a  2 tiny population of Lanai that's going to have to field a  3 candidate, more than one candidate. Molokai is going to  4 have to field more than one candidate. And they're  5 going to have to fly and go to Kihei to run. And  6 they're going to have to walk Kihei to run. And in  7 order that you -- to overcome an incumbent's power. I  8 don't really see it in Kahului. I mean, I don't see  9 that working any better than what we got right now.  10 CHAIR STONE: Thank you.  11 Commissioner Okamoto.  12 MEMBER OKAMOTO: Well, I think the -- the one  13 -- the last one that gives seven districts and gives  14 Lanai and Molokai, I mean, would be ideal, but I think  15 you and many of those looking for districts know that it  16 wouldn't hold up. So why even go there?  17 CHAIR STONE: I agree.  18 MEMBER DELEON: Mr. Chair, we went there  19 because we thought we might have a constitutional leg to  20 stand on. And it kind of went away on us.  21 CHAIR STONE: Uh-huh.  22 MEMBER DELEON: I mean --  23 CHAIR STONE: Yeah. Yeah. All right. Thank  24 you.  25 Mr. Medeiros, if you want to continue. So I</p>	<p style="text-align: right;">Page 115</p> <p>1 that the residency would be based on this. And that, in  2 the end, would look like that.  3 CHAIR STONE: Very good. Commissioners,  4 further -- yes, Commissioner Baxa.  5 MEMBER BAXA: Mr. Chair, I would still go back  6 to my original suggestion to invite Mr. Ramil the next  7 time.  8 CHAIR STONE: Very good. We will invite him.  9 MEMBER BAXA: Thank you, Mr. Chair.  10 MEMBER SUGIMURA: Also, can we --  11 CHAIR STONE: Commissioner Sugimura.  12 MEMBER SUGIMURA: -- invite, as Bill Medeiros  13 said, the Clerk to get something from the election side,  14 just to kind of give us a perspective on this?  15 CHAIR STONE: Very good. We will.  16 MS. KAHUHU: Chair, Jeff Kuwada has already  17 provided correspondence saying that he would like any  18 questions in writing.  19 CHAIR STONE: Is that okay, Commissioner?  20 MEMBER SUGIMURA: Uh-huh.  21 CHAIR STONE: Thank you.  22 Commissioner Moikeha.  23 MEMBER MOIKEHA: Well, just to follow up to  24 that. We did give some questions at our last meeting  25 that we wanted from the clerk, correct?</p>
<p style="text-align: right;">Page 114</p> <p>1 believe that what we would like to see at this stage is  2 a little bit of -- a little bit of an example of moving,  3 let's say, some population to East Maui on Scenario 1  4 and see if -- if there is a feasible way that that  5 deviation percentage could come in line.  6 MR. MEDEIROS: So keep the -- keep the same  7 aggregation in terms of the canoe district, and then to  8 just adjust the boundaries to try and get them equal?  9 CHAIR STONE: Yes, if that's feasible.  10 MR. MEDEIROS: Well, we can see how close we  11 can get it.  12 VICE-CHAIR HEDANI: Very good.  13 MEMBER OKAMOTO: And the way it would be  14 divided up for -- within that district.  15 CHAIR STONE: Uh-huh.  16 MEMBER OKAMOTO: That, I think we need to see.  17 CHAIR STONE: Uh-huh.  18 MR. MEDEIROS: Yeah. And just to touch on  19 that, the -- I think his idea was that, in those  20 districts, it be based on the current residency  21 districts. So that these would be the general  22 boundaries of the individual -- of the residency  23 districts that -- and then they would just be added  24 together to create. All right. So I think his point  25 was the existing districts and meld them together, and</p>	<p style="text-align: right;">Page 116</p> <p>1 CHAIR STONE: Yes.  2 MEMBER MOIKEHA: Prior to his coming and then  3 he couldn't make it.  4 CHAIR STONE: He couldn't make it. Did we  5 have any response from the Clerk?  6 MS. KAHUHU: We did not produce a new letter  7 to the Clerk. And he's already responded. The last  8 letter to the Clerk was with regard to the ballot  9 information, the historical. That is the last  10 correspondence.  11 CHAIR STONE: And we did -- I remember seeing  12 that information.  13 MS. KAHUHU: And that has been received.  14 CHAIR STONE: Yeah, that was the last  15 correspondence.  16 MEMBER MOIKEHA: One of the question was, how  17 do you define area residency. I know that was on the  18 list. So maybe at the end, we can make a list?  19 CHAIR STONE: Yes, please. And, again, it is  20 so, so important to get that in writing.  21 MEMBER OKAMOTO: Before we go on, I mean,  22 obviously, we have a phone call we need to make, we're  23 running out of time to keep going, right? I mean, we  24 have, basically, one more meeting before we start doing  25 the --</p>

<p style="text-align: right;">Page 117</p> <p>1 CHAIR STONE: If -- if -- we may add a 2 meeting. 3 MEMBER OKAMOTO: Oh, okay. And if we add a 4 meeting, can it be not a new meeting, but a continuation 5 of the current meeting? Does that in any way save time? 6 If we simply -- 7 CHAIR STONE: It would, of course. At our 8 next meeting, Kay, what will happen is, if we are not 9 finishing, we'll run as late as we need to run. And 10 then -- 11 MEMBER OKAMOTO: No. What I'm thinking is, 12 okay, we have two weeks then we have another one. So 13 let's say we decide we're not going to adjourn today, we 14 are simply going to recess and come back next Monday. 15 Can we do that without having all sorts of -- 16 MEMBER SUGIMURA: Well, Sunshine. 17 MEMBER OKAMOTO: -- problems? 18 CHAIR STONE: Ed? 19 MR. KUSHI: Six days. 20 CHAIR STONE: Okay, yeah. If we're within 21 that timeframe. Within six days, right, Ed? 22 MEMBER DELEON: Yeah. The rules -- 23 CHAIR STONE: Got it. All right. Any further 24 questions for Mr. Medeiros? 25 (No Response.)</p>	<p style="text-align: right;">Page 119</p> <p>1 questions as we go. 2 So, anyways, Barbara, thanks very much for 3 being with us. 4 MS. ANKERSMIT: You're welcome. 5 CHAIR STONE: So let's get started. I think 6 we'll move down the list numerically, if that's all 7 right by you. Do you have that list in front of you? 8 MS. ANKERSMIT: I do. 9 CHAIR STONE: Okay. Very good. So the first 10 question, is how many surveys were distributed or calls 11 made? 12 MS. ANKERSMIT: Well, it was a telephone 13 survey, so there was no surveys distributed. It was a 14 random digit dialing telephone survey. 15 What I can tell you is that we connected 16 with -- you know, I -- thank you for sending the 17 questions, because I was able, then, to put something 18 together. We connected with 1,091 households. 19 CHAIR STONE: Wow. Very good. 20 MS. ANKERSMIT: There were a lot. And we had 21 2,445 dialings; not necessarily households. I mean, I 22 have a long call record sheet analysis. And we dialed 23 2,445 phone numbers when -- and didn't get anyone home. 24 But since we make three tries to them, that means some 25 of the same homes were called two or three times. But</p>
<p style="text-align: right;">Page 118</p> <p>1 CHAIR STONE: And, again, please, if there are 2 questions that arise, put them in writing, send them to 3 Lisa, and they will get to Bill. 4 Bill, thank you very much for your time. It's 5 really much appreciated. Thank you. 6 Lisa, do you want to go ahead and set up that 7 phone call for us, please? 8 MS. KAHUHU: Sure. 9 CHAIR STONE: Just for the record, we are now 10 moving on to Item B, IV-B, appearance via telephone by 11 Barbara Ankersmit of QMark Research with regard to the 12 survey taken in April 2010 regarding single-member 13 district voting. 14 We'll take a short recess now for, let's see, 15 five minutes. So recess as of 12:50, and re-adjourning 16 at 12:55. 17 (Recess, 12:50 p.m. to 12:55 p.m.) 18 CHAIR STONE: I'd like to call this meeting 19 back to order as of 12:55. 20 On the phone with us is Barbara Ankersmit from 21 QMark, as requested by the Commissioners. So, 22 Commissioners, we now have Barbara here. And we had 23 a -- I sent out a letter with -- I compiled all of your 24 questions to Barbara. If you do not notice one of those 25 questions in the list, then, of course, we can add</p>	<p style="text-align: right;">Page 120</p> <p>1 we connected with 1,091 households. 2 CHAIR STONE: Okay. Very good. And -- 3 MS. ANKERSMIT: And of those, we did 502 4 completed interviews. 5 CHAIR STONE: Okay. Thank you. 6 MS. ANKERSMIT: And the biggest reason that 7 people didn't qualify to do the interview was because 8 they weren't full-time residents of Maui. 9 CHAIR STONE: Interesting. The question 10 arised [sic], the demographic of the respondent pool, 11 was there any specific -- 12 MEMBER MOIKEHA: Chair, can I -- 13 MS. ANKERSMIT: No. Random digit dialing, 14 what that means is that we put in the first three digits 15 of all the workable telephone numbers in Maui County and 16 the computer, at random, spits out the last four digits. 17 And so that means that it's -- you know, the only people 18 that would be excluded would be people that do not have 19 any type of telephone. 20 CHAIR STONE: And did that include the areas 21 of Lanai and Molokai? 22 MS. ANKERSMIT: Yes, it did. And it, also, 23 included cell prefixes that work on Maui, Molokai and 24 Lanai. 25 CHAIR STONE: Very good.</p>

<p style="text-align: right;">Page 121</p> <p>1 I have a question from Commissioner Moikeha.</p> <p>2 MEMBER MOIKEHA: I think you just answered.</p> <p>3 So it included cell phones as well as land lines?</p> <p>4 MS. ANKERSMIT: Yes, it did.</p> <p>5 MEMBER MOIKEHA: Do you know the percentage of</p> <p>6 which?</p> <p>7 MS. ANKERSMIT: I think we had about 45</p> <p>8 percent cell phones. In this day and age, you just</p> <p>9 don't get young folks, in particular, without cell phone</p> <p>10 coverage.</p> <p>11 MEMBER OKAMOTO: Josh?</p> <p>12 CHAIR STONE: Question from Commissioner</p> <p>13 Okamoto.</p> <p>14 MEMBER OKAMOTO: Of the 500-and-some that you</p> <p>15 completed, the ones you couldn't complete, you said many</p> <p>16 of them were nonresidents. Were there a number of</p> <p>17 people who simply refused to do the survey?</p> <p>18 MS. ANKERSMIT: Oh, of course. You always</p> <p>19 have some who refuse to do the survey. We -- most of</p> <p>20 that, we call it a wave-off, they don't even let you</p> <p>21 hardly say hello. The minute you say, "I'm calling from</p> <p>22 QMark Research," or any place, they say, "I don't want</p> <p>23 any telemarketers," and they hang up.</p> <p>24 MEMBER OKAMOTO: Okay. You don't have a count</p> <p>25 of that?</p>	<p style="text-align: right;">Page 123</p> <p>1 age or older who lives in this household?" And that's</p> <p>2 what we take.</p> <p>3 MEMBER MOIKEHA: So if you didn't understand</p> <p>4 their language, did you have someone to interpret, or</p> <p>5 you just ended call?</p> <p>6 MS. ANKERSMIT: Well, I -- usually, there is</p> <p>7 somebody in -- in a household in Hawaii who can -- who</p> <p>8 can speak. We don't let our interviewers translate on</p> <p>9 the phone because every interviewer would translate</p> <p>10 differently. What I can tell you is that we have less</p> <p>11 than one-half of one percent of all the calls attempted</p> <p>12 where there was a communication issue. I mean,</p> <p>13 sometimes somebody is so hard of hearing, sometimes it's</p> <p>14 English, sometimes it's, you know, somebody who has been</p> <p>15 drinking too much, but --</p> <p>16 (Laughter.)</p> <p>17 MS. ANKERSMIT: It was less than one-half of</p> <p>18 one percent.</p> <p>19 CHAIR STONE: Thank you.</p> <p>20 Commissioner Sugimura.</p> <p>21 MEMBER SUGIMURA: Barbara, I have a question.</p> <p>22 On your introduction letter, you say that --</p> <p>23 MS. ANKERSMIT: I'm sorry, I can't -- I'm</p> <p>24 having trouble hearing you.</p> <p>25 CHAIR STONE: Could you speak up in the</p>
<p style="text-align: right;">Page 122</p> <p>1 MS. ANKERSMIT: Not that they have rejected</p> <p>2 our particular survey; they just won't talk to anybody.</p> <p>3 CHAIR STONE: Thank you.</p> <p>4 Do you have a follow-up?</p> <p>5 MEMBER OKAMOTO: Do you have any count on how</p> <p>6 many of those there were?</p> <p>7 MS. ANKERSMIT: I can see that we had a 15</p> <p>8 percent refusal rate. I don't have the number in front</p> <p>9 of me.</p> <p>10 MEMBER OKAMOTO: That's good. Thank you.</p> <p>11 MS. ANKERSMIT: But that includes the 12</p> <p>12 people who terminated mid-interview. We had only 12 out</p> <p>13 of 502 interviews that went partially through and said,</p> <p>14 "Oh, I've got a child in the bathtub, I can't stay on,"</p> <p>15 or something like that.</p> <p>16 CHAIR STONE: Thank you.</p> <p>17 Commissioner Moikeha.</p> <p>18 MEMBER MOIKEHA: When you placed the phone</p> <p>19 calls randomly through your system, it didn't matter who</p> <p>20 -- if they -- what age they were, if they could speak</p> <p>21 English or anything of that nature?</p> <p>22 MS. ANKERSMIT: Well, I sent along the</p> <p>23 complete questionnaire to you folks so that you would</p> <p>24 have it. And our interviews read just exactly as it is.</p> <p>25 And what we say is, "May I speak to someone 18 years of</p>	<p style="text-align: right;">Page 124</p> <p>1 microphone, please, Yuki?</p> <p>2 MEMBER SUGIMURA: On your letter, background</p> <p>3 and methodology, you talk about how the sampling came 50</p> <p>4 from Lanai, 50 Molokai, 52 Hana, 351 Maui, and it says</p> <p>5 exclude Hana. So what does that mean? Oh, it's because</p> <p>6 you look at Hana as a separate district.</p> <p>7 MS. ANKERSMIT: Yes. So we didn't include</p> <p>8 Hana in there. We wanted to look at those three</p> <p>9 districts because they're somewhat isolated separately.</p> <p>10 And if we had interviewed in the -- in the correct</p> <p>11 proportion, you know, proportion to population, they</p> <p>12 would have had far fewer interviews. So we set what we</p> <p>13 call a quota sampling for those three areas. And then</p> <p>14 the rest of the interviews, which turned out to be 351,</p> <p>15 were distributed in the rest of Maui. We did employ</p> <p>16 statistical weighting procedures, so when you look at</p> <p>17 the data as a whole, for the whole county, it's in the</p> <p>18 right proportion. But you still have those 50</p> <p>19 interviews in each of those three specific areas, you</p> <p>20 can look at them individually as well.</p> <p>21 MEMBER SUGIMURA: I have one more question.</p> <p>22 So on the questions that you give us, did you ask -- I</p> <p>23 don't see it -- maybe I'm just not looking at it -- did</p> <p>24 you ask if they're registered to vote or if they voted</p> <p>25 the last election?</p>

<p style="text-align: right;">Page 125</p> <p>1 MS. ANKERSMIT: Yes. That's in the  2 demographic -- that's in the demographic section. And I  3 believe 81 percent were registered to vote.  4 MEMBER SUGIMURA: Okay. Thank you.  5 CHAIR STONE: Thank you.  6 Commissioners, further questions on this  7 topic?  8 MEMBER MOIKEHA: Are we --  9 CHAIR STONE: We're going to --  10 MEMBER MOIKEHA: Are we following along?  11 CHAIR STONE: Yes.  12 Okay. So moving on to the next question.  13 What were the specific exact questions asked? I think  14 we have that in front of us.  15 MS. ANKERSMIT: That's why I sent that to you.  16 CHAIR STONE: Yes.  17 MS. ANKERSMIT: I sent you all -- we sent you  18 all of the questions, the complete questionnaire.  19 CHAIR STONE: Barbara, can you give us a  20 second just to go over those, please?  21 MS. ANKERSMIT: Yes.  22 CHAIR STONE: So if we have questions about  23 the questions.  24 MS. ANKERSMIT: Uh-huh.  25 CHAIR STONE: Sorry. It's Page 10, near the</p>	<p style="text-align: right;">Page 127</p> <p>1 CHAIR STONE: Yes, Commissioner Moikeha.  2 MEMBER MOIKEHA: Referencing that same  3 Question Number 3, there's some terms used that are --  4 some of them are in quotes, "residency, single-member  5 district voting, that like Oahu and Big Island." Was it  6 important to the surveyor to know that they understood  7 what you were talking about, and did they have to  8 initiate, "I don't know what that means, tell me what it  9 means," and what happened if they asked those questions?  10 MS. ANKERSMIT: Our interviewers are not  11 allowed to -- the reason the things are sort of those  12 quote marks is that is a key word we want to make  13 sure -- we work with our interviews on their  14 pronunciation on the delivery of the questions. And so  15 they know when there's something in quotes that it's an  16 important -- you know, want to make sure they get that  17 idea across, but they are not allowed -- if asked what  18 it means, what they are told to do is to repeat the  19 question again. And then if the people still do not  20 understand it, to put it as a don't know.  21 MEMBER MOIKEHA: So if they didn't understand  22 it, they were to circle it "no?"  23 MS. ANKERSMIT: No. They were to circle it  24 "don't know."  25 MEMBER MOIKEHA: Don't know?</p>
<p style="text-align: right;">Page 126</p> <p>1 back.  2 MEMBER WIGER: Page 10.  3 CHAIR STONE: The questions start on Page 9,  4 but the relevant questions are on Page 10.  5 MEMBER DELEON: Mr. Chair, we have a question  6 here.  7 CHAIR STONE: Sure. Go ahead, please,  8 Commissioner Okamoto.  9 MEMBER OKAMOTO: On the third question, you  10 have A, B, C, D, E, I am assuming for them to decide --  11 oh, this was simply an awareness.  12 MS. ANKERSMIT: Yes. It was just a yes, no to  13 each one.  14 MEMBER OKAMOTO: Right. Now, were those --  15 those particular statements given to you by the West  16 Maui Working Group? Or did you folks create those  17 particular --  18 MS. ANKERSMIT: Well, I think that this was a  19 working collaboration. I, of course, am not an expert  20 on all of the issues, but it was certainly left to me to  21 compose the interview and to put the questions in what  22 would be standard market research language. But they,  23 of course, gave approval of everything.  24 MEMBER OKAMOTO: Okay. Thank you.  25 MEMBER MOIKEHA: I have a question.</p>	<p style="text-align: right;">Page 128</p> <p>1 MS. ANKERSMIT: You don't see here on the  2 questionnaire. This questionnaire is the written  3 questionnaire, but we use a CATI system, Computer  4 Assisted Telephone Interviewing. So the questionnaire,  5 as you see it here in paper, is then programmed into the  6 computer. And so when the interviewer's actually  7 administering it, it's not paper and pencil, they're  8 entering the responses into the computer. That -- that  9 means -- that means that the interviewer cannot make a  10 mistake in their recording because the computer won't  11 let them if they -- if a "yes" is a "1" and a "2" is a  12 "no" and a "3" is a "don't know," they try to put in a  13 "4," the computer won't let them.  14 MEMBER MOIKEHA: Do we have in this packet a  15 tally of that question?  16 MS. ANKERSMIT: I'm sorry?  17 MEMBER MOIKEHA: -- of questions answered yes,  18 no, I don't know?  19 MS. ANKERSMIT: I'm sorry? Can you say that  20 again? I can't hear you.  21 MEMBER MOIKEHA: Do we have in our packet a  22 summary of what was "yes," "no," how many said "yes,"  23 how many said "no" on each one of the questions, and how  24 many said "I don't know?"  25 MS. ANKERSMIT: Yes, you do. You do not</p>

<p style="text-align: right;">Page 129</p> <p>1 have -- in your packet, you do not have answers to some  2 of the questions in the survey which were not relevant.  3 I mean, you know, the people who commissioned the survey  4 were doing it for, you know, many reasons. But what you  5 have in the packet that I sent is everything that was  6 relevant. And so, yes, this question that you're asking  7 about is on -- it's numbered in the survey as Number 3,  8 Page Number 3. And I think what we showed in the report  9 is just those who said "yes," not the "no," "don't  10 know."  11 MEMBER MOIKEHA: Thank you.  12 MS. ANKERSMIT: Certainly I have those  13 numbers, but this is what was -- this is pretty standard  14 procedure in a report.  15 CHAIR STONE: Okay. Very good.  16 Commissioners, further -- Commissioner Hedani.  17 VICE-CHAIR HEDANI: Barbara --  18 MS. ANKERSMIT: Yes.  19 VICE-CHAIR HEDANI: -- on Page 10, Question  20 Number 3, Question Number 3B --  21 MS. ANKERSMIT: 3B, yes.  22 VICE-CHAIR HEDANI: "This election system  23 gives voters living in less populated areas less  24 influence on who represents them."  25 MS. ANKERSMIT: Uh-huh.</p>	<p style="text-align: right;">Page 131</p> <p>1 explanation over the phone. The question was read as it  2 is. And they were asked if they were aware of it, yes  3 or no.  4 VICE-CHAIR HEDANI: Okay. Because the  5 complaint I'm dealing with is that those islands have  6 overrepresentation on the Council as opposed to  7 underrepresentation.  8 MS. ANKERSMIT: Okay.  9 CHAIR STONE: Further questions on the  10 questions?  11 Commissioner Sugimura.  12 MEMBER SUGIMURA: Barbara, this is on the  13 total number of, I guess, the respondents that answered,  14 which was 503.  15 MS. ANKERSMIT: Yes.  16 MEMBER SUGIMURA: It just so happened, then --  17 because when I first saw the information or the --  18 MS. ANKERSMIT: I'm sorry. Please -- please  19 speak up.  20 MEMBER SUGIMURA: When I first saw the sample  21 size, I thought it was by design, that there were only  22 50 people from Lanai and 50 people from Molokai, but it  23 just so happened that the breakdown happened --  24 MS. ANKERSMIT: No. No. It was by design.  25 MEMBER SUGIMURA: It was by design?</p>
<p style="text-align: right;">Page 130</p> <p>1 VICE-CHAIR HEDANI: How did you determine that  2 to be fact? Because it's stated as a list of facts.  3 MS. ANKERSMIT: I'm not sure I understand what  4 you're saying.  5 VICE-CHAIR HEDANI: How do you know that's a  6 fact?  7 MS. ANKERSMIT: Well, I think it's simple  8 arithmetic. You kind of look at what -- at the people  9 and what the percentage of the population is and the  10 fact that the representatives could live anywhere. So,  11 you know, it's sort of simple mathematics.  12 VICE-CHAIR HEDANI: I don't understand. I  13 guess you get that a lot.  14 (Laughter.)  15 VICE-CHAIR HEDANI: For instance, Molokai  16 would have a maximum influence of five percent of the  17 total vote of each of the nine Council races even if  18 everyone there voted for the same candidate?  19 MS. ANKERSMIT: Yes, because Molokai makes up  20 only five percent of the population. And if everybody  21 in Molokai voted for one single councilperson, that's  22 still what it would turn out to be.  23 VICE-CHAIR HEDANI: Okay. But that  24 explanation couldn't be given over the phone, right?  25 MS. ANKERSMIT: No, we did not give that</p>	<p style="text-align: right;">Page 132</p> <p>1 MS. ANKERSMIT: Because we -- we wouldn't have  2 enough people in those three areas to -- to have a  3 minimum number to look at. You know, every survey is a  4 balance between how much money you have and what you can  5 do. And we wanted -- they wanted to be able to look at  6 those three areas and have a feeling for trending in  7 them. And so we said 50 was really the minimum you can  8 do and quantify it. So we did do 50, which is beyond  9 the level of interviews that would have been done if it  10 was being done totally proportionate to population.  11 In Lanai -- in Maui County, Lanai only would  12 maybe get 18 or 19 interviews if you were doing it  13 totally in proportion. So that's why we did 50. So we  14 had a minimum to look at.  15 So this is a disproportionate sample. Does  16 that make sense? Do I need to explain that some more?  17 CHAIR STONE: Does that make sense?  18 COMMISSION MEMBERS: Yes.  19 CHAIR STONE: Thank you.  20 Commissioners, further questions on the  21 questions? Yes, Commissioner Okamoto.  22 MEMBER OKAMOTO: Going on to the next page, on  23 Page 4. Did I do that?  24 CHAIR STONE: Page 4.  25 MS. ANKERSMIT: 4 of the questionnaire?</p>

<p style="text-align: right;">Page 133</p> <p>1 CHAIR STONE: Of the questionnaire?</p> <p>2 MEMBER OKAMOTO: Where, your report, you have</p> <p>3 preference for County Council elections, our Page 4.</p> <p>4 CHAIR STONE: Oh, in the packet. The packet</p> <p>5 Page 4.</p> <p>6 MS. ANKERSMIT: Okay. So help me know what</p> <p>7 we're looking at.</p> <p>8 CHAIR STONE: Sorry. We just jumped around.</p> <p>9 Hang on one second.</p> <p>10 MEMBER OKAMOTO: It starts out --</p> <p>11 MS. ANKERSMIT: I don't have what you have in</p> <p>12 front of me.</p> <p>13 MEMBER OKAMOTO: Okay. It says, preference</p> <p>14 Council elections.</p> <p>15 MEMBER DELEON: QMark on the top.</p> <p>16 MEMBER OKAMOTO: And the statement at the top</p> <p>17 says, After Maui residents had a chance to familiarize</p> <p>18 themselves with this issue in the prior section, they</p> <p>19 were then asked which of the two --</p> <p>20 MS. ANKERSMIT: Okay.</p> <p>21 MEMBER OKAMOTO: Okay.</p> <p>22 MS. ANKERSMIT: I've got it.</p> <p>23 MEMBER OKAMOTO: How did they have a chance --</p> <p>24 if this is a phone interviewer and the interviewer is</p> <p>25 not explaining, how were they familiarizing themselves</p>	<p style="text-align: right;">Page 135</p> <p>1 MS. ANKERSMIT: That's of those 50 people, 58</p> <p>2 percent of them on Molokai said they would like to see</p> <p>3 single-member district voting.</p> <p>4 CHAIR STONE: 42 percent on Lanai?</p> <p>5 MS. ANKERSMIT: Yes.</p> <p>6 MEMBER OKAMOTO: But there was no way to --</p> <p>7 MS. ANKERSMIT: (Inaudible) on Lanai.</p> <p>8 MEMBER OKAMOTO: There was no way that they</p> <p>9 were told what Oahu and Big Island were doing?</p> <p>10 CHAIR STONE: I believe that was in the</p> <p>11 questions.</p> <p>12 MS. ANKERSMIT: It was in the question, yes.</p> <p>13 CHAIR STONE: Commissioner Crivello.</p> <p>14 MEMBER CRIVELLO: So did you clarify? You did</p> <p>15 not clarify, though --</p> <p>16 MS. ANKERSMIT: No.</p> <p>17 MEMBER CRIVELLO: -- because that was not part</p> <p>18 of your --</p> <p>19 MS. ANKERSMIT: Every single thing and every</p> <p>20 single question was asked just as it is in the</p> <p>21 questionnaire. The interviewers are not allowed to</p> <p>22 clarify or explain or go any further because it's very</p> <p>23 important that every respondent hear the same thing from</p> <p>24 every interviewer. Otherwise, the research is not</p> <p>25 valid.</p>
<p style="text-align: right;">Page 134</p> <p>1 with the issue?</p> <p>2 MS. ANKERSMIT: Well, I mean, I suppose you</p> <p>3 can take issue with the way I decided to report this,</p> <p>4 but, basically, what I was saying is after we read</p> <p>5 these -- these statements and asked if they're aware of</p> <p>6 each things, then they were posed the question.</p> <p>7 MEMBER OKAMOTO: Okay. So they -- you had the</p> <p>8 question, were you aware, that was first.</p> <p>9 MS. ANKERSMIT: Yes.</p> <p>10 MEMBER OKAMOTO: Then you had the question on</p> <p>11 preference?</p> <p>12 MS. ANKERSMIT: Yes.</p> <p>13 MEMBER OKAMOTO: Okay. Thank you.</p> <p>14 MS. ANKERSMIT: You can see that in the</p> <p>15 questionnaire, in the back.</p> <p>16 MEMBER OKAMOTO: Okay. Thank you.</p> <p>17 MS. ANKERSMIT: Question 4 follows the five</p> <p>18 statements in Question 3.</p> <p>19 CHAIR STONE: Looking on Page 4, Barbara --</p> <p>20 MS. ANKERSMIT: Yes.</p> <p>21 CHAIR STONE: -- under Molokai, I would like</p> <p>22 to see single-member district voting like Oahu and Big</p> <p>23 Island, 58 percent respondents?</p> <p>24 MS. ANKERSMIT: Yes.</p> <p>25 CHAIR STONE: Hmm.</p>	<p style="text-align: right;">Page 136</p> <p>1 CHAIR STONE: Was there a question asking --</p> <p>2 actually, I just answered my own question. Sorry.</p> <p>3 MEMBER SUGIMURA: Hey, Josh?</p> <p>4 CHAIR STONE: Yes.</p> <p>5 MEMBER SUGIMURA: So --</p> <p>6 CHAIR STONE: Commissioner -- sorry.</p> <p>7 Commissioner Sugimura. Sorry.</p> <p>8 MEMBER SUGIMURA: I'm sorry. I think that</p> <p>9 Barbara has done a great job providing us answers to the</p> <p>10 questions that we submitted. And if that we can study</p> <p>11 this and -- and I think it's provided me as much</p> <p>12 information. We have so much work to do, I would like</p> <p>13 us to maybe ask the last questions, but --</p> <p>14 CHAIR STONE: Commissioner Sugimura, I think,</p> <p>15 since we have her on the phone, I'd like to give the</p> <p>16 Commissioners a chance to ask what they need. So</p> <p>17 anybody else? Commissioners? Commissioner Hedani.</p> <p>18 VICE-CHAIR HEDANI: Barbara, you know, because</p> <p>19 single-member district voting has so much to do with</p> <p>20 where you live as opposed to where everybody else</p> <p>21 lives --</p> <p>22 MS. ANKERSMIT: Uh-huh.</p> <p>23 VICE-CHAIR HEDANI: -- how did you -- were you</p> <p>24 able to explain to them what single-member districts are</p> <p>25 without referring to a map of some kind?</p>

<p style="text-align: right;">Page 137</p> <p>1 MS. ANKERSMIT: We asked the question -- the  2 question was asked exactly as it is in the  3 questionnaire. And that's all that they were read.  4 VICE-CHAIR HEDANI: Okay.  5 MEMBER CRIVELLO: I have a question.  6 CHAIR STONE: Yes, Commissioner Crivello.  7 MS. ANKERSMIT: 3D.  8 MEMBER CRIVELLO: Your prefix for Molokai, as  9 you just make the dial-in, can you tell me what prefix  10 was more connected with?  11 MS. ANKERSMIT: Oh, I'm sorry, I don't have  12 that call record sheet analysis here in front of me.  13 I'd have to go back through our archives to look at  14 that. I don't have that available to me right now.  15 MEMBER CRIVELLO: Okay.  16 MS. ANKERSMIT: But the system -- the system  17 is designed so that it's called proportionately. It's  18 -- you know, you call the prefixes in the proportion  19 which they occur.  20 CHAIR STONE: Thank you.  21 Commissioners, further -- I'm just going  22 through the list. Obviously, a number of these have  23 already been answered, so --  24 MS. ANKERSMIT: And you do understand that I  25 can't answer anything about the brochure? My company</p>	<p style="text-align: right;">Page 139</p> <p>1 type, issue management, are what my firm -- I don't  2 know. I don't want to say it's what we're known for,  3 but it's one of the types of research that I'm most  4 interested in doing. And I'm very interested in doing  5 impartial (inaudible) polls. I don't do what is  6 commonly known as push polls, I won't do that. And so,  7 therefore, I keep that control over it. You get what  8 you get.  9 CHAIR STONE: I have a question, Barbara.  10 Sorry, this is Josh Stone again, Chair.  11 MS. ANKERSMIT: Uh-huh.  12 CHAIR STONE: So question, Question 15, did  13 the survey ask the households interviewed for more  14 information than was in the final report? If so, what  15 else was asked?  16 MS. ANKERSMIT: Well, you were not given the  17 entire report, but we did give you the entire  18 questionnaire. We gave you every single thing that was  19 in the report that was relevant to the issues we're  20 talking about. As you can look at the questionnaire,  21 you can see that we asked people about general issues on  22 Molokai -- I mean, on Maui, in Maui County, and some  23 other more general things. And you were not provided  24 that information as it's not relevant to the issue at  25 hand.</p>
<p style="text-align: right;">Page 138</p> <p>1 had absolutely nothing to do with the brochure, when it  2 was mailed, how many was mailed, to who it was mailed  3 to. Had nothing at all to do with that; only the  4 survey.  5 CHAIR STONE: Okay. One second. Sorry,  6 Barbara, I'm just going through our list of questions to  7 see if there is anything else.  8 MS. ANKERSMIT: It's all right.  9 MEMBER MOIKEHA: Chair, I have a question.  10 CHAIR STONE: Commissioner Moikeha.  11 MEMBER MOIKEHA: So once the -- there's raw  12 data and then there's the report. So what did your  13 group receive? Did they receive the raw data as well as  14 the final report?  15 MS. ANKERSMIT: No.  16 MEMBER MOIKEHA: They only received the final  17 report?  18 MS. ANKERSMIT: Yes.  19 MEMBER MOIKEHA: So they had no editing  20 discussion at all?  21 MS. ANKERSMIT: No. I was responsible for the  22 report.  23 MEMBER MOIKEHA: Okay.  24 MS. ANKERSMIT: Especially in an issues  25 management poll of this, those are sort -- polls of this</p>	<p style="text-align: right;">Page 140</p> <p>1 CHAIR STONE: Okay.  2 MS. ANKERSMIT: Otherwise, you have every  3 single thing that had anything at all to do with the  4 district and the voting and so forth.  5 CHAIR STONE: So, Barbara, just a last  6 clarification, QMark had no -- no interest with the  7 educational flyer that was sent out prior to this?  8 MS. ANKERSMIT: No, none whatsoever. I,  9 actually, was not aware of it until after the fact.  10 CHAIR STONE: Okay. Thank you.  11 Commissioners -- Commissioner Hedani.  12 VICE-CHAIR HEDANI: Yeah. Barbara, I'm  13 referring to Page 10 again, on question 3B -- I mean 3C.  14 MS. ANKERSMIT: Yes.  15 VICE-CHAIR HEDANI: This election system  16 allows candidates to be elected even if they are not  17 supported by the voters in the areas in which they are  18 required to reside.  19 MS. ANKERSMIT: Uh-huh.  20 VICE-CHAIR HEDANI: Was presented as fact to  21 them?  22 MS. ANKERSMIT: Well, you know, we just said,  23 "I'd like to read you a list of facts about the Maui  24 County Council elections." So to the extent that the  25 heading says, I read you a list of facts, yes, it was.</p>

<p style="text-align: right;">Page 141</p> <p>1 VICE-CHAIR HEDANI: So like in the case of  2 Molokai, the fact was that all of the voters of Molokai  3 -- or the people from Molokai were electing people that  4 may not have been supported by the people of Molokai?  5 MS. ANKERSMIT: Well, I cannot -- I cannot sit  6 here and tell you exactly how the voters of Molokai or  7 the people on Molokai interpreted that question. I can  8 just tell you it was read exactly as it's stated on this  9 paper.  10 VICE-CHAIR HEDANI: Okay.  11 CHAIR STONE: Commissioners, any further  12 questions?  13 (No Response.)  14 CHAIR STONE: Okay. Very good. Barbara,  15 thank you very much for your time. We have --  16 MS. ANKERSMIT: You're very welcome.  17 CHAIR STONE: We appreciate it. And it was  18 informative. Thank you.  19 MS. ANKERSMIT: All right. You're welcome.  20 Bye-bye.  21 COMMISSION MEMBERS: Thank you.  22 CHAIR STONE: Okay. Very good.  23 MEMBER SUGIMURA: Yeah, interesting.  24 CHAIR STONE: Okay. Moving on with our  25 agenda, Item IV-C, review and discussion on letter dated</p>	<p style="text-align: right;">Page 143</p> <p>1 Mr. Chairman and Members of the Commission.  2 The proposal Mr. Commissioner is to have three  3 districts with three councilmembers in each district,  4 residential -- I mean, three with residential area  5 assignment. So let us say, for instance, first  6 district, in the proposal, I indicated that the first  7 district would include or compose what is now the  8 Wailuku-Waihee-Waikapu residential area, the West Maui  9 residential area and the Island of Molokai. This means  10 that there will be a councilperson, a resident of  11 Wailuku, Waihee, Waikapu, there will be a councilmember  12 from West Maui -- West Maui, and the island of Lanai  13 will have one councilmember.  14 So if I were a voter in Wailuku, I will be  15 able to vote for three, three councilmembers. I will be  16 able to vote not only for the Wailuku councilmember,  17 but, also, the West Maui and Lanai. Similarly, if I  18 were a resident of Lanai, I will be able to vote for the  19 West Maui councilmember and the Wailuku councilmember.  20 CHAIR STONE: Very good.  21 Commissioner Baxa.  22 MEMBER BAXA: But Lanai will have one --  23 MR. RAMIL: That's correct.  24 MEMBER BAXA: -- councilman?  25 MR. RAMIL: Yeah, yeah. Resident of Lanai.</p>
<p style="text-align: right;">Page 142</p> <p>1 November --  2 MEMBER DELEON: Chair, lunch?  3 CHAIR STONE: Oh. You know what, I'm just a  4 workaholic. What can I say? All right. So let's --  5 yes, we can. And I'm going to give us -- I'm going to  6 give us 30 minutes to grab lunch. So I am going to call  7 a recess as of 1:22 -- 1:20, and we will get back here  8 at 1:50. Thank you very much.  9 (Recess, 1:20 p.m. to 1:55 p.m.)  10 CHAIR STONE: I would like to call this  11 meeting back to order as of 1:55 p.m. And we have a  12 requested guest that showed up lickety split, which is  13 amazing, Tony Ramil.  14 Tony, we had a question. If you could come  15 forward, please, just -- we had a question from  16 Commissioner Baxa concerning Scenario 1. So we're  17 bouncing back. I apologize to the Commissioners, but  18 we're bouncing back, since we have Tony here, and  19 Commissioner Baxa requested his presence.  20 MEMBER BAXA: Sir, it's not really a question.  21 Could you just explain exactly your proposal so that I  22 can fully understand? And I don't know about the other  23 Commissioners, if they have understood it fully, but I  24 just want it to be exactly the way I understand it.  25 MR. RAMIL: Okay. Good afternoon, again,</p>	<p style="text-align: right;">Page 144</p> <p>1 MEMBER BAXA: And the other one will have a  2 councilman?  3 MR. RAMIL: Waihee, Waikapu will have one  4 resident and West Maui will have one resident.  5 MEMBER BAXA: I think I understand it.  6 CHAIR STONE: Very good. Any further  7 clarification? Commissioner Hashimoto.  8 MEMBER HASHIMOTO: I may have missed  9 something. Does that mean that the person from Lanai or  10 Lahaina -- I mean, Molokai then would -- would run not  11 only on Molokai, but, also, in the district on Maui,  12 that --  13 MR. RAMIL: That's correct, in the case of  14 Lanai, yeah.  15 MEMBER HASHIMOTO: Okay.  16 MR. RAMIL: Will be voting with Kahului and  17 South Maui.  18 MEMBER HASHIMOTO: Uh-huh. Thank you.  19 MR. RAMIL: And I think it is -- to me, it is  20 very important. I just like to say that I already  21 mentioned last time that I think it was in 1954, when  22 the legislature -- at that time we had the Board of  23 Supervisors. It was in 1955, when the legislature  24 assigned a separate member of the board for Lanai and  25 one separate for Molokai. And I remember my review of</p>



<p style="text-align: right;">Page 145</p> <p>1 the news at that time that I think one of the reasons  2 cited, they mentioned -- they referred to Lanai and  3 Molokai as sister, sister island of Maui. And they felt  4 that, I think, it was very important to have  5 representation from this island. And the proposal is to  6 preserve that idea of Molokai and Lanai being sister  7 islands of the big island of Maui.  8 And I think just three seats would also  9 preserve the idea of a link between Lanai and Maui.  10 Because Lanai voters will be able to vote for two  11 councilmembers from Maui -- Maui. And Lanai -- I mean,  12 Molokai will be able to vote for two councilmembers on  13 Maui. So there is -- there is that link which I think  14 is very important.  15 MEMBER BAXA: Mr. Chair, can I follow?  16 CHAIR STONE: Yes. If you don't mind, I'll  17 let Commissioner DeLeon have a question.  18 MEMBER DELEON: So, Tony, I'm not totally  19 bought on the concept, but I did come up with a  20 different way of looking at this. I would suggest that  21 we change it from -- go from Kapalua down to Wailea in  22 one district. So District 1 would be Lanai, Kapalua  23 through Wailea. So there would be kind of a continuity  24 of the leeward coast. And have like two districts  25 between Lahaina and South Maui as part of that. Molokai</p>	<p style="text-align: right;">Page 147</p> <p>1 Commissioner Crivello has a question.  2 MEMBER CRIVELLO: Thank you for being here.  3 So Hana would be part of District 3 and we would have  4 three elected council people?  5 MR. RAMIL: That's correct. Hana will be  6 electing three, that would be -- they will be electing,  7 also, represent -- councilmembers from the areas Makawao  8 and Upcountry. So, similarly, the Makawao voters and  9 Upcountry voters will be voting for the Hana  10 councilmember.  11 CHAIR STONE: Tony, thank you. The Chair has  12 a quick question. In looking at a scenario, let's use  13 District 1, so Lanai, Lahaina, Wailuku, just -- just as  14 a scenario. What happens if, for example, you have,  15 say, five people running at-large, okay, five people  16 from District 1 running at-large, okay, but there's only  17 one person of the five that has Lanai residency? Would  18 he automatically win?  19 MR. RAMIL: Yes, sir. Yeah, I think -- I  20 think the setup now in the voting is that I think when  21 -- when the candidates declare their candidacy, they  22 would indicate which area they are running for. So if a  23 Lanai candidate -- Lanai candidate, they will have to  24 file as running for the Lanai residency area. So if  25 there is a Wailuku -- or, let's see, Lahaina, then he</p>
<p style="text-align: right;">Page 146</p> <p>1 has more relevance, I think, or connection to Central  2 Maui than it does to Wailea. So I would -- I would put  3 Molokai with Wailuku-Kahului, one entity. That would  4 keep -- and Wailuku-Kahului as an entity is -- it's one  5 entity now. It's really hard, when you're drawing an  6 artificial line, by separating them. So that's my -- if  7 I were to buy into this, that's the way I would see a  8 better scenario.  9 MR. RAMIL: Well, Mr. Commissioner, I think  10 the idea behind it, the basic idea here is three  11 districts, three councilmembers. So I think this is  12 like doing a jigsaw puzzle, depending upon the  13 population distribution.  14 As a matter of fact, when I was looking at  15 this material here, I was even thinking that maybe --  16 maybe when I reviewed the population district, I was  17 thinking that it might even be that I think this  18 so-called second district here could be Molokai, Kahului  19 and, I think, Makawao, Hana, instead of -- so I think --  20 I think the board -- I think Commissioners -- I believe  21 the Commission would have a lot of leeway in, I think,  22 playing around with the area so that -- but I think the  23 main idea behind the proposal is to have three  24 districts, three residency areas.  25 CHAIR STONE: Thank you, Tony.</p>	<p style="text-align: right;">Page 148</p> <p>1 will have to indicate that he is running or she is  2 running for the Lahaina residency seat.  3 CHAIR STONE: So in this scenario, you could  4 see three Lahaina candidates, for example, with one  5 Lanai resident --  6 MR. RAMIL: Right. So the Lanai resident will  7 be unopposed. We have had a lot of experience with  8 unopposed candidates from either Lanai or Molokai. I  9 think last time even.  10 CHAIR STONE: Thank you, Tony. Just a quick  11 question -- I'm sorry -- a request. Lisa, can you make  12 sure that we check on that residency legality once again  13 in reference to multiple -- like a single resident, with  14 Sherry?  15 MS. KAHUHU: Okay.  16 CHAIR STONE: We just need a letter to Sherry.  17 Just checking on the legality of that  18 particular scenario. Okay. Thank you.  19 Commissioners, any further questions?  20 (No Response.)  21 CHAIR STONE: Okay. Thank you, Tony, very  22 much for being here and taking the time. Much  23 appreciated.  24 Okay. Moving on. We are at item IV-C, review  25 and discussion on letter dated November 4, 2011, from</p>

<p style="text-align: right;">Page 149</p> <p>1 Commission Analyst Sherry P. Broder and Jon M. Van Dyke 2 regarding the applicability of Brown v. Thomson, 462 3 U.S. 835 (1983) to the manner in which districts could 4 be structured for the Maui County Council. 5 Okay. You all got that in your packages 6 before the meeting. Is there discussion on this item? 7 MEMBER SUGIMURA: I would like Sherry to 8 explain it, or Junior. 9 CHAIR STONE: Just a quick check. Lisa, when 10 is Sherry due back? I forgot. 11 MS. KAHUHU: I believe she'll be at the next 12 meeting. 13 CHAIR STONE: Next meeting? 14 MS. KAHUHU: November 28th. 15 CHAIR STONE: Yes, of course, it would be 16 beneficial to have Sherry here. I think there were some 17 kind of bottom line conclusions. And I think, just for 18 the public's understanding, the gist of it was 19 concerning -- concerning the deviation percentage in 20 population. If we are to go to a district voting 21 system, there is -- there's cases that have already been 22 used in defense or against those deviation percentages. 23 So, clearly, when we get into the discussion on district 24 voting, I think that this letter is going to be very 25 significant.</p>	<p style="text-align: right;">Page 151</p> <p>1 CHAIR STONE: We're on E, yes. All right. 2 I'm going to table the discussion on district elections 3 at this time. So we're going to start off with where we 4 left off last time. And correct me if I'm wrong, 5 Commissioners, we had gotten through our housekeeping, 6 Chapter 9, we had removed -- let's see, Number 8.1.1. 7 We had gone through Department of Police, remove from 8 Active List, micromanage. Okay. 8.12.4, we had gone 9 through and removed. So I believe that would put us on 10 to -- we discussed Chapter 15 and we moved that to this 11 meeting, but let's -- I want to continue on with the 12 list and then go back to the items that we deferred. So 13 that puts us at -- we did Cost of Government. And we 14 have the draft proposal on that. That moves on to -- is 15 that correct? You guys agree? Am I missing something 16 here that Commissioners recall. 17 MEMBER SUGIMURA: Where are you? 18 CHAIR STONE: Sorry. 19 MEMBER WIGER: Tell us where you're going to 20 start. 21 CHAIR STONE: Page 11. 22 MEMBER WIGER: Okay. 23 CHAIR STONE: And the topic I have next on our 24 list is Subject Matter - Independent Counsel for Boards 25 and Commissions. Number 8.New.3, amend proposal to</p>
<p style="text-align: right;">Page 150</p> <p>1 So if there's no further discussion, we'll 2 hold on to this as we move into those other topics. 3 (No Response.) 4 CHAIR STONE: Okay. Item D, review and 5 discussion on letter dated November 7, 2011, from 6 Commissioner Analyst Sherry P. Broder. Let me just pull 7 that out. 8 So this is just stating that there were no new 9 proposals and no new requests for legal information and 10 her opinion requiring a written response, and there were 11 four new possible Charter amendments. Anyway, you guys 12 can read the letter. Is there any discussion on this 13 letter? 14 MEMBER OKAMOTO: I've never seen it. 15 CHAIR STONE: Do you -- 16 MEMBER OKAMOTO: No. That's all right. I'm 17 sure it's here somewhere. 18 CHAIR STONE: Commissioners, any discussion? 19 (No Response.) 20 CHAIR STONE: Okay. No. Moving on. Item E, 21 review, discussion and action on active proposals for 22 substantive changes to the Maui County Charter list 23 updated as of November 7, 2011. So please pull out your 24 Active Proposal List. 25 MEMBER OKAMOTO: We're on E now?</p>	<p style="text-align: right;">Page 152</p> <p>1 create an officer of independent counsel for boards and 2 commissions, general discussion of independent counsel 3 for boards and commissions. 4 MEMBER OKAMOTO: Mr. Chair? 5 CHAIR STONE: Yes. 6 MEMBER OKAMOTO: Question for those who had 7 more experience with this. Is this the way to go, or do 8 we need to have a statement saying that the County has 9 to defend members of boards and commissions acting in 10 official capacity? I don't know which is the better way 11 to go. 12 CHAIR STONE: I'm the wrong person to ask 13 that. 14 MEMBER OKAMOTO: Okay. 15 CHAIR STONE: That would be to Sherry or maybe 16 Ed. Ed, could you help us out with that? 17 MR. KUSHI: Mr. Chair, what is the question 18 again? 19 MEMBER OKAMOTO: Should -- is it better to go 20 to create an office for independent counsel for boards 21 and commissions, or to put in the Charter that the 22 County has to defend boards and commissioners in some 23 way, so it's not left up to the Council to decide, yeah, 24 we're going to defend you on this, but not on that? 25 MR. KUSHI: Mr. Chair, Member Okamoto, I</p>

<p style="text-align: right;">Page 153</p> <p>1 believe there's two parts to that question. The first  2 question -- I mean, the first part about do we need to  3 put anything in the Charter that we need -- that we have  4 to defend boards, Commission Members, my response is,  5 no, because we -- we do it, anyway. Whenever there's a  6 litigation or lawsuit naming the board as well as  7 individual members, we always go to Council and get a  8 resolution to defend and indemnify. That is part of our  9 job. So I don't think you need to put anything in the  10 law, be it ordinance or Charter. Our office represents  11 the entire County, including the Mayor and Council and  12 Board and Commission Members.</p> <p>13 The second part is more interesting, is that I  14 believe the proposal is to create a new office, or  15 perhaps a department, made up of attorneys or -- or, I  16 guess, mainly attorneys, to represent boards and  17 commissions on commission business and not be part of  18 our office.</p> <p>19 MEMBER OKAMOTO: Oh, okay.</p> <p>20 MR. KUSHI: Because expressed or implied  21 impression of conflict, again, that may have some merits  22 to it. In our office, our procedure is to create, if  23 you may, a Chinese wall. If I'm representing the  24 department, I would not represent the board or  25 commission in charge of that department. They would</p>	<p style="text-align: right;">Page 155</p> <p>1 board?</p> <p>2 MR. KUSHI: Yes. We will still take the  3 position of defense.</p> <p>4 CHAIR STONE: I recall that there were  5 Commissioners that had an experience similar to this. I  6 just don't -- can we discuss it? Or --</p> <p>7 MEMBER MOIKEHA: Yeah.</p> <p>8 CHAIR STONE: Commissioner Moikeha.</p> <p>9 MEMBER MOIKEHA: It's public record.</p> <p>10 I'm not sure who proposed the independent, but  11 I know Frank had proposed the -- making sure that the  12 County does represent us when we're in situations  13 doing -- on boards and commissions and we're acting  14 within our authority.</p> <p>15 My personal experience was on the Planning  16 Commission, where we were sued by an applicant. And it  17 went to a federal case. I mean, it was that high of a  18 level. And it's true that the County will represent us,  19 provided we followed the counsel of our direction -- the  20 counsel of our Corp Counsel that was advising us.</p> <p>21 However, the problem came because they had to  22 take it to Council. And during of that deliberation,  23 where Council votes to indemnify you, personally and  24 professionally, there was questions by two  25 councilmembers that were trying to try the case in the</p>
<p style="text-align: right;">Page 154</p> <p>1 have another attorney, albeit in my office, our office,  2 representing -- we're in a different end. So we have  3 handled it that way.</p> <p>4 This proposal is to create a separate,  5 basically, office.</p> <p>6 MEMBER OKAMOTO: Just a follow-up question.</p> <p>7 CHAIR STONE: Go ahead.</p> <p>8 MEMBER OKAMOTO: So if you -- if the Corp  9 Counsel takes to the Council a resolution to defend,  10 say, Planning Commission, what if they say no?</p> <p>11 MR. KUSHI: You're on your own. If they say  12 no, basically, you're on your own.</p> <p>13 MEMBER OKAMOTO: And I think that's what we're  14 trying to be sure --</p> <p>15 MR. KUSHI: Again, if it's in your capacity of  16 doing commission work and -- and just the applicant  17 doesn't like the decision, too bad, you're part of the  18 County. We have to defend you.</p> <p>19 Now, if go way off board and do things that  20 are not within your scope and course of serving on the  21 board, slander, harassment, stuff like that, outside of  22 a commission meeting, then I believe, like anything  23 else, you are on your own.</p> <p>24 CHAIR STONE: Just a quick question. Couldn't  25 that be -- what if you're accused of doing something off</p>	<p style="text-align: right;">Page 156</p> <p>1 sense of were we -- the questions that we were asked  2 that led to us not accepting the applicant's position on  3 his project.</p> <p>4 And that, I think, is wrong.</p> <p>5 Now, there's a lot of ways administratively to  6 correct that. Our counsel, who advised us in this  7 lawsuit, should have been there and actively making sure  8 and working with the Chair that those are the type of  9 questions they shouldn't be asking. All they needed to  10 know was, did we follow the advice of counsel, and, if  11 we did, then we should be indemnified. But we had two  12 councilmembers who voted "no" on our indemnification.  13 That's wrong.</p> <p>14 MEMBER OKAMOTO: That is.</p> <p>15 MEMBER MOIKEHA: So I don't know if we need to  16 create something in the Charter to protect volunteers on  17 boards and commissions. And I'm not sure that's the  18 most appropriate way. But if we can alleviate -- and I  19 don't know if everything has to go to Council. I mean,  20 we may be already stuck in that place, that everything  21 like that has to go to Council. I don't know.</p> <p>22 The other issue that came from that same  23 lawsuit is that there were discussions of things that  24 came out that we found out through Executive Session  25 that could jeopardize our case. And we were advised by</p>

<p style="text-align: right;">Page 157</p> <p>1 counsel again to file an ethics complaint against a 2 certain councilmember. And we followed that, just to 3 get -- a lot of us thought, oh, it's just an 4 investigation, let's really see if there's an issue 5 here.</p> <p>6 Well, it became a very public thing. And at 7 the end of the day, three of us that showed up, because 8 we were summoned, we were told on a Tuesday that we had 9 to be to an Ethics Committee on Thursday, in this room, 10 to answer to those questions, we could not get Corp 11 Counsel down here, who was our representative, to advise 12 us on how to answer questions that came out of an 13 executive session. You know, what do you say, what 14 don't you say. It was very difficult and challenging 15 position.</p> <p>16 Finally, somebody came down. Three of us 17 testify and our chair said testify as a public person, 18 therefore, you can -- you can not have to answer the 19 questions. And that's what we did. And so when I was 20 questioned by the councilmembers' attorney, I just say, 21 I declined to answer.</p> <p>22 But it was a very, very difficult and trying 23 thing. And this costs a lot of volunteers impact in 24 their personal lives. A lot of them are individual 25 business owners. And one was trying to set up her</p>	<p style="text-align: right;">Page 159</p> <p>1 of counsel, they should be protected, legally. You 2 know, you give up a lot to serve.</p> <p>3 So that's my opinion on that.</p> <p>4 CHAIR STONE: Thank you very much.</p> <p>5 Commissioner Sugimura.</p> <p>6 MEMBER SUGIMURA: So if you look further, on 7 Page 14, it answers what Susan mentioned. I think what 8 Frank had proposed is 13.10, Proposal to amend Article 9 13, General Provisions, Section 2, Boards and 10 Commissions, to add provisions requiring the County to 11 indemnify and fund the legal representation of members 12 of boards and commissions in the event of civil action 13 as a result of the lawful events of their duties."</p> <p>14 I think I just did your job, sorry, Josh.</p> <p>15 CHAIR STONE: I really appreciate it. All 16 help is welcome. Very good.</p> <p>17 Sounds like that was the intent. So with that 18 said --</p> <p>19 MEMBER SUGIMURA: No action.</p> <p>20 MEMBER MOIKEHA: So my question would be, if 21 we did adopt that, would we still have to have approval 22 of Council to indemnify us? Would it still go through 23 that process? Maybe Ed can answer.</p> <p>24 CHAIR STONE: Ed.</p> <p>25 MR. KUSHI: If you need a Charter provision,</p>
<p style="text-align: right;">Page 158</p> <p>1 brokerage, and she had to go before the State Board to 2 answer, have you ever been sued. Well, yeah, we were in 3 the middle of a federal court. And that delayed, you 4 know, her in getting what she needed to do in her 5 personal life.</p> <p>6 So I don't know if it's an issue that has to 7 go and make it into the Charter, but I know it's a 8 problem. And I just feel that -- that we should be 9 protected.</p> <p>10 We followed counsel's advice, we should have 11 been indemnified. And we were. And there should be no 12 question about that.</p> <p>13 And this other incident that was a result of 14 it, later we found out there was a war going on between 15 this one Corp Counsel and this particular councilmember. 16 And we were being used, and that's why that happened. 17 We shouldn't have individually filed ethic complaint, we 18 should have filed one as a commission. He advised us to 19 file nine individual complaints. And to our own 20 ignorance, we did what he said.</p> <p>21 So, you know, this kind of stuff goes on all 22 the time. We may not hear of it all the time, but I 23 just think boards and -- commissioners that are 24 volunteers on these boards and commissions should be 25 protected. And as long as they are following the advice</p>	<p style="text-align: right;">Page 160</p> <p>1 are you asking?</p> <p>2 MEMBER DELEON: No. If there is a part of --</p> <p>3 CHAIR STONE: Hang on one second. One second.</p> <p>4 MEMBER DELEON: Go ahead.</p> <p>5 CHAIR STONE: Please. Commissioner DeLeon, go 6 ahead.</p> <p>7 MEMBER DELEON: If there is a Charter 8 provision that requires indemnification of boards and 9 commission members acting dutifully in their assigned 10 purpose, do they still need to have Council approval 11 even though there is a Charter amendment requiring that?</p> <p>12 MR. KUSHI: I'll respond in this manner. The 13 duty to defend is one aspect in any lawsuit. The 14 obligation or duty to indemnify is -- is another aspect. 15 And the issue of whether the person, board or commission 16 member, was acting within the scope and authority of his 17 duties is a question of fact. So, you know, it's not a 18 question of law. Once the facts are found, then you 19 have the obligation to defend and indemnify.</p> <p>20 So that being said, I can't say you will get 21 indemnity and defense automatically.</p> <p>22 Now, again, there is a concern that if the 23 majority of the councilmembers refused to pass a 24 resolution to defend or indemnify, that leaves people 25 like you out in the ocean in a small boat, and you may</p>

<p style="text-align: right;">Page 161</p> <p>1 be wrongfully accused. You have an out to hire your own  2 private counsel and defend. And we would urge the same.  3 And if that comes true, then that counsel will then ask  4 the County for a reimbursement.  5 Now, if that lawsuit proves that you in fact  6 were not acting within your scope, then that's the facts  7 of the case. So -- but you still have an alternative to  8 hire your own private counsel.  9 MEMBER MOIKEHA: Yeah, at the County's cost?  10 MR. KUSHI: Well, what if the Council refuses?  11 Again, it --  12 CHAIR STONE: Hang on.  13 MR. KUSHI: It is a legislative call at this  14 point in time.  15 MEMBER MOIKEHA: And I totally understand  16 where you're coming from. And I understand what you're  17 saying in regards to the criteria for indemnification.  18 Maybe I just don't trust the elected officials to always  19 do the right thing. They get sidetracked. And in this  20 case, they had the facts, you know, in my case. Now,  21 whether it's different in other situations or not,  22 you've got to have that criteria. And I agree with  23 that. We can't be out there going off on our tangents  24 when acting on matters that could have legal challenges.  25 So, you know, that's why we have Corp Counsel</p>	<p style="text-align: right;">Page 163</p> <p>1 MR. KUSHI: Well, this case law involved  2 historically a case of Linda Lingle v. Hokama, Lingle v.  3 somebody, or Thompson v. the County Council. Anyway,  4 there's case law saying that the County leaves you  5 defenseless, you have the right to get your own private  6 attorney, and then see where -- and defend the lawsuit.  7 But, again, we are a municipality of the  8 State. And the State, likewise, will not generally give  9 blanket indemnity.  10 MEMBER DELEON: Then it's a matter of  11 practice, then, as opposed to law?  12 MR. KUSHI: I think, in the State, it's a  13 matter of law, it's a statute.  14 MEMBER DELEON: Okay. So -- so to go back to  15 the original question, does the Charter amendment trump  16 that?  17 MR. KUSHI: If it's a matter of individual  18 county's administrative exceptions to a general state  19 law, I believe it would withstand. But I would frankly  20 tell you right now, it wouldn't be advisable.  21 MEMBER DELEON: Okay. Thank you.  22 CHAIR STONE: Yes, Commissioner Wiger.  23 MEMBER WIGER: Okay. Following -- following  24 up, then, Ed, on the discussion, I mean, if there's a  25 civil action as a result of lawful performance by the</p>
<p style="text-align: right;">Page 162</p> <p>1 here, is to advise us in the direction we should go,  2 that's within the legal parameters of our authority or  3 stewardship.  4 I didn't trust them, either, when they didn't  5 show up to defend us, which was part of the whole case,  6 too. And then you have personal issues going on, and we  7 become pawns.  8 That's the kind of stuff I don't know if  9 something like this is going to alleviate. I'm not  10 hearing a clear answer that we still wouldn't have to go  11 to Council and they still have to decide the facts. I  12 don't know who would do it, then, if it wasn't Council,  13 to decide the facts for indemnification. I don't know.  14 MEMBER DELEON: Mr. chair?  15 CHAIR STONE: Yes, Commissioner DeLeon.  16 MEMBER DELEON: The requirement to go to  17 Council, is that part of the Code, County Code, Ed?  18 MR. KUSHI: No. But it's not required.  19 MEMBER DELEON: I'm sorry?  20 MR. KUSHI: It's not part of the County Code  21 that I know. But the general rule of law, the  22 government does not blanket indemnity a defense to any  23 and all people.  24 MEMBER DELEON: Wasn't it previous the case  25 that the County used to do that?</p>	<p style="text-align: right;">Page 164</p> <p>1 members of boards and commissions, I mean, if it's  2 established that it's lawful performance. It sounds as  3 though it certainly was lawful performance in the case  4 that was just described. The issue came out to be, at  5 least the way it was described to us, somewhat messy  6 legal advice to the members of this Commission about  7 filing nine separate suits.  8 MEMBER MOIKEHA: Complaints.  9 MEMBER WIGER: Or complaints. I mean, that's  10 what it sounds like, is, okay, we could have had you  11 file one, no, let's have you file nine, and then get  12 crossways with the -- the folks on the Council. So I  13 think, in some ways, what we're struggling with is if  14 people are doing something in the lawful performance of  15 their duties, there ought not to be the option of the  16 Council to say no. It just simply should not be an  17 option, if they're doing what they're supposed to be  18 doing. Because the Council has to be held to some kind  19 of rational behavior.  20 Because you can always find somebody who is  21 going to go off -- as we say in Indian country, off the  22 reservation, and not behave the way they're supposed to  23 in the appropriate sense. So how do you -- how do you  24 manage that? I guess that's my question.  25 MR. KUSHI: Well, first of all, I agree with</p>

<p style="text-align: right;">Page 165</p> <p>1 you totally. If it's within the course and scope of 2 your authority, fine.</p> <p>3 Secondly, we have had some Indians on the 4 Council that have gone off the reservation. But, again, 5 you know, as a general rule, you know, you hope that 6 these people are rational. You hope that they would see 7 the light. You hope they would see, you know, that you 8 were just performing your duties. You would hope to see 9 that it's proven that their counsel advised them to do 10 it. And that alone, in my mind, would be cause for a 11 defense and indemnity.</p> <p>12 But, again, this is the way we have been 13 working it. Again, extreme, on the other hand, is to 14 just say we must indemnify and -- defend and indemnify 15 everybody, regardless. Everybody, anyone any way 16 connected to the complaint. That is the other extreme.</p> <p>17 CHAIR STONE: Ed, previously, you said you 18 wouldn't recommend it. When you said that, you were 19 talking about Number 13.10? That proposal that we think 20 originated from Frank?</p> <p>21 MEMBER DELEON: Right.</p> <p>22 MR. KUSHI: Yes.</p> <p>23 CHAIR STONE: And I just ask, why wouldn't you 24 recommend it?</p> <p>25 MR. KUSHI: Because of the scope, broad scope</p>	<p style="text-align: right;">Page 167</p> <p>1 idea of after-the-fact-finding. Because during the 2 fact-finding, if I am the board member that's being 3 accused, I need legal representation. And I should not 4 have to be paying for it. I think the idea is saying as 5 a result of the lawful performance.</p> <p>6 The other thing is what if that Corp Counsel 7 person didn't recommend, you know, a certain -- it may 8 not have been the right action, but maybe that person 9 didn't catch it or didn't recommend.</p> <p>10 But I really feel badly for boards that may be 11 sued because somebody doesn't like what they did, and 12 you're on your own until you have been found that you 13 were acting correctly. That's my spin on it.</p> <p>14 CHAIR STONE: Uh-huh. Commissioner Baxa.</p> <p>15 MEMBER BAXA: Yeah. I have some questions. I 16 understand that the Corporation Counsel is obligated to 17 defend members of all commissions in the performance of 18 their duties. The question, though, that I have -- and 19 I may direct this question to Mr. Kushi -- let us say 20 that the member of a commission is trying in good faith 21 to perform his or her duties, and then that commissioner 22 is being sued for some thing that he or she did, and 23 then here comes the Corporation Counsel, sorry, ma'am, 24 sorry, sir, we're not going to defend you because we 25 believe that you were not in the performance, you did</p>
<p style="text-align: right;">Page 166</p> <p>1 of it. It doesn't limit it as to -- you know, it just 2 says members of boards and commissions. It doesn't set 3 out the facts. It doesn't say whether it's within the 4 scope of their employment or authorization. It needs to 5 be more defined.</p> <p>6 But, again, I suspect, and I would -- not 7 suspect -- I would suggest if this body is thinking in 8 those terms, put in a provision in the Charter 9 summarizing the intent, provided that there is a finding 10 that boards and Commission Members were answering within 11 their scope. And set out the procedures</p> <p>12 CHAIR STONE: Commissioner Hedani.</p> <p>13 VICE-CHAIR HEDANI: You know, on the flip side 14 of this, I can see a situation where the counsel for the 15 board or commission advises the commission that what 16 you're about to do is not something that's recommended, 17 and the commission goes ahead and does it, anyway, 18 against his advice, ends up in litigation against their 19 commission because of it, and then you're stuck in a 20 situation where the County has to defend against 21 something that they advised against. So we need to be 22 careful, the wording of how we establish it.</p> <p>23 CHAIR STONE: Thank you.</p> <p>24 Commissioner Okamoto.</p> <p>25 MEMBER OKAMOTO: Well, I'm concerned about the</p>	<p style="text-align: right;">Page 168</p> <p>1 not perform your duties, you did not perform within the 2 scope of your functions and duties. And now, if I heard 3 correctly from Mr. Kushi, he said that, oh, in that 4 case, you can hire private counsel. Why are we putting 5 the burden on the commissioner to hire private counsel? 6 I do not even suspect that there will be private counsel 7 who will come immediately to my defense, when I -- in 8 the first place.</p> <p>9 I was banking, you know, when I accepted the 10 position, I was acting under good faith of the County to 11 defend me to the fullest. That is the question that I 12 have. And so you are putting me -- as a commissioner, 13 you are putting me in a very untenable precarious 14 position.</p> <p>15 Let us say I am a very poor commissioner, 16 because I am, I say, oh, Mr. Commissioner, you know, you 17 are hiring me as a private -- you are hiring me from 18 your private capacity, what are your assets, you know. 19 Do you expect a lawyer to defend me? Those are some of 20 the questions that I have. You know, I do not know. I 21 think we should really consider the Commissioners are 22 giving the time, you know.</p> <p>23 CHAIR STONE: Uh-huh.</p> <p>24 MEMBER BAXA: Even us, you know, we are out of 25 place, we run away from our other jobs, some of us do</p>

<p style="text-align: right;">Page 169</p> <p>1 not have government jobs, run away from their jobs.  2 This is public service. And, yet, when we need them to  3 defend us, they're not there. What is that?  4 CHAIR STONE: Thank you.  5 Commissioner DeLeon.  6 MEMBER DELEON: I, actually, watched the  7 commission in this room, board, the Board of Ethics,  8 fold their cards in the face of a couple attorneys  9 threatening them in a famous case not too long ago. And  10 I could see it in the commissioner's eyes, "I'm not  11 going to stick my neck that far out," because they're  12 not guaranteed they will be protected.  13 CHAIR STONE: So, Commissioners, it appears  14 that we're discussing proposal -- an upcoming proposal  15 that we obviously want to discuss further, which is  16 Number 13.10. What I would like us just to -- to focus  17 on at the moment is whether there's a need for  18 independent counsel for boards and commissions, and  19 we'll get to 13.10. So is there any discussion on that?  20 Is there any action on that?  21 MEMBER SUGIMURA: So you're -- this is -- this  22 is going back to the original proposal. And so you're  23 asking -- this would be like setting up a whole separate  24 office or department?  25 CHAIR STONE: As I recall -- I recall that</p>	<p style="text-align: right;">Page 171</p> <p>1 Procedures, Section 9-2, preparation and submission of  2 Budget and Capital Program to change from an annual  3 budget to a biennial -- oh, excuse me. I believe we've  4 already acted on this -- from an annual budget to  5 biennial budget to commence in a non-election year. As  6 I recall, I do remember seeing a draft proposal --  7 MEMBER SUGIMURA: Right.  8 MEMBER DELEON: Yes.  9 CHAIR STONE: -- already prepared.  10 MEMBER DELEON: Mr. Chair?  11 CHAIR STONE: Yes.  12 MEMBER DELEON: That was the proposal from  13 Commissioner De Rego at the -- in the last meeting.  14 CHAIR STONE: Yes. Yes.  15 MEMBER DELEON: However, it did not include  16 this part where it says -- where it differentiates  17 between the -- we did not differentiate between the  18 function of the Operating Budget and the CIP Budget.  19 CHAIR STONE: Is that in the draft -- is that  20 in the draft proposal that you're discussing?  21 MEMBER DELEON: Yeah.  22 CHAIR STONE: Because we are --  23 MEMBER DELEON: It should be, yeah.  24 CHAIR STONE: This is in our list to go over  25 the draft proposals that we already have. So that</p>
<p style="text-align: right;">Page 170</p> <p>1 this proposal came from -- from Lance Collins, yeah. I  2 recall it came from Lance Collins, and I -- and that was  3 at our Kahului meeting. So it's been there for a while.  4 MEMBER SUGIMURA: So I would not be in support  5 of this because I don't think we need to incur any  6 additional expenses for the County. And I think that we  7 have, you know, our -- our legal support already with  8 Corp Counsel.  9 CHAIR STONE: Very good. As you guys recall,  10 just to remind everybody, that what we do with our  11 proposal, we move it to the draft proposal stage. So if  12 there's no motion to move it forward it, it --  13 MEMBER SUGIMURA: It dies.  14 CHAIR STONE: It dies.  15 MEMBER DELEON: Stays on.  16 CHAIR STONE: Or it stays on. Sorry. "Dies"  17 is the wrong word. It stays on the active list and  18 doesn't move forward. So do I have a motion to move  19 this particular proposal forward?  20 (No Response.)  21 CHAIR STONE: Okay, we're moving on.  22 We are now on Page 12 of our latest Active  23 Proposal List, November 27, 2011, Active Proposal List.  24 Subject Matter - Article 9, Financial Procedures.  25 Number 9.1: Proposal to amend Article 9, Financial</p>	<p style="text-align: right;">Page 172</p> <p>1 discussion should happen at that time.  2 MEMBER DELEON: Right.  3 CHAIR STONE: So keep that in mind as we get  4 to that.  5 Hang on. Sorry. It is a little confusing  6 because, when we keep updating our list, sometimes we  7 don't mark off what we've done. So sorry about that.  8 MEMBER HASHIMOTO: So are you saying --  9 CHAIR STONE: We've already acted on this and  10 it moved to the draft proposal stage.  11 MEMBER DELEON: The only difference was it  12 didn't have these two --  13 MEMBER WIGER: CIP.  14 MEMBER DELEON: And flip out every other year.  15 CHAIR STONE: Okay. So moving on. Subject  16 Matter - Discussion on Voter-Initiated Ballot Measures.  17 Article 11, Initiative. Number 11.1, "Proposal to  18 reduce number of signatures required for initiative  19 petition. Amend Section 11-3(2), Petitions, to reduce  20 the percentage of signatures required from 20 percent to  21 10 percent of voters, and to amend the definition of  22 'voters' from those who were registered to those who  23 actually voted."  24 MEMBER SUGIMURA: Chair?  25 CHAIR STONE: Yes.</p>

<p style="text-align: right;">Page 173</p> <p>1 MEMBER SUGIMURA: So this is what I would like  2 to add to Jeff Kuwada list, when -- when we send that  3 letter to him, so --  4 CHAIR STONE: Uh-huh.  5 MEMBER SUGIMURA: -- he can talk to us about  6 it. --  7 CHAIR STONE: Yes. Very good.  8 MEMBER DELEON: Mr. Chair?  9 CHAIR STONE: Yes, Commissioner DeLeon.  10 MEMBER DELEON: I'd like to propose that we  11 change this so that it reads, "10 percent of the  12 registered voters."  13 CHAIR STONE: Uh-huh.  14 MEMBER DELEON: So we're not going down to  15 voters who voted, we're speaking with a registered  16 voter, but we're dropping that number from 20 to 10.  17 CHAIR STONE: I put in a request to Sherry  18 just asking about -- number one, my first question to  19 Sherry, which went in today, unfortunately, was, what is  20 California's average percentage. Because I see that  21 they are such an initiative-driven state, I'd like to  22 see maybe what's too low, in my opinion. Then I also  23 put in a question to Sherry asking what is Honolulu's,  24 the Big Island's and Kauai's, to get an idea of what our  25 neighbors keep their initiative levels at.</p>	<p style="text-align: right;">Page 175</p> <p>1 for us to just make that call. If you don't mind, I'd  2 like to defer this one to the next meeting, if there's  3 no objections, when we get these answers from Sherry.  4 Also, I'd like to point out, because it was  5 pointed out to me, that we have initiative, we have  6 recall, but there is no topic on referendum. And I was  7 sitting -- I was at a Kula Community Association  8 meeting, and it was mentioned to me that you need a  9 referendum if you're trying to change -- change a --  10 MEMBER SUGIMURA: Initiative.  11 CHAIR STONE: Right. Is that -- Ed, is that  12 true? Does it need to state initiative, recall and  13 referendum, or no?  14 MR. KUSHI: I don't know, Mr. Chair.  15 (Laughter.)  16 MEMBER WIGER: Okay.  17 CHAIR STONE: That's an honest answer.  18 Lisa, could we include that question to  19 Sherry, whether or not this should also refer to  20 referendum, not just initiative and recall?  21 Yes, Commissioner Hedani.  22 VICE-CHAIR HEDANI: I'm not sure, did we have  23 -- did we have a motion to change it to registered  24 voters?  25 CHAIR STONE: I don't believe -- did we have a</p>
<p style="text-align: right;">Page 174</p> <p>1 I think it's a very important topic. And the  2 voters have -- or, I'm sorry -- the public has spoken  3 pretty clearly on this one. So those are the two  4 questions I have to put forward right now to Sherry.  5 And, unfortunately, she's not here.  6 So any further discussion on this? I think --  7 I think with that said, I think we need to get some more  8 information on this before we can really do much with it  9 at this stage, just because we're randomly picking  10 numbers out of the air.  11 Commissioner Baxa.  12 MEMBER BAXA: Mr. Chair, I just would like to  13 follow up on Commissioner DeLeon's suggestion to change  14 -- to -- to remove --  15 MEMBER DELEON: Reduce.  16 MEMBER BAXA: Those who voted, yeah. To just  17 simplify it -- not simplify it, but to put it straight  18 to the number of registered -- registered voters.  19 CHAIR STONE: Uh-huh. Uh-huh.  20 MEMBER BAXA: I think it would be too much  21 harder to achieve if you put the word "voted."  22 CHAIR STONE: Uh-huh. Understood. See, this  23 is the primary question on this topic, is what is right  24 amount, where is right balance. And without that --  25 without understanding other examples, it's kind of hard</p>	<p style="text-align: right;">Page 176</p> <p>1 motion? I think it was just a suggestion. And I would  2 -- I would recommend that we defer it for the moment,  3 just to get that information.  4 Commissioners, if you have any other questions  5 on this topic, please send them in as soon as possible  6 so that Sherry can get on it and we have all the  7 information necessary for the next meeting.  8 Commissioner Hedani.  9 VICE-CHAIR HEDANI: Yeah. As a general point  10 of information, what I was wondering, if Sherry could  11 take a look at all of the draft proposals that we've  12 come up with and tell us whether it's already been voted  13 on in the past. Because like in the case of Council  14 terms going from two years to four years, it's been  15 proposed and it's been defeated three times in the past.  16 So we're going through the same issue again and again  17 and again.  18 CHAIR STONE: Okay. We will make that request  19 of Sherry.  20 MEMBER DELEON: I believe the difference  21 between --  22 CHAIR STONE: Commissioner DeLeon.  23 MEMBER DELEON: -- initiative and referendums.  24 Referendum is something like the Council would put on  25 the ballot to try to get the public's response, and it</p>



<p style="text-align: right;">Page 177</p> <p>1 would be like a majority. So it wouldn't be a  2 percentage of the voters. What an initiative does is  3 bring it to the ballot.  4 MEMBER OKAMOTO: Right.  5 MEMBER DELEON: So you've got a certain  6 percentage of X signatures on a petition to get an  7 initiative on the ballot. The same with the recall.  8 The certain percentage of X voters, residents, whatever,  9 then you would have a recall election. So you wouldn't  10 recall by -- by signing a petition. You would have an  11 election after you signed a petition.  12 CHAIR STONE: Okay. Thank you very much.  13 Very good.  14 All right. So we're going to defer that --  15 without objection, we're going to defer that Article 12  16 -- Article 11, initiative, and Article 12, recall, to  17 the next meeting.  18 MS. KAHUHU: Chair, I'm sorry to interrupt.  19 Can I just clarify what Wayne's question is for Sherry?  20 CHAIR STONE: Sure.  21 VICE-CHAIR HEDANI: The question is,  22 historically, for our proposals, has it been voted on in  23 the past.  24 MS. KAHUHU: For the Charter or the --  25 VICE-CHAIR HEDANI: Through a Charter</p>	<p style="text-align: right;">Page 179</p> <p>1 requesting is the present draft language, because it  2 could have been a different form, a different --  3 VICE-CHAIR HEDANI: I guess I'm being lazy in  4 this particular case, yeah. I could go through each one  5 of our proposals and go through all the -- going back to  6 1966, you know, the historical data that they provided  7 for us, but what I'm asking for is if the Analyst could  8 do that for us.  9 CHAIR STONE: That's not lazy, Wayne.  10 (Laughter.)  11 CHAIR STONE: Okay. Also, I'm going to defer  12 Number 14.5, proposal to reduce the number of votes  13 required for Charter amendment petition.  14 So moving forward, Subject Matter - General  15 Discussion on Boards and Commissions. Article 13,  16 General Provisions. Number 13.1, proposal to amend  17 Section 13-2(16), Subsection 17, to clarify that the 30  18 days for the Mayor to submit to the Council the name of  19 the Mayor's nominee to fill the vacancy commences upon  20 the date of informing the Council of a vacancy. I'd  21 like to open that up for discussion.  22 MEMBER DELEON: Mr. Chair?  23 CHAIR STONE: Yes, Commissioner DeLeon.  24 MEMBER DELEON: This is a recommendation of  25 the Mayor's in reference to some of the issues they're</p>
<p style="text-align: right;">Page 178</p> <p>1 amendment proposal.  2 MS. KAHUHU: Okay.  3 CHAIR STONE: Okay.  4 VICE-CHAIR HEDANI: For all drafted proposals.  5 CHAIR STONE: Sorry. Yes. To clarify, for  6 all of the draft proposals that we have going forward,  7 Wayne would like to know if those draft proposals had  8 gone to the ballot previously and if they had been  9 defeated previously. Does that make sense?  10 MR. KUSHI: Mr. Chair?  11 CHAIR STONE: Yes.  12 MR. KUSHI: I think at the last meeting,  13 Charter meeting, as a communication item, the Clerk's  14 Office did produce --  15 CHAIR STONE: Yeah, I do recall that as well.  16 MR. KUSHI: -- a whole slew of previous  17 Charter amendments.  18 CHAIR STONE: I do recall that.  19 MR. KUSHI: And it's just a matter of weeding  20 through it.  21 CHAIR STONE: Actually, that's true, Wayne, we  22 do have that information.  23 MEMBER DELEON: Well, Wayne's asking staff to  24 do that.  25 CHAIR STONE: But maybe -- but what Wayne is</p>	<p style="text-align: right;">Page 180</p> <p>1 having with trying to have clarity when they have to  2 submit names to Council so the Council will not reject  3 and then -- or take over the authority for making the  4 appointment. 13.2 is directly connected to that, and  5 much more broad in the sense that this takes away the  6 power of the Council to do the appointments.  7 CHAIR STONE: Thank you.  8 Commissioners, further discussion?  9 MEMBER SUGIMURA: Maybe --  10 CHAIR STONE: Commissioner -- I'm sorry.  11 Executive Assistant Molina.  12 MR. MOLINA: Thank you, Mr. Chairman, for the  13 promotion.  14 (Laughter.)  15 MR. MOLINA: Just to give -- expound further  16 on Commissioner DeLeon's comments, one of the reasons is  17 now that I'm in this position which Mr. DeLeon was  18 formerly in, it's currently not in the Charter, but the  19 Council, at times, will recognize the resignation when  20 the Mayor's Office receives it, whereas the current  21 administration views it like why can't we -- the 30-day  22 clock start when we inform the Council, as required by  23 Charter. So, currently, there's nothing in the Charter  24 that tells either way, you know, does the 30-day clock  25 begin when the Mayor's Office receives it or does it</p>

<p style="text-align: right;">Page 181</p> <p>1 begin when the Mayor informs the Council.  2 So at this point, the preference of the  3 Administration, obviously, would be to start it from the  4 time the Mayor informs the Council. But in my opinion,  5 as someone who is working in this position, I would just  6 like to see something that's memorialized in the Charter  7 so there's no debate between the Council and the  8 Administration as to when the 30-day clock begins.  9 CHAIR STONE: Very good.  10 Commissioner DeLeon.  11 MEMBER DELEON: And pointing out that, once  12 again, the 13.2 just gets rid of the clock.  13 CHAIR STONE: Sorry, Dave. Could you clarify  14 that?  15 MEMBER DELEON: Yeah. Mike is referring to,  16 you know, the 30-day clock. And 13.2 just gets rid of  17 the clock. It's when the Mayor gets it to the Council.  18 And then the Council can advise and consent as is  19 usually done in most jurisdictions.  20 MEMBER SUGIMURA: I have a question.  21 CHAIR STONE: Yes, Commissioner.  22 MEMBER SUGIMURA: So what if the Mayor decides  23 to notify the Council like 45 days later? I mean, how  24 soon does that happen? Why is this an issue?  25 MR. MOLINA: If I may, Mr. Chairman,</p>	<p style="text-align: right;">Page 183</p> <p>1 nominations weren't going down, and we had a number of  2 boards and commissions who were going late on -- on  3 appointees. And the Council -- I believe the Council  4 initiated this, for a Charter amendment. And it's  5 roughly the same time as the 2000 Charter amendments  6 went into affect. So that if a Mayor failed to act,  7 then the Council would act.  8 Unfortunately, this is wide open, because now  9 Council can reject and reject and reject anybody that  10 the Mayor sends down to a particular position. And  11 then, eventually, the Mayor's going to give up and the  12 Council's going to appoint. And I've actually seen that  13 happen.  14 So this is an open-ended power the Council  15 gets at this point because there's no check on who the  16 Council appoints. There's supposed to be a process of  17 check and balance. So the Mayor makes his nomination  18 and the Council does the check and advises and consent  19 and says yes or no. So there's a check between the  20 Administration and the Council.  21 When the Council takes over the authority,  22 there's no -- the Mayor doesn't get to say "no."  23 There's no -- there's no final check. And so you get  24 people appointed, and we have had people appointed, that  25 the Mayor wouldn't have appointed in boards and</p>
<p style="text-align: right;">Page 182</p> <p>1 respond --  2 CHAIR STONE: Yes, please.  3 MR. MOLINA: -- to Commissioner Sugimura's  4 question. That is certainly a good question. We  5 thought about it and we figured, why would a Mayor want  6 to do that, in the first place, and risk public  7 criticism. Because, eventually, the people that do  8 staff the boards and commissions would be, you know,  9 well informed of someone who is intent on resigning.  10 And there would be public pressure, I'm sure, on the  11 Mayor to, you know, inform the Council of the vacancy.  12 I don't believe, to my recollection, any administrator  13 or Mayor has ever done that, or would do that, but --  14 especially if, say, someone on the -- on a very  15 high-profile commission resigns, why would a Mayor want  16 to hold up that, you know, filling that vacancy or  17 inform the Council? It's really hard to figure why a  18 Mayor would want to do that.  19 MEMBER DELEON: Mr. Chair?  20 CHAIR STONE: Yes, Commissioner DeLeon.  21 MEMBER DELEON: Can I give a little history on  22 this?  23 CHAIR STONE: Yes, please.  24 MEMBER DELEON: This grew out of a problem  25 that happened during the Apana Administration, when</p>	<p style="text-align: right;">Page 184</p> <p>1 commissions. This doesn't happen frequently, but it  2 does happen.  3 And this is not a legislative power.  4 Appointments to boards and commissions are supposed to  5 be an administrative power. That's final and complete.  6 Anyplace, anywheres, any jurisdiction in the country,  7 you'll find it that way. You don't find the Council  8 with authority to take over that authority. But in this  9 case, the Council overpowered it.  10 And this is a case where we're getting a  11 weaker and weaker Mayor. It's just like the Fire  12 Commission taking over the authority of the Mayor, this  13 is another element of that, where we're supposed to have  14 a strong Mayor in this County. This is the way it's  15 lined up, it's supposed to operate. This takes away  16 another little step of power from the Mayor.  17 CHAIR STONE: So, Commissioner DeLeon, do you  18 have --  19 MEMBER DELEON: Well, I'm not --  20 CHAIR STONE: -- a modification?  21 MEMBER DELEON: -- going to make a proposal on  22 13.1. I'm going to make a proposal on 13.2.  23 CHAIR STONE: Very good.  24 And my understanding, Mr. Molina, basically,  25 what you're trying to do is define occurrence of a</p>

<p style="text-align: right;">Page 185</p> <p>1 vacancy. Is that correct?</p> <p>2 MR. MOLINA: Yes. And just have something</p> <p>3 memorialized in the Charter so -- case in point, during</p> <p>4 the last term, there were a number of nominations that</p> <p>5 were submitted late to the Council by the former Mayor.</p> <p>6 And then the Council from the previous term, basically,</p> <p>7 let it go and let the Mayor fill in those vacancies</p> <p>8 after the prescribed deadline. Now, we have a new term</p> <p>9 and a new Committee Chair of Council that's deciding</p> <p>10 that, okay, the 30-day clock now starts when the Mayor's</p> <p>11 Office receives it. So there's, then, this</p> <p>12 inconsistency, if you will, between Councils and new</p> <p>13 Administration.</p> <p>14 So it would be helpful, I think, to both, if</p> <p>15 there was something memorialized in the Charter as to</p> <p>16 exactly when the 30-day clock starts, whether it be from</p> <p>17 the time the Mayor's Office receives the resignation or</p> <p>18 when the Mayor informs the Council.</p> <p>19 And that's where I think we have some -- we've</p> <p>20 had some disagreement with the Council in terms of when</p> <p>21 the 30-day clock starts.</p> <p>22 CHAIR STONE: Uh-huh.</p> <p>23 MR. MOLINA: As it is right now, it's being</p> <p>24 recognized by the Council that the clock starts at the</p> <p>25 time the Mayor's Office receives the resignation. And</p>	<p style="text-align: right;">Page 187</p> <p>1 MR. MOLINA: Sure. Of course, that</p> <p>2 possibility could exist. That may be something worthy</p> <p>3 of consideration, Chairman Hedani, maybe extending the</p> <p>4 Mayor's clock, if you will, from 30 to maybe 45 days.</p> <p>5 That would be something to consider as well.</p> <p>6 CHAIR STONE: Thank you.</p> <p>7 MEMBER OKAMOTO: I would be more inclined to</p> <p>8 go with the 45 days. I would not be inclined to just</p> <p>9 say from the time the Mayor informs the Council, just</p> <p>10 for that reason. That, well, I sit on it and I don't</p> <p>11 inform the Council, then how do we know it's going to</p> <p>12 happen. Not saying that this particular Mayor or the</p> <p>13 next one would, but we've got to look at that overall.</p> <p>14 CHAIR STONE: Would they -- would the -- the</p> <p>15 language, the Mayor's receipt [sic] of a vacancy --</p> <p>16 receipt of vacancy. Thank you. Receipt is not a word?</p> <p>17 MEMBER WIGER: No. Sorry.</p> <p>18 CHAIR STONE: Are you sure about that? I'm</p> <p>19 going to bring my dictionary next time.</p> <p>20 (Laughter.)</p> <p>21 CHAIR STONE: Did it spellcheck receipt? Ah.</p> <p>22 (Laughter.)</p> <p>23 CHAIR STONE: Would that make more sense --</p> <p>24 MEMBER WIGER: Receipt.</p> <p>25 CHAIR STONE: -- Mr. Molina?</p>
<p style="text-align: right;">Page 186</p> <p>1 there may be times when the Mayor may want to talk to</p> <p>2 the person who is resigning to possibly stay on, which</p> <p>3 is why the Mayor would probably -- would like you to</p> <p>4 consider the 30 days starting when he informs the</p> <p>5 Council, to give him some additional time to talk to the</p> <p>6 person who is resigning, possibly talk them out of</p> <p>7 resigning.</p> <p>8 CHAIR STONE: Very good. Thank you.</p> <p>9 Commissioner Hedani.</p> <p>10 VICE-CHAIR HEDANI: This is a question for</p> <p>11 Mike. Is it difficult for the Mayor to come up with a</p> <p>12 nomination within 30-days?</p> <p>13 MR. MOLINA: It depends. Certain boards and</p> <p>14 commission can be hard.</p> <p>15 VICE-CHAIR HEDANI: Is 45 days better?</p> <p>16 MR. MOLINA: It would be nice. I guess if the</p> <p>17 Mayor is late, he doesn't meet his 30-day deadline, I</p> <p>18 believe the Council has 60 days to fill in that vacancy.</p> <p>19 I've never understood why the Council would have more</p> <p>20 time than the Mayor, but that's the way it is, I</p> <p>21 believe, currently in the Charter.</p> <p>22 VICE-CHAIR HEDANI: The problem that I have</p> <p>23 with the language as it's drafted here is that if he</p> <p>24 doesn't inform the Council, it doesn't happen. So he</p> <p>25 could go six months, if he wanted to.</p>	<p style="text-align: right;">Page 188</p> <p>1 MR. MOLINA: I think it certainly would help.</p> <p>2 And like I stated earlier, I think if -- as long as</p> <p>3 there's something memorialized in the Charter, so</p> <p>4 there's no debate, no argument between the</p> <p>5 Administration and the Council as to when -- when the</p> <p>6 clock starts. Because as it is right now, there's</p> <p>7 really nothing in there. It's just been, I guess,</p> <p>8 unofficial policy, if you will. It's changed from</p> <p>9 Councils -- every time the Council changes or the</p> <p>10 Administration changes, policies change sometimes. So I</p> <p>11 think it's -- it would be helpful if there is</p> <p>12 something -- some type of language in the Charter to add</p> <p>13 specificity to this the issue --</p> <p>14 CHAIR STONE: In that sense, that would fix</p> <p>15 both sides of it because once the termination is</p> <p>16 received, the clock starts. So the Mayor has to make</p> <p>17 his decision within a specific amount of time, and the</p> <p>18 Council can't hold back the clock.</p> <p>19 MR. MOLINA: That is correct. And I think it</p> <p>20 sounds like it would be a healthy compromise at this</p> <p>21 point.</p> <p>22 MEMBER SUGIMURA: I like the 45 days,</p> <p>23 especially since Mike said that would be better.</p> <p>24 MEMBER OKAMOTO: I move that we propose 13.1,</p> <p>25 modified, to amend the section to say that the clock</p>

<p style="text-align: right;">Page 189</p> <p>1 would start 45 days from the Mayor's receipt of a 2 vacancy. 3 CHAIR STONE: Very good. 4 VICE-CHAIR HEDANI: Second. 5 CHAIR STONE: And that's seconded. The 6 motion's put forward by Commissioner Okamoto, seconded 7 by Commissioner Hedani, to amend number -- Section 8 13-2(16), Subsection 17. 9 MEMBER SUGIMURA: Sugimura 13-1. 10 CHAIR STONE: I'm sorry? 11 MEMBER SUGIMURA: 13-1. 12 CHAIR STONE: 13 dash -- 13 MEMBER SUGIMURA: 13-2 is Subsection 16. 14 MEMBER OKAMOTO: So this would be -- 15 CHAIR STONE: Section 13-2 -- 16 MEMBER OKAMOTO: -- to send it to -- 17 CHAIR STONE: Draft. This is to send it to 18 draft proposal. 19 MEMBER OKAMOTO: Yes. 20 CHAIR STONE: Discussion? 21 MR. KUSHI: Mr. Chair? 22 CHAIR STONE: Yes. 23 MR. KUSHI: If I may, while you're in 24 discussion, having worked with Mr. Molina and the 25 Council on this round of appointments, if I could</p>	<p style="text-align: right;">Page 191</p> <p>1 removal. It's pretty easy. 2 MEMBER SUGIMURA: So what is -- so, Junior, 3 you're referring to what? 4 MR. KUSHI: Sometimes death. I mean, we don't 5 know about a death for like couple weeks, or in one 6 instance, you know. Resignation, it's really not 7 certain whether this one board member resigned or was 8 still on the island, but he wasn't -- he never appeared 9 for meetings. 10 CHAIR STONE: At some point, there has to be a 11 receipt of the information. 12 MR. KUSHI: Correct. 13 CHAIR STONE: That's what, I think, Kay's 14 proposal is suggesting, that the receipt of that 15 information starts the clock. 16 MEMBER OKAMOTO: Yeah. 17 MEMBER WIGER: And then the clock is 45. 18 CHAIR STONE: And then she's recommending -- 19 or proposal is 45 days. 20 Commissioner DeLeon. 21 MEMBER DELEON: Mr. Kushi, are you referring 22 to the County Code when you're reading that? 23 MR. KUSHI: No. I'm looking at the Subsection 24 17 of the Charter. 25 MEMBER DELEON: Oh, okay. So it's --</p>
<p style="text-align: right;">Page 190</p> <p>1 suggest some language. Right now, Subsection 17 states, 2 a vacancy on a commission or board due to death, 3 resignation or removal shall be filled as follows, 4 within 30-days of occurrence of a vacancy, the Mayor 5 shall submit the name of a Council -- or name of the 6 Mayor's nominee. 7 What Mr. Molina has said is that sometimes the 8 Mayor doesn't know of the vacancy. We don't know about 9 a death for like a couple weeks, or resignation or, you 10 know -- so, you know, the 30-day clock just states that 11 when there's a vacancy. If you could reword it such 12 that, within 30 days of the Mayor's confirmation of a 13 vacancy, the Mayor shall submit, that gives the Mayor -- 14 you know, the clock starts of the Mayor's confirmation 15 and notice. And, of course, from 30 days to 45 days. 16 CHAIR STONE: The argument against that, I 17 would believe, would be that the Mayor may not confirm 18 it. 19 MR. KUSHI: Well -- 20 MEMBER OKAMOTO: I think the receipt of 21 notification by the Mayor's Office, whether it be a 22 death notice that they received through the newspaper -- 23 CHAIR STONE: Because it could -- yeah, it 24 could take weeks to get the notice. 25 MEMBER OKAMOTO: Of the resignation or</p>	<p style="text-align: right;">Page 192</p> <p>1 MR. KUSHI: County Code is totally different. 2 There's another section on -- 3 MEMBER DELEON: Huh? 4 MR. KUSHI: There's another section on 5 vacancies of boards and commissions in the County Code. 6 MEMBER DELEON: Okay. 7 CHAIR STONE: Commissioner Baxa, we might be 8 taking action. You're not leaving the room, are you? 9 MEMBER BAXA: Oh. Yeah, I was. 10 CHAIR STONE: Commissioner Okamoto. 11 MEMBER OKAMOTO: Quick question, then. If 12 there's another section in the County Code, do they 13 conflict or are they the same? 14 MR. KUSHI: If they conflict, then the Charter 15 supercedes. Then we need to revise the County Code. 16 CHAIR STONE: Very good. Further discussion 17 on the proposal? 18 (No Response.) 19 CHAIR STONE: No. We'll take action. We'll 20 call the question. Roll call, please. 21 MEMBER MOIKEHA: What is the final wording? 22 CHAIR STONE: Final question -- it remains as 23 was -- the proposal by Kay was to amend Section 13-2 -- 24 MEMBER SUGIMURA: 16. 25 CHAIR STONE: I'm sorry. 13 dash</p>

<p style="text-align: right;">Page 193</p> <p>1 MEMBER DELEON: 13-2.  2 CHAIR STONE: No, it is 13-2 -- all those  3 noes. Have some faith.  4 (Laughter.)  5 CHAIR STONE: Subsection --  6 MEMBER SUGIMURA: 16.  7 CHAIR STONE: 16.  8 MEMBER SUGIMURA: And 17.  9 CHAIR STONE: And 17, yes. Yeah, got it. 16  10 and 17, to replace the language, occurrence of  11 vacancy -- I think that's what we're trying to replace,  12 correct? Occurrence of vacancy with the Mayor's receipt  13 of a vacancy -- the Mayor's receipt of a notification of  14 vacancy within -- then he must make a nomination within  15 45 days.  16 Ed.  17 MR. KUSHI: Again, sorry to belabor this, but  18 Subsection 16 deals with expired terms. Subsection 17  19 is the one about vacancies.  20 CHAIR STONE: That's what I was getting at.  21 MR. KUSHI: So I think the discussion is on  22 Subsection 17. Subsection 16, it speaks for itself.  23 And Administration should know when the terms are  24 expiring.  25 MEMBER DELEON: Right.</p>	<p style="text-align: right;">Page 195</p> <p>1 MS. KAHUHU: Chair Stone.  2 CHAIR STONE: Yes.  3 MS. KAHUHU: It's unanimous.  4 CHAIR STONE: So this proposal to amend  5 Section 13-2, Subsection 17 will be moved on to draft  6 proposal language.  7 Moving on, Number 13.2, proposal to remove the  8 Council's power to nominate and approve board and  9 commission members under Section 13.2-16 and 13.2-17.  10 Discussion?  11 MEMBER DELEON: Mr. Chair?  12 CHAIR STONE: Commissioner DeLeon.  13 MEMBER DELEON: I made this recommendation  14 because I think this is -- this power that currently  15 exists is inappropriate. It's an overuse of legislative  16 power. It's legislative action in an administrative  17 role. And as such, it's not appropriate.  18 CHAIR STONE: Very good.  19 Discussion? Commissioner Hedani.  20 VICE-CHAIR HEDANI: I think the language, if  21 we pursued it, should indicate to remove the Council's  22 power to nominate the boards and commission members.  23 They already have the power to approve.  24 MEMBER DELEON: Okay. Okay. Good point.  25 Yeah.</p>
<p style="text-align: right;">Page 194</p> <p>1 MR. KUSHI: And it provides a window. So if  2 they don't do it, then that's too bad.  3 MEMBER SUGIMURA: Okay. So only 17, then.  4 CHAIR STONE: I thought I had it right. So,  5 again, amend Section 13-2(17). Okay. So let's take  6 that to vote, please.  7 MS. KAHUHU: Commissioner Baxa.  8 MEMBER BAXA: Yes.  9 MS. KAHUHU: Commissioner Crivello.  10 MEMBER CRIVELLO: Yes.  11 MS. KAHUHU: Commissioner DeLeon.  12 MEMBER DELEON: Yes.  13 MS. KAHUHU: Commissioner De Rego, excused.  14 Commissioner Hashimoto.  15 MEMBER HASHIMOTO: Yes.  16 MS. KAHUHU: Commissioner Hedani.  17 VICE-CHAIR HEDANI: Yes.  18 MS. KAHUHU: Commissioner Moikeha.  19 MEMBER MOIKEHA: Yes.  20 MS. KAHUHU: Commissioner Okamoto.  21 MEMBER OKAMOTO: Yes.  22 MS. KAHUHU: Commissioner Sugimura.  23 MEMBER SUGIMURA: Yes.  24 MS. KAHUHU: Commissioner Wiger.  25 MEMBER WIGER: Yes.</p>	<p style="text-align: right;">Page 196</p> <p>1 MEMBER OKAMOTO: Is there a motion?  2 CHAIR STONE: Not yet.  3 MEMBER DELEON: I'll make the motion to  4 approve.  5 CHAIR STONE: There's a motion on the floor.  6 Is there a second?  7 MEMBER WIGER: Yes.  8 CHAIR STONE: Commissioner Wiger seconds that  9 motion.  10 MEMBER CRIVELLO: Can you -- can you say what  11 the motion is, please?  12 CHAIR STONE: Sure. The motion on the floor  13 is a proposal to remove the Council's power to nominate  14 board and commission members under Sections 13.2-16 and  15 13.2-17. Okay. That's correct. I removed "and  16 approve," right?  17 MEMBER DELEON: Yeah.  18 CHAIR STONE: Discussion?  19 MEMBER DELEON: I already made my points.  20 MEMBER OKAMOTO: I'll be voting against that.  21 The reason being that, if the Mayor does not, you know,  22 appoint people, then boards and commissions could really  23 end up not being able to function. And I do agree that  24 most mayors wouldn't do that and, in most cases, it  25 wouldn't happen.</p>

<p style="text-align: right;">Page 197</p> <p>1 I think the ones I would see most might be in  2 the Police and Fire Commission. And if the Mayor felt  3 like, well, if I don't appoint the, you know, additional  4 members, then those boards couldn't function and I take  5 over that function.  6 Like I say, I'm not saying that any current  7 Mayor or any past Mayor has done that, but I think that  8 there needs to be a way if the Mayor doesn't appoint  9 people that somebody does.  10 CHAIR STONE: Thank you.  11 Commissioners, further discussion?  12 MEMBER DELEON: Mr. Chair?  13 CHAIR STONE: Commissioner DeLeon.  14 MEMBER DELEON: Basically, in response to  15 Kay's honest concern about this, I mean, you're looking  16 for balance in government and good structure. And,  17 yeah, I mean, this is -- this is -- it's not like the  18 Council uses its power whenever it has that opportunity.  19 When there's a Mayor that the Council likes and doesn't  20 have a problem with the fact that -- for instance, the  21 -- the Hana member on the -- on the Maui Planning  22 Commission was missing in action for eight months.  23 There was a vacancy on the Planning Commission for eight  24 months. And there was no effort to refill it. There  25 was no action on the Council because that Mayor was in</p>	<p style="text-align: right;">Page 199</p> <p>1 don't want that person on the Planning Commission  2 because such, such, such, such.  3 I think it allows more transparency. So I  4 would like to keep not so much the Council's power, but  5 the balance that comes with the Council.  6 CHAIR STONE: Thank you.  7 Commissioners, further discussion? Okay. We  8 have a vote on the table. We're going to take a -- oh,  9 Commissioner Wiger, did you have something to say?  10 MEMBER WIGER: Oh, no. No.  11 CHAIR STONE: Take this to vote. Roll call,  12 please.  13 MS. KAHUHU: Commissioner Wiger.  14 MEMBER WIGER: Yes.  15 MS. KAHUHU: Commissioner Sugimura.  16 MEMBER SUGIMURA: No.  17 MS. KAHUHU: Commissioner Okamoto.  18 MEMBER OKAMOTO: No.  19 MS. KAHUHU: Commissioner Moikeha.  20 MEMBER MOIKEHA: No.  21 MS. KAHUHU: Commissioner Hashimoto.  22 MEMBER HASHIMOTO: No.  23 MS. KAHUHU: Commissioner Hedani.  24 VICE-CHAIR HEDANI: Yes.  25 MS. KAHUHU: Commissioner DeLeon.</p>
<p style="text-align: right;">Page 198</p> <p>1 good standing with the Council at the time.  2 I don't want to go into specifics, but, I  3 mean, it's something -- it's a power that the Council  4 chooses to use or doesn't use, doesn't necessarily yeah.  5 So if it agrees -- if it, for instance, agreed that  6 let's not have members on the Fire or Police Commission,  7 then they'll still be unpopulated, if they're in  8 collusion on the thing.  9 My point is, this is an unbalanced power. The  10 Council has the final say. If they want to eliminate or  11 hold back people, they can. And it's not -- the  12 American form of government is advise and consent, and  13 it's supposed to be balanced out, supposed to be a  14 balance between the legislative and the administrative.  15 And this is one role that's not balanced at all.  16 CHAIR STONE: Commissioner Crivello.  17 MEMBER CRIVELLO: I like the balance of having  18 Council, you know, do the check and balance with the  19 nominees. And if there's failure to nominate, then they  20 can step in.  21 I think there are commissions and advisory  22 councils on the State level that goes through Senate  23 committees for approval. So I think, likewise, it gives  24 the public an opportunity to know who is being  25 appointed, and if they can chime in to say, yea, nay, I</p>	<p style="text-align: right;">Page 200</p> <p>1 MEMBER DELEON: Yes.  2 MS. KAHUHU: Commissioner De Rego, excused.  3 Commissioner Crivello.  4 MEMBER CRIVELLO: No.  5 MS. KAHUHU: Commissioner Baxa.  6 MEMBER BAXA: No.  7 MS. KAHUHU: Chair Stone.  8 CHAIR STONE: Yes.  9 MS. KAHUHU: Six "no." Motion fails.  10 CHAIR STONE: Very good.  11 Moving on. Proposal Number 13.3, "Proposal to  12 require interactive communications access for the public  13 to all County public meetings and the County  14 departments. Amend Article 13, General Provisions, to  15 add had a new section to require interactive  16 communication access for the public to all County public  17 meetings and the County departments."  18 Discussion? Commissioner DeLeon.  19 MEMBER DELEON: I think it was pointed out in  20 the testimony, I think it was Dick Mayer pointed out  21 this is too broad, and we need to narrow it down. We do  22 definitely need to be able to reach out to Lanai,  23 Molokai and Hana, so they can be participating in  24 realtime with County Council or Planning Commission or  25 whatever, but only the really very important boards</p>

<p style="text-align: right;">Page 201</p> <p>1 because we're talking about an expensive proposition  2 here. So I will say with the Council and some of these  3 other -- most of these other boards, I think, should  4 have Molokai and Lanai members on them. I mean, that's  5 the way they should be covered, like everybody else. So  6 my thought is a more narrow scope on this will work.  7 CHAIR STONE: Shall we work on definition,  8 then, of that scope? Commissioner Okamoto.  9 MEMBER OKAMOTO: I'm opposed to putting it in  10 the Charter at all. I think that we should work toward  11 it, but it's, obviously, a financial issue, that it  12 would be nice if the Council would put money into  13 starting it up. But I don't know that putting it in the  14 -- in the Charter at this time is appropriate.  15 CHAIR STONE: Thank you.  16 Commissioners, further discussion?  17 Commissioner Hedani.  18 VICE-CHAIR HEDANI: I agree with Kay. I think  19 this is something that probably could be handled  20 administratively. I don't know, maybe the Commission  21 can come up with a list of recommendations that aren't  22 included in the ballot, but to go forward for  23 consideration.  24 CHAIR STONE: Thank you.  25 Commissioners, further discussion?</p>	<p style="text-align: right;">Page 203</p> <p>1 CHAIR STONE: In your microphone, please.  2 MEMBER BAXA: Oh, I'm sorry, Mr. Chair.  3 In my own mind, that's where the problem  4 comes, because it says interactive communication. I  5 don't know scope of the interactive communications. And  6 as Commissioner Okamoto pointed it out, you know, for  7 me, the more interactive communication that I have with  8 my councilman is about seeing them, talking to them, you  9 know, writing them. So I think (inaudible).  10 CHAIR STONE: Very good.  11 Commissioner Wiger.  12 MEMBER WIGER: I'm sure that this came up  13 during the time I was away, which is why I apologize for  14 asking the question now. Do we have a real good handle  15 on the discussion that talks about what do we mean in  16 terms of interactive communication? Have we had any --  17 has there been any kind of cost analysis? Any kind of  18 analysis about what we are talking about?  19 I mean, I'm just thinking about the things  20 that we did at the college with outreach. And if we had  21 waited -- I mean, thank heavens the faculty and the  22 administration worked collaboratively and pushed and  23 pushed and pushed, which is why Maui Community College,  24 now Maui College, was one of the first leading  25 institutions in the country to do outreach over</p>
<p style="text-align: right;">Page 202</p> <p>1 (No Response.)  2 CHAIR STONE: I'll chime in on this one. We  3 heard from some of our outreaching areas that this would  4 be a very helpful useful tool. And I think that  5 sometimes you need to push the Council into making  6 things happen. Left to the Council, especially during  7 times of budget crisis, they won't just enact it or  8 won't act on it. So I think it's our opportunity to get  9 this issue pushed forward. My opinion.  10 MEMBER OKAMOTO: Just one other issue. As far  11 as from Lanai, I can see that -- people saying, well,  12 we'll never see the councilmembers again because then  13 they won't have to come because they'll just put us on  14 the TV screen. And it's not the same as having  15 individual contact. I think we definitely want to be  16 able to testify at Council hearings, I think everybody,  17 being able to testify at these kind of meetings, but  18 people also want that -- having them come and see what's  19 going on, on their island or in their area.  20 CHAIR STONE: Would it be worth defining that,  21 Commissioner Okamoto?  22 MEMBER OKAMOTO: I'm not sure.  23 CHAIR STONE: Commissioner Baxa.  24 MEMBER BAXA: Yeah, Mr. Chair. That's where  25 the problem comes to me.</p>	<p style="text-align: right;">Page 204</p> <p>1 television, I mean one of the first, way back in the  2 late sixties and early seventies.  3 So I'm just wondering if there was a lot of  4 discussion about what are we talking about when we say  5 interactive communication, are we -- where would the  6 facilities be, how much would it cost, all those kinds  7 of things. Because you can get a lot of interactive  8 communication in terms of an online process. And  9 there's a variety of online processes, one of which is  10 the visual and doing that.  11 So I'm just wondering if there was information  12 that came forth on that or --  13 CHAIR STONE: Thank you.  14 Commissioner DeLeon.  15 MEMBER DELEON: I think it can be simple as  16 the type of communication we had this afternoon with the  17 lady from QMark here. There's a give and take, it's a  18 verbal conversation. Somebody doesn't have to fly or  19 get on a boat to participate in the Council meeting.  20 There's a budget session going on, and you are more than  21 likely not to see a councilmember during that session.  22 They're talking about it's a one-shot deal about how  23 it's going to affect your property taxes, you might want  24 to have an impact, you might want to be able to jump on  25 it.</p>

<p style="text-align: right;">Page 205</p> <p>1 I'm really surprised that the members from 2 Molokai, Lanai and Hana and aren't really jumping in 3 support of this because it's about you guys. It's not 4 about the guys that live in Central. 5 MEMBER OKAMOTO: Well, two things. I'm not 6 saying we shouldn't do it; I'm saying I don't think it 7 goes in the Charter. But there is, also, a difference 8 of when you have a group of council people, or it could 9 be a commission, come and you see them face-to-face. 10 When you're on this, you don't know that half the people 11 aren't sitting there going, oh, my gosh, not him again, 12 because you can't see them. Or if you see them, you're 13 seeing one on one, but you don't know what else is going 14 on in the background. That's a vital part. And that 15 really -- 16 I have sat in on meetings at the college. We 17 have RGP meetings every quarter. You see one person who 18 is talking, sometimes you see half their face, sometimes 19 you don't even see half. And so it really, you know, 20 until it's -- I think it's a great go-forward, but I 21 don't think it's a Charter amendment. 22 CHAIR STONE: Thank you. 23 Commissioner Sugimura. 24 MEMBER SUGIMURA: So I just want to add -- and 25 I don't think it's a Charter amendment, either, but I do</p>	<p style="text-align: right;">Page 207</p> <p>1 I think, several years ago, the County tried 2 to do that from our -- our community center. And it -- 3 they just couldn't get it working right. So whether or 4 not technology has improved at the different locations 5 that we have, I'm not sure. 6 But I think there needs to be more research 7 and have the cost analysis and make it real. I'd like 8 to see it happen. I think it will just make more sense 9 for the outlying districts. But I don't think it's 10 something that the Charter can be the one to direct it 11 without having all of the homework done. 12 CHAIR STONE: Thank you. 13 Commissioner DeLeon. 14 MEMBER DELEON: I just want to back up what 15 the Chair was saying. We wouldn't have a bus service if 16 the voters didn't put in a Department of Transportation. 17 It was not happening. There was not going to be a bus 18 service in this county. And it was too expensive, it 19 was too impossible. And the County was never going to 20 do it until the voters put in a Department of 21 Transportation. And then we had something -- then we 22 had something that had to happen, the Mayor had 23 something to hook on to, to make it work. 24 I mean, it's the same -- there was no -- no 25 confusion about what the voters meant. I think this is</p>
<p style="text-align: right;">Page 206</p> <p>1 think -- I do know that from my experience of working 2 with the community that Akaku, like our friends here, 3 they televise so many of the important Council meetings. 4 So if I want to see what's going on, all I got to do is 5 turn on my TV. And that's how I'm going to get 6 communication that's better than -- and I have been 7 sitting in conference calls and you sit there and you 8 listen and you cannot hear half and there's somebody 9 grabbing paper. There's just a lot of things that make 10 it very irritating. Although, that's not the kind of 11 communication we're talking about. But I think that 12 there are already options out there that are very, very 13 effective that we don't need to put in the Charter. 14 CHAIR STONE: Commissioner Crivello. 15 MEMBER CRIVELLO: I like the opportunity that 16 we will be able to have some sort of technology to -- to 17 have the interactive, you know, cost of airfare, or even 18 the ferry, to come over and have the face-to-face with 19 your policymakers is -- is quite expensive. However, I 20 want to be realistic. For Molokai, where would they do 21 it? I mean, you know -- 22 And I cannot see putting something in a 23 Charter if we know we cannot implement it and/or is 24 there -- will there be a time. Will we be the one to 25 actually direct the cost involved?</p>	<p style="text-align: right;">Page 208</p> <p>1 what drives these kind of things. 2 And you have to take -- we don't have 3 initiatives and referendums in this county. We don't. 4 The voters can't go out and tell the County that they 5 want something to happen. This is the way -- this is 6 one way that can happen. And I think it's an 7 appropriate place because it puts it in the Charter, it 8 means that that's a legitimate form of communication in 9 those meetings. 10 CHAIR STONE: Thank you. 11 I have a comment. In response to what Yuki 12 was saying -- Yuki, what you were discussing was 13 informational, you know, interaction. What we're 14 discussing here is whether somebody wants to testify, 15 for example, in front of the Council. At the moment, 16 the only way for an outreaching citizen to testify is to 17 get on a boat or a plane, spend all that money to come 18 over here and stand in front of Council to testify. 19 And, to me, technology has gotten to a stage where we 20 can easily, easily resolve this issue. 21 I remind you that there's a transitional 22 provision in our Charter, Article 15, that allows for a 23 Charter amendment to go through and there's a 24 transitional period to make sure that everything works. 25 I think to -- to hold back is simply going to push back.</p>



<p style="text-align: right;">Page 209</p> <p>1 And I think this is a good opportunity to really make 2 this happen. 3 And we heard from our outlying areas. And the 4 number of people from the outlying areas thought this 5 was a very good idea. Just my take. 6 Any further discussion? 7 MEMBER OKAMOTO: Can we get bus service on 8 Lanai, then? 9 (Laughter.) 10 CHAIR STONE: Well, if you could talk to the 11 Council. 12 (Laughter.) 13 CHAIR STONE: I don't know. Did we have a 14 motion put forth? 15 MEMBER HASHIMOTO: We have a road to Hana and 16 we don't have any. 17 MEMBER DELEON: I don't believe so. 18 CHAIR STONE: So would that -- enough has been 19 said, I think. Is there a motion to put this forward? 20 MEMBER DELEON: Okay. I'll be the second. 21 CHAIR STONE: Cliff's put the motion forward. 22 MEMBER DELEON: Second. 23 CHAIR STONE: And it's been seconded by 24 Commissioner DeLeon to move the Proposal Number 13.3, 25 proposal to require interactive communications access</p>	<p style="text-align: right;">Page 211</p> <p>1 a question. 2 VICE-CHAIR HEDANI: All Council meetings means 3 all Council Meetings of the Whole or all Council 4 meetings like Committee -- 5 MEMBER OKAMOTO: Committee meetings. 6 MEMBER DELEON: Well, let's parse that down. 7 I would say -- they have staff, so -- and it doesn't 8 mean that every -- every meeting will draw some kind of 9 participation from the -- from the neighbor islands or 10 from Hana. It don't necessarily mean you're going to 11 have staff -- they have staff at each one of those 12 communities, that staff can run whatever facility is 13 necessary to do this. I mean, technology is getting to 14 the point where it's like a Skype operation or something 15 like that, you just jump on and get in front of a 16 computer and you do it. I mean -- so I don't see what 17 the big complication is. I would say both the Council 18 and committee meetings. 19 CHAIR STONE: So are you amending your 20 amendment? 21 MEMBER DELEON: Well, it was asked to be 22 refined, so, yes, I would say that would mean both 23 Council and Council meetings -- 24 MEMBER OKAMOTO: Council committee -- 25 CHAIR STONE: Council committee meetings.</p>
<p style="text-align: right;">Page 210</p> <p>1 for the public" -- well, to all County public meetings, 2 yes, and to County departments. Discussion? 3 MEMBER DELEON: Chair? 4 CHAIR STONE: Yes, please, Commissioner 5 DeLeon. 6 MEMBER DELEON: Move to amend to Council 7 meetings -- let's just say Council meetings for the time 8 being. 9 CHAIR STONE: Okay. There is a motion to 10 amend this proposal. 11 VICE-CHAIR HEDANI: Second. 12 CHAIR STONE: It's been seconded by 13 Commissioner Hedani to amend the proposal to require 14 interactive communications and access for the public to 15 all Council meetings. 16 All in favor? Or do we have discussion on that 17 amendment? Sorry. 18 CHAIR STONE: No. We'll do this by a show of 19 hands. All in favor, say "aye." 20 (A chorus of ayes.) 21 CHAIR STONE: This is on the amendment. 22 MEMBER OKAMOTO: Show of hands, "aye." 23 MEMBER MOIKEHA: On the amendment. 24 VICE-CHAIR HEDANI: Just a question. 25 CHAIR STONE: Sorry. Commissioner Hedani had</p>	<p style="text-align: right;">Page 212</p> <p>1 Wayne, do you second that? 2 VICE-CHAIR HEDANI: Yeah. 3 CHAIR STONE: Discussion? 4 (No Response.) 5 CHAIR STONE: All in favor of amending the 6 motion, say "aye." 7 (A chorus of ayes.) 8 CHAIR STONE: All opposed? 9 (No response.) 10 CHAIR STONE: Okay. So the motion is amended. 11 Now, we have a motion on the floor. Has that motion 12 been seconded? 13 MEMBER DELEON: Yes. 14 CHAIR STONE: Okay. We have a motion on the 15 floor, and it's been seconded, to take Proposal Number 16 13.3 to the draft language stage, which reads, proposal 17 to require interactive communications access for the 18 public to all Council and committee -- Council committee 19 meetings. Any further discussion on that? 20 MEMBER OKAMOTO: The two County departments is 21 not in there anymore? 22 MEMBER DELEON: No. 23 CHAIR STONE: Further discussion? 24 (No Response.) 25 VICE-CHAIR HEDANI: Call for the question.</p>

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<p>1 CHAIR STONE: Let's take -- let's call for the 2 question. Let's go to roll call, please. 3 MS. KAHUHU: Commissioner Baxa. 4 MEMBER BAXA: Yes. 5 MS. KAHUHU: Commissioner Crivello. 6 MEMBER CRIVELLO: Yes. 7 MS. KAHUHU: Commissioner DeLeon. 8 MEMBER DELEON: Yes. 9 MS. KAHUHU: Commissioner De Rego, excused. 10 Commissioner Hashimoto. 11 MEMBER HASHIMOTO: Yes. 12 MS. KAHUHU: Commissioner Hedani. 13 VICE-CHAIR HEDANI: Yes. 14 MS. KAHUHU: Commissioner Moikeha. 15 MEMBER MOIKEHA: Yes. 16 MS. KAHUHU: Commissioner Okamoto. 17 MEMBER OKAMOTO: Yes. 18 MS. KAHUHU: Commissioner Sugimura. 19 MEMBER SUGIMURA: Yes. 20 MS. KAHUHU: Commissioner Wiger. 21 MEMBER WIGER: Yes. 22 MS. KAHUHU: Chair Stone. 23 CHAIR STONE: Yes. 24 MS. KAHUHU: The motion passes, unanimous. 25 CHAIR STONE: Very good. Motion passes.</p>	<p>1 So Proposal Number 13.4, "Proposal to add a 2 new paragraph to require that all County boards and 3 commissions post on the County website, one, the minutes 4 of any public meeting or hearing within a certain number 5 of days after the meeting, and, two, any and all 6 internal policies of all departments." 7 Discussion? Commission Moikeha. 8 MEMBER MOIKEHA: They already do this. And I 9 don't see we can make boards and commissions post 10 minutes that haven't been approved. There's a reason 11 for approval. They need to be reviewed and they need to 12 be approved by the body that it pertains to. In my 13 experience, all of these things are being posted. So 14 unless I miss something here, I'm not going to support 15 this moving on to a draft proposal. 16 CHAIR STONE: Thank you. 17 Commissioners, any further discussion? 18 MEMBER DELEON: Mr. Chair, point of order. Do 19 we need to make a motion on these or -- 20 CHAIR STONE: No. We're having discussion. 21 And the way that this would work is if somebody wants it 22 to move forward to draft language, they would put 23 forward a motion; if no motion's made, we move on. 24 Any further discussion? 25 (No Response.)</p>
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<p>1 Proposal Number 13.3, as amended, will go to the draft 2 language stage. 3 Moving on to 13.4. 4 MEMBER MOIKEHA: Chair, I have a motion on 5 13.4. 6 CHAIR STONE: You're not going to let me read 7 it first? 8 MEMBER MOIKEHA: No. 9 (Laughter.) 10 MEMBER OKAMOTO: We all know how to read. 11 CHAIR STONE: It's for the public. 12 MEMBER MOIKEHA: Okay. Read it for them. 13 CHAIR STONE: It's not for us. 14 MEMBER MOIKEHA: Okay. 15 CHAIR STONE: Some people aren't holding this 16 piece of paper in front of them. We have a motion, a 17 motion to move to draft stage Proposal Number 13.4 -- 18 MEMBER MOIKEHA: No. No, it's not a motion 19 for draft stage. 20 CHAIR STONE: Okay. Sorry. 21 MEMBER MOIKEHA: It's to get rid of it. 22 CHAIR STONE: Oh. You don't have to make a 23 motion to get rid of it. Okay. Order. (Gavel.) I'm 24 calling order on myself. (Gavel.) Order. I forgot my 25 gavel in my surf trunks.</p>	<p>1 CHAIR STONE: Okay, no motion made. 2 Moving forward. Proposal Number 13.5 -- and, 3 Susan, do you mind if I read this? 4 MEMBER MOIKEHA: Not at all. It's repetitive, 5 though. 6 CHAIR STONE: "Proposal to amend Article 13, 7 General Provisions, to create a new section to require 8 telecommunication access for Hana, Lanai and Molokai 9 residents to all County public hearings." I believe we 10 just did that. 11 MEMBER OKAMOTO: Wait. No. I, actually, like 12 the wording on this one better; however, I think it 13 needs not necessarily to say Hana, Lanai and Molokai. I 14 think people in Lahaina may have the same issues, you 15 know, they don't have a chance to drive over for a 16 meeting. But there's something -- I just like the 17 wording on this one better. So maybe if they could just 18 put together something. 19 CHAIR STONE: Okay. And, remember, when we go 20 to draft language, it's just that draft. We will have 21 the ability to alter the draft language as much as we 22 need. 23 MEMBER OKAMOTO: So if we can have her put 24 those two together. 25 CHAIR STONE: Very good. Thank you.</p>

<p style="text-align: right;">Page 217</p> <p>1 Moving forward to Proposal Number 13.6,  2 "Proposal to amend Article 13, General Provisions, to  3 create a new section to establish a blue ribbon  4 committee to make recommendations to the Mayor for the  5 appointments to boards and commissions." Discussion?  6 MEMBER DELEON: Mr. Chair?  7 CHAIR STONE: Yes, Commissioner DeLeon.  8 MEMBER DELEON: Actually, (inaudible) the  9 prototype for what this is built on. And it worked  10 really well, but I really think boards and commissions  11 appointments is a subject that the Mayor should have the  12 authority to do in any form that they want. It doesn't  13 need to be in the Charter. I'm not going to make any  14 recommendation for it.  15 CHAIR STONE: Okay. Further discussion?  16 (No Response.)  17 CHAIR STONE: No further discussion, no  18 motion.  19 Okay. Moving forward. Proposal Number 13.7,  20 "Proposal to amend Article 13, General Provisions, to  21 add a new section entitled 'Reports' to make available  22 all reports required by Charter, Code or ordinance to be  23 posted and available to the public at no cost."  24 Discussion?  25 MEMBER SUGIMURA: Isn't it online already at</p>	<p style="text-align: right;">Page 219</p> <p>1 we have the ability to charge for copies.  2 Now, are you talking about just freebies?  3 CHAIR STONE: Online, you don't charge,  4 though?  5 MR. KUSHI: Well --  6 MEMBER DELEON: That's not saying online,  7 though.  8 MEMBER WIGER: To clarify my question,  9 Mr. Chair, I would like to know if it is -- following up  10 on Commissioner Sugimura's comment, if it is -- if  11 they're all online, then if somebody wants to download  12 it, they can go ahead and download it, pay their own  13 printing costs. That's sort of where I'm at with it.  14 It would -- I would want them to all be online. That's  15 where I'm going as my final goal here. So if we could  16 just find out if they're all online, please. Thank you.  17 CHAIR STONE: Okay. So that would be a  18 question --  19 MEMBER WIGER: For somebody.  20 CHAIR STONE: -- that I will figure out who to  21 ask.  22 MEMBER WIGER: Okay.  23 MS. KAHUHU: Chair? Sorry to interrupt. Can  24 we get some clarification on what all those reports are,  25 Charter, Code and ordinance?</p>
<p style="text-align: right;">Page 218</p> <p>1 no cost?  2 CHAIR STONE: Commissioner Sugimura.  3 MEMBER SUGIMURA: Yes. Sorry. I think it's  4 already online, available online, so -- at no cost, I  5 mean, if you download it.  6 CHAIR STONE: Very good. I'm not sure if all  7 of it's online. I'm not sure.  8 Is there any further discussion on this  9 proposal? Commissioner Wiger.  10 MEMBER WIGER: Could we find out if it's  11 online? Could we --  12 CHAIR STONE: Yes.  13 MEMBER WIGER: Could someone tell us if they  14 all are online? It seems to me they should be if  15 they're not. But if we could find out, that would be  16 helpful.  17 CHAIR STONE: Let me ask Corp Counsel. Ed,  18 who would we discuss that with?  19 MR. KUSHI: Whoever is in charge of our  20 website, I guess.  21 You know, the other comment I had, you know --  22 you guys should slow down on this. It says, available  23 to the public at no cost. Sunshine Law, specifically  24 access to public records requires us to produce  25 documents when requested unless they are exempted, but</p>	<p style="text-align: right;">Page 220</p> <p>1 MEMBER DELEON: Mr. Chair, what's the point?  2 CHAIR STONE: Hang on one second.  3 MEMBER DELEON: My point is, I don't think  4 anybody knows what all the reports are. There's no one  5 repository or any one place where everything is. I  6 don't think there's a administer of records that has --  7 some of it's in the Clerk's Office, some of it's in the  8 Council, some of it is different boards and commissions,  9 where all their reports are, and add infinite [sic].  10 So, I mean, there's no all -- I don't think that it's  11 all wrapped around one place. So -- and you're going to  12 have to go to different parts of the Charter -- the  13 County website for the information you got. I mean,  14 that's part of the game. It wouldn't be any fun if it  15 was all in one place.  16 CHAIR STONE: Thank you.  17 MEMBER MOIKEHA: Chair?  18 CHAIR STONE: Commissioner Moikeha.  19 MEMBER MOIKEHA: Yeah. What do you mean by  20 all reports? Are you looking for the Maui County Code?  21 That's online. You can get that. I mean, and  22 ordinances. You can --  23 CHAIR STONE: Are you asking me?  24 MEMBER MOIKEHA: -- get a copy of the Charter.  25 I don't know what they mean by all reports.</p>

<p style="text-align: right;">Page 221</p> <p>1 MEMBER DELEON: Mr. Chair, you know --</p> <p>2 CHAIR STONE: Commissioner Wiger. I'm sorry.</p> <p>3 MEMBER DELEON: Go ahead.</p> <p>4 MEMBER WIGER: Well, I guess what they're</p> <p>5 asking for are reports required by Charter, Code or</p> <p>6 ordinance. So whatever reports would be required by the</p> <p>7 Charter, by the Code or by ordinance.</p> <p>8 MEMBER SUGIMURA: That's everything.</p> <p>9 MEMBER WIGER: And I guess I -- I understand</p> <p>10 that there is no -- there is no overall, you know, guru</p> <p>11 in charge of, but it seems to me that isn't there --</p> <p>12 isn't there an obligation under Sunshine Law that</p> <p>13 information is held someplace where it's accessible to</p> <p>14 people? I guess what I'm getting at is I would hope</p> <p>15 that that's online information, and they wouldn't have</p> <p>16 to go asking for printed material.</p> <p>17 MEMBER CRIVELLO: Maybe we do have someone</p> <p>18 check into it.</p> <p>19 CHAIR STONE: Yeah, we're going to -- we'll</p> <p>20 have somebody check into that.</p> <p>21 MEMBER DELEON: Mr. Chair?</p> <p>22 CHAIR STONE: Commissioner DeLeon.</p> <p>23 MEMBER DELEON: Oh, okay. And some of it is</p> <p>24 like financial information. And there's a lot of audit</p> <p>25 reports and stuff like that that come out of the Finance</p>	<p style="text-align: right;">Page 223</p> <p>1 MEMBER OKAMOTO: 'Esque, 'ish.</p> <p>2 CHAIR STONE: Oh, no, shoot.</p> <p>3 MEMBER WIGER: Yes, your ticket is going to be</p> <p>4 quite large.</p> <p>5 CHAIR STONE: This is -- Commissioners, I</p> <p>6 recommend not to do this. Do not bring your parking</p> <p>7 pass in with you.</p> <p>8 (Laughter.)</p> <p>9 CHAIR STONE: That's 30 bucks, boom. That is</p> <p>10 two mai tais at Mama's Fish House.</p> <p>11 (Laughter.)</p> <p>12 MEMBER CRIVELLO: I did that once and my car</p> <p>13 was still out there. No ticket.</p> <p>14 CHAIR STONE: No ticket. Yeah, because they</p> <p>15 like you.</p> <p>16 MEMBER CRIVELLO: No. You hope they don't</p> <p>17 have enough money to pay for --</p> <p>18 CHAIR STONE: All right. We're back on to</p> <p>19 Proposal 13.7. There has not been a motion put forward</p> <p>20 for it; however, there's been some inquiries. So I</p> <p>21 think that, without objection, I will defer this</p> <p>22 proposal in lieu of answers to Flo's questions, which I</p> <p>23 will determine who to reference the questions to. Which</p> <p>24 Lisa will email me to remind me to figure out who I</p> <p>25 should reference the questions to.</p>
<p style="text-align: right;">Page 222</p> <p>1 Department that don't go online.</p> <p>2 MEMBER WIGER: They don't?</p> <p>3 MEMBER DELEON: No. I don't believe so, no.</p> <p>4 There's all kinds of reports, financial related stuff,</p> <p>5 that go to the Council. And that's where it goes to</p> <p>6 die, I mean, basically. It doesn't go anyplace else.</p> <p>7 MEMBER WIGER: Thank you.</p> <p>8 CHAIR STONE: Commissioner Okamoto.</p> <p>9 MEMBER OKAMOTO: I think the frustration is</p> <p>10 that people don't know where to find things, obviously,</p> <p>11 if they're in 20 different places, but I don't know that</p> <p>12 that is something that we can really solve right now.</p> <p>13 But I think that is the problem, there is not a single</p> <p>14 repository of things that you need. And so it is</p> <p>15 frustrating.</p> <p>16 CHAIR STONE: Thank you.</p> <p>17 We need to take a break for our court</p> <p>18 reporter, Tonya McDade. We'll pick this up once we're</p> <p>19 back. I'll call a recess as of 3:35. And let's see --</p> <p>20 I'm sorry. 3:35, and see you guys back here at 3:45, 10</p> <p>21 minutes.</p> <p>22 MEMBER BAXA: Thank you, Mr. Chair.</p> <p>23 (Recess, 3:35 p.m. to 3:47 p.m.)</p> <p>24 CHAIR STONE: I'd like to call this meeting</p> <p>25 back to order as of 3:50'esque.</p>	<p style="text-align: right;">Page 224</p> <p>1 Okay. Moving forward. Proposal Number 13.8,</p> <p>2 "Delete Section 13.2, Boards and Commissions, Subsection</p> <p>3 2, which requires that no more than a majority of the</p> <p>4 members of a board or commission can be belong to the</p> <p>5 same political party."</p> <p>6 MEMBER DELEON: Mr. Chair?</p> <p>7 CHAIR STONE: Yes, Commissioner DeLeon.</p> <p>8 MEMBER DELEON: This was my proposal. And the</p> <p>9 purpose of this proposal was the fact that a far</p> <p>10 majority of the people who signed up for boards and</p> <p>11 commissions identified themselves as independents. As I</p> <p>12 think I demonstrated to you, the number was 68 percent</p> <p>13 over the course of time. And that goes back in the</p> <p>14 history back to when I was working on this. However, in</p> <p>15 light of the decision this board made, I'm referencing</p> <p>16 partisanship, and in light of the partisan nature of</p> <p>17 that decision, and in light of the fact that when I</p> <p>18 looked at our own membership, some of them identify</p> <p>19 themselves with no party at all, so, you know, the whole</p> <p>20 thing, I give up.</p> <p>21 (Laughter.)</p> <p>22 CHAIR STONE: Very eloquent, Commissioner</p> <p>23 DeLeon.</p> <p>24 MEMBER DELEON: Thank you.</p> <p>25 (Laughter.)</p>

<p style="text-align: right;">Page 225</p> <p>1 MEMBER SUGIMURA: Just no action, right?</p> <p>2 CHAIR STONE: Commissioner Baxa, do you have</p> <p>3 something to say?</p> <p>4 MEMBER BAXA: Yeah, Mr. Chair. Because, as I</p> <p>5 said, there's a proposal that we may bring partisan</p> <p>6 election, so this is the time where we have to put this</p> <p>7 one, the proposal.</p> <p>8 MEMBER DELEON: It already exists.</p> <p>9 CHAIR STONE: No need to draft language.</p> <p>10 MEMBER DELEON: You're already required to</p> <p>11 show -- you can't have more than 50 percent of any party</p> <p>12 on a board and commission.</p> <p>13 CHAIR STONE: Commissioner DeLeon, I just want</p> <p>14 to point out that when we say that we've gone to draft</p> <p>15 language, it does not necessarily mean that that</p> <p>16 proposal is going to make it to the ballot.</p> <p>17 MEMBER DELEON: Thank you, Mr. Chair.</p> <p>18 CHAIR STONE: Just to be clear.</p> <p>19 MEMBER DELEON: I think I've beat enough dead</p> <p>20 horses today.</p> <p>21 CHAIR STONE: So if you want to continue on</p> <p>22 with this train of thought --</p> <p>23 Commissioner Moikeha.</p> <p>24 MEMBER MOIKEHA: I'm going to help Dave out</p> <p>25 here.</p>	<p style="text-align: right;">Page 227</p> <p>1 MEMBER DELEON: I'm sorry. As pointed out,</p> <p>2 the far majority of the -- of our citizenry do not</p> <p>3 identify with party any longer. And that the far</p> <p>4 majority of folks that sign up for boards and</p> <p>5 commissions are currently required -- well, you are</p> <p>6 required, under County Code, to identify your party now</p> <p>7 in reference to this provision.</p> <p>8 When I was serving in the Mayor's Office, that</p> <p>9 was being enforced by the Council. It's not currently</p> <p>10 being enforced by the Council, but it was being enforced</p> <p>11 by the Council. And I spent half of my time chasing</p> <p>12 people down to get to fill out that one line, because</p> <p>13 people did not want to identify their party. The far</p> <p>14 majority of them would put "none" or "independent." And</p> <p>15 the current list of boards and commission members and</p> <p>16 applicants are both at 68 percent independent or -- or a</p> <p>17 nonparty oriented. So, I mean, this is an anachronism.</p> <p>18 I don't believe it's necessary anymore. And that's why</p> <p>19 I made this proposal.</p> <p>20 CHAIR STONE: Mr. DeLeon, I believe that your</p> <p>21 horse was resurrected and you began beating it again.</p> <p>22 MEMBER DELEON: Can't help myself, Mr. Chair.</p> <p>23 CHAIR STONE: Commissioners, any further</p> <p>24 discussion? Commissioner Okamoto.</p> <p>25 MEMBER OKAMOTO: Well, I think simply because</p>
<p style="text-align: right;">Page 226</p> <p>1 (Laughter.)</p> <p>2 MEMBER MOIKEHA: I agree with this.</p> <p>3 MEMBER BAXA: I agree with that.</p> <p>4 MEMBER MOIKEHA: I would propose this as a</p> <p>5 draft proposal.</p> <p>6 CHAIR STONE: So there's a motion.</p> <p>7 MEMBER BAXA: Second.</p> <p>8 CHAIR STONE: And it's been seconded. You</p> <p>9 know why? Because Dave said he didn't want it.</p> <p>10 (Laughter.)</p> <p>11 CHAIR STONE: Dave, you've now figured out an</p> <p>12 effective way to get your --</p> <p>13 MEMBER DELEON: Don't blow my cover.</p> <p>14 MEMBER MOIKEHA: His persuasive argument made</p> <p>15 me think.</p> <p>16 CHAIR STONE: Okay. So there is a -- there is</p> <p>17 a motion to take to draft stage Proposal Number 13.8,</p> <p>18 "Proposal to delete Section 13.2, Boards and</p> <p>19 Commissions, Subsection 2, which requires that no more</p> <p>20 than a majority of the members of a board or commission</p> <p>21 can belong to the same political party." And it's been</p> <p>22 seconded.</p> <p>23 Discussion?</p> <p>24 MEMBER DELEON: As pointed out -- Mr. Chair?</p> <p>25 CHAIR STONE: Uh-huh.</p>	<p style="text-align: right;">Page 228</p> <p>1 it's so poorly written, I would want to throw it out. I</p> <p>2 mean, "no more than a majority." That's just -- I would</p> <p>3 throw it out just for that reason. I think it's very</p> <p>4 poorly worded.</p> <p>5 MEMBER SUGIMURA: School teacher.</p> <p>6 CHAIR STONE: Very good. Without any further</p> <p>7 discussion, we'll take this to vote. Roll call, please,</p> <p>8 Lisa.</p> <p>9 MEMBER MOIKEHA: How about just a --</p> <p>10 CHAIR STONE: No. No, no.</p> <p>11 MS. KAHUHU: Commissioner Wiger.</p> <p>12 MEMBER WIGER: Yes.</p> <p>13 No. I wanted to make sure I was voting the</p> <p>14 way I wanted to vote, by reading it.</p> <p>15 MS. KAHUHU: Commissioner Sugimura.</p> <p>16 MEMBER SUGIMURA: Yes.</p> <p>17 MS. KAHUHU: Commissioner Okamoto.</p> <p>18 MEMBER OKAMOTO: Yes.</p> <p>19 MS. KAHUHU: Commissioner Moikeha.</p> <p>20 MEMBER MOIKEHA: Yes.</p> <p>21 MS. KAHUHU: Commissioner Hashimoto.</p> <p>22 MEMBER HASHIMOTO: Yes.</p> <p>23 MS. KAHUHU: Commissioner Hedani.</p> <p>24 VICE-CHAIR HEDANI: Yes.</p> <p>25 MS. KAHUHU: Commissioner DeLeon?</p>

<p style="text-align: right;">Page 229</p> <p>1 MEMBER DELEON: Yes.</p> <p>2 MS. KAHUHU: Commissioner De Rego, excused.</p> <p>3 Commissioner Crivello.</p> <p>4 MEMBER CRIVELLO: Yes.</p> <p>5 MS. KAHUHU: Commissioner Baxa.</p> <p>6 MEMBER BAXA: Yes.</p> <p>7 MS. KAHUHU: Chair Stone?</p> <p>8 CHAIR STONE: Yes.</p> <p>9 MS. KAHUHU: Unanimous. The motion passes.</p> <p>10 CHAIR STONE: Very good.</p> <p>11 MEMBER DELEON: Mr. Chair?</p> <p>12 CHAIR STONE: Yes.</p> <p>13 MEMBER DELEON: The horse was resurrected.</p> <p>14 CHAIR STONE: The horse trotted away into the</p> <p>15 sunset.</p> <p>16 MEMBER DELEON: Thank you, Susan.</p> <p>17 MEMBER MOIKEHA: Uh-huh.</p> <p>18 CHAIR STONE: Commissioner DeLeon on its back,</p> <p>19 waving his cowboy hat.</p> <p>20 Moving on. Proposal Number 13.9, "Proposal to</p> <p>21 amend Section 13-2, Subsection 3" -- I'm sorry -- yeah,</p> <p>22 "Subsection 3, Boards and Commissions, to require that</p> <p>23 each board or commission include a qualified resident of</p> <p>24 Lanai and Molokai."</p> <p>25 Discussion?</p>	<p style="text-align: right;">Page 231</p> <p>1 There is -- there is -- conversely, there is</p> <p>2 now a County board that was set up by the Charter, and</p> <p>3 it's called a Urban Design Review Board that does</p> <p>4 require Lanai and Molokai participation, for no apparent</p> <p>5 reason. Because it's -- it's, basically, an architect</p> <p>6 <del>spot</del> And we also have these two citizens that fly in</p> <p>7 or come in on boat to participate on this board. And</p> <p>8 they get an education in architecture, I would imagine,</p> <p>9 and design, but, I mean, they don't really have that</p> <p>10 much to contribute at that level. It's one of the</p> <p>11 boards that is a specialist board and it was set up for</p> <p>12 a purpose. It doesn't need to have Lanai and Molokai</p> <p>13 participation.</p> <p>14 So that's the (inaudible) of what this is.</p> <p>15 That's a good example of why it can't be all boards and</p> <p>16 commissions, because there are a number of them that</p> <p>17 don't require -- I mean, Animal -- Animal Control Board</p> <p>18 does not require a Lanai Molokai and Hana member. I</p> <p>19 mean, that's a great cost. So I don't know how to</p> <p>20 tackle this, personally, but if anybody else has got an</p> <p>21 idea -- Kay served on a number of boards and</p> <p>22 commissions, you could maybe speak to it.</p> <p>23 CHAIR STONE: Commissioner Okamoto.</p> <p>24 MEMBER OKAMOTO: Well, I would totally</p> <p>25 disagree with him on Urban Design. It's like Board of</p>
<p style="text-align: right;">Page 230</p> <p>1 MEMBER DELEON: Mr. Chair? Oh, I defer to</p> <p>2 Cliff. Cliff wants to talk.</p> <p>3 CHAIR STONE: Please, Commissioner Hashimoto.</p> <p>4 MEMBER HASHIMOTO: Question. Did that leave</p> <p>5 Hana out of it?</p> <p>6 CHAIR STONE: As worded, it would not refer to</p> <p>7 Hana at the moment; however, it can be amended.</p> <p>8 MEMBER HASHIMOTO: I amend, and add Hana.</p> <p>9 CHAIR STONE: Very good.</p> <p>10 MEMBER DELEON: Mr. Chair?</p> <p>11 CHAIR STONE: Yes, Commissioner DeLeon.</p> <p>12 MEMBER DELEON: As Commissioner De Rego's</p> <p>13 pointed out in the newspaper, we have a lot of boards</p> <p>14 and commissions that don't hardly meet or don't have a</p> <p>15 real significant purpose enough to be able to make this</p> <p>16 requirement. This is an expensive requirement.</p> <p>17 What I -- what I would like to see as far as</p> <p>18 finding a way to -- I don't know how you would create</p> <p>19 this, but you need to -- I would -- when I served in the</p> <p>20 function in the Mayor's Office, and did boards and</p> <p>21 commissions, I always thought to give Lanai and Molokai</p> <p>22 representation on the important commissions. Board of</p> <p>23 Variance and Appeals; the Fire Commission; the Police</p> <p>24 Commission; when it was really important, the Water</p> <p>25 Department, the Water Board, et cetera.</p>	<p style="text-align: right;">Page 232</p> <p>1 Variances. Because items for Lanai and Molokai come</p> <p>2 before that board, I think that's why it's required.</p> <p>3 I agree that there are some that, you know,</p> <p>4 probably isn't as important. And to require it, so what</p> <p>5 if you can't find somebody or -- then that commission</p> <p>6 can't function? I think there has to be a statement</p> <p>7 somewhere. Right now -- and I don't know about Molokai,</p> <p>8 but Lanai is not represented on the Police Commission,</p> <p>9 Lanai is not represented on the Fire Commission, on some</p> <p>10 of what you would consider very important boards. So --</p> <p>11 but to require on each one, I don't know that we want</p> <p>12 anybody on the Street Naming Committee. Maybe. Maybe</p> <p>13 we do.</p> <p>14 CHAIR STONE: Was that in support or against</p> <p>15 the --</p> <p>16 MEMBER OKAMOTO: I don't know.</p> <p>17 CHAIR STONE: Okay. Commissioner Hedani.</p> <p>18 VICE-CHAIR HEDANI: Well, I'd move that we go</p> <p>19 ahead and move to the draft -- to the draft stage</p> <p>20 Proposal 13.9, proposal to amend Section 13-2(3), Boards</p> <p>21 and Commissions, to require that -- and this is amended</p> <p>22 -- Police, Fire, BVA and Water Boards and Commissions --</p> <p>23 MEMBER OKAMOTO: We have a private water</p> <p>24 system.</p> <p>25 VICE-CHAIR HEDANI: Okay. Police, Fire and</p>

<p style="text-align: right;">Page 233</p> <p>1 BVA include a qualified resident of Lanai and Molokai.  2 MEMBER CRIVELLO: Well -- okay, Member  3 Moikeha.  4 VICE-CHAIR HEDANI: That's open to amendment.  5 CHAIR STONE: Yes. We have a motion on the  6 floor. Commissioner Moikeha.  7 MEMBER MOIKEHA: I'm not going to support it.  8 I think what is currently in the Charter says enough.  9 "In making appointments to all boards and commissions,  10 the Mayor shall give due consideration to balance  11 geographic representation." And I think it should stay  12 that way. I don't see the need to identify or to -- or  13 to delete other boards and commissions that --  14 CHAIR STONE: Thank you.  15 MEMBER MOIKEHA: -- they shouldn't serve.  16 CHAIR STONE: Motion on the floor. Is there a  17 second to the motion?  18 MEMBER CRIVELLO: What's the motion?  19 CHAIR STONE: The motion is to move to draft  20 stage this particular proposal, which would -- which --  21 but amended to include -- to state Police, Fire and BVA  22 Commissions, and include Hana.  23 (No response.)  24 CHAIR STONE: No second. Okay.  25 MEMBER CRIVELLO: This is not a second.</p>	<p style="text-align: right;">Page 235</p> <p>1 CHAIR STONE: Very good.  2 Commissioner Baxa.  3 MEMBER BAXA: Mr. Chair, I just want to make a  4 comment. That seems to be a good suggestion, but the  5 only objection that I have is if you are going to name  6 these particular commissions, are we really trying to  7 suggest that these are really the important commissions,  8 that the others are not as important? That is the big  9 question that I have. Of course, I think, as a  10 practical matter, that may be so, but I don't know if  11 it's correct for us to do so.  12 I have to object to the language of this, if  13 it's true that we cannot ask Lanai and Molokai to be  14 represented in all commissions. Precisely, you remember  15 the argument that we were making about so much power  16 being in the residents of Lanai and Molokai? And now we  17 are requiring that they be represented in all  18 commissions. That gives them more power on things that  19 we were trying to say that they have so much power.  20 CHAIR STONE: Thank you.  21 MEMBER BAXA: Are we going against it?  22 CHAIR STONE: Do I have a second to this  23 motion? Do I have a second?  24 Commissioner DeLeon, you just have something  25 to say? Please.</p>
<p style="text-align: right;">Page 234</p> <p>1 I just want to segue to what Commissioner  2 Moikeha is saying. I think it speaks for itself in the  3 Charter that we should -- you know, it's obvious what --  4 Street Lighting, you know, I don't think that's  5 something Molokai would be worried -- maybe -- maybe we  6 would if we decide to light up -- light up the town, you  7 know. But I think the appointment process can make that  8 kind of determination instead of saying what's required.  9 And I think it's a given already in the Charter such as  10 Commissioner Moikeha had expressed.  11 CHAIR STONE: Thank you very much.  12 Any further discussion or a second?  13 Commissioner Hedani.  14 VICE-CHAIR HEDANI: Except that although it's  15 a given in the -- in the Charter, it's not being done,  16 if there's nobody from the Police Commission on Lanai.  17 MEMBER OKAMOTO: Currently, it is not.  18 Whether that is the fault of Lanai people not applying,  19 at this point I can't say one way or the other. In the  20 past, I don't know that we've had people on BVA at all.  21 I don't ever recall anybody being on that.  22 VICE-CHAIR HEDANI: I remember, during the  23 course of the public hearings, we had testimony about  24 the codes and all that. So that was --  25 MEMBER OKAMOTO: Yeah.</p>	<p style="text-align: right;">Page 236</p> <p>1 MEMBER DELEON: I'm going to second for  2 discussion.  3 CHAIR STONE: All right.  4 MEMBER DELEON: May I speak?  5 CHAIR STONE: Yes.  6 MEMBER DELEON: Another way of skinning this  7 cat is to go back to the individual boards and  8 commissions in the Charter and -- and make them required  9 -- required to have Lanai and Molokai representation and  10 in those particular items. So go back to the Police  11 Commission and say that it will have representatives  12 from Lanai, Molokai, et cetera. So --  13 And, yeah, to answer your question, yeah,  14 there are certain boards and commissions that do have  15 more statutory power and have more impact in the  16 communities and have a -- you know, Liquor is another  17 one that -- where things happen in the community and if  18 you don't have representation on that board, your  19 community has less ability to have influence.  20 You have to remember, Police and Fire are  21 independent of the Mayor. So this is the place where  22 the citizens could have that impact.  23 Board and Variances is where they go around  24 the rules. It's -- you know, it's an important body.  25 And it really does affect what's going on in the</p>

<p style="text-align: right;">Page 237</p> <p>1 community.</p> <p>2 So it's a good question, though, how many</p> <p>3 people can you get off Lanai to participate. But that's</p> <p>4 -- my thought is this is another way of doing this, is</p> <p>5 to go back to the individual boards and --</p> <p>6 But I do disagree with Kay wholeheartedly</p> <p>7 about the Urban Design Review Board. I think, if I were</p> <p>8 to go back, I would move that one, because I don't think</p> <p>9 it's really relevant.</p> <p>10 CHAIR STONE: Commissioner Hedani.</p> <p>11 VICE-CHAIR HEDANI: Yeah. I think the problem</p> <p>12 that I'm dealing with is that, although we're Maui</p> <p>13 County, we keep forgetting that we have separate</p> <p>14 islands. And important decisions regarding public</p> <p>15 safety, fire protection, are important enough where --</p> <p>16 for example, when I served on the Police Commission, it</p> <p>17 was important to get a member from Lanai and Molokai, to</p> <p>18 get their perspectives on the type of problems that they</p> <p>19 are dealing with on the island. And it's easy to be</p> <p>20 Maui-centric, it's easy to be island-centric without --</p> <p>21 without taking into consideration, you know, the outside</p> <p>22 islands. And I think it's important that they mean</p> <p>23 something to us. We have two representatives because</p> <p>24 somebody had foresight enough on the Charter Commission</p> <p>25 to say that Lanai and Molokai would be represented.</p>	<p style="text-align: right;">Page 239</p> <p>1 horse, besides. And --</p> <p>2 (Laughter.)</p> <p>3 MEMBER HASHIMOTO: And so what happens is that</p> <p>4 something is approved here dealing with zoning and --</p> <p>5 and the codes, and it applies to Hana or to Molokai or</p> <p>6 to Lanai. And the folks there have no -- they wonder</p> <p>7 why, I suppose, why this happens to them. And that's</p> <p>8 perhaps why they won't serve on the commissions and</p> <p>9 boards. I don't know that, but I would like to see us</p> <p>10 represent ourselves. But that's just my own thoughts.</p> <p>11 CHAIR STONE: Thank you. Thank you very much,</p> <p>12 Commissioner.</p> <p>13 If there's no further questions, I'd like to</p> <p>14 take this vote.</p> <p>15 MEMBER OKAMOTO: Can you remind us exactly</p> <p>16 what it is we're --</p> <p>17 CHAIR STONE: Okay. To move to the draft</p> <p>18 amendment stage -- or draft proposal stage -- excuse</p> <p>19 me -- Proposal Number 13.9, "Proposal to amend Section</p> <p>20 13-2(3), Boards and Commissions, to require" -- I'm</p> <p>21 sorry -- "Boards and Commissions, to require that the</p> <p>22 Police, Fire and BVA boards and commissions include a</p> <p>23 qualified resident of Lanai and Molokai and Hana."</p> <p>24 MEMBER DELEON: Mr. Chair?</p> <p>25 CHAIR STONE: Yes.</p>
<p style="text-align: right;">Page 238</p> <p>1 CHAIR STONE: And Hana.</p> <p>2 VICE-CHAIR HEDANI: And Hana, right.</p> <p>3 CHAIR STONE: Commissioner Hashimoto.</p> <p>4 MEMBER HASHIMOTO: I think it's easy to</p> <p>5 dismiss Molokai and Lanai when we think in terms of</p> <p>6 costs or in terms of noninterest, perhaps. But that</p> <p>7 doesn't mean that -- that, you know, five years from</p> <p>8 now, or even several years down the road, that there</p> <p>9 won't be something of interest to the residents of those</p> <p>10 areas, including Hana.</p> <p>11 For those of you who don't live in these rural</p> <p>12 areas, there are a lot of things that -- that occur here</p> <p>13 that are approved of here, and in this very room, that</p> <p>14 apply to us as well. For example, what do we need</p> <p>15 sidewalks for in Hana? The roads aren't wide enough to</p> <p>16 put sidewalks on. Okay. But it is a requirement, just</p> <p>17 like every place else. Now, does that make sense?</p> <p>18 Now, you know, if we had -- and we do have</p> <p>19 members on -- on -- I forget what they call -- some kind</p> <p>20 of committee --</p> <p>21 MEMBER DELEON: Planning Commission.</p> <p>22 MEMBER HASHIMOTO: -- which has no teeth</p> <p>23 whatsoever.</p> <p>24 VICE-CHAIR HEDANI: Advisory committee.</p> <p>25 MEMBER HASHIMOTO: And they don't have a</p>	<p style="text-align: right;">Page 240</p> <p>1 MEMBER DELEON: The more I think about it, I</p> <p>2 think it's more appropriate to go back into the Boards</p> <p>3 and Commissions themselves and make a statement there,</p> <p>4 rather than having it in the general language. Because</p> <p>5 these are not -- this is not general language; this is</p> <p>6 about dealing with three boards.</p> <p>7 MEMBER OKAMOTO: But they're not</p> <p>8 specifically -- some of these -- Police and Fire --</p> <p>9 MEMBER DELEON: These three --</p> <p>10 MEMBER OKAMOTO: These three are in the</p> <p>11 Charter?</p> <p>12 MEMBER DELEON: They are all in the Charter,</p> <p>13 yes.</p> <p>14 CHAIR STONE: Commissioner DeLeon, would you</p> <p>15 be willing to write new proposals to that extent?</p> <p>16 MEMBER DELEON: Okay. Right now?</p> <p>17 CHAIR STONE: If you'd like. So that we can</p> <p>18 put it back onto our Matrix and go to our Matrix.</p> <p>19 MEMBER DELEON: Okay. Well --</p> <p>20 CHAIR STONE: Because, otherwise, we have to</p> <p>21 -- we'd have to go back and look at each individual -- I</p> <p>22 think that's the wisest way to go. For our next</p> <p>23 meeting, we can deal with that.</p> <p>24 MEMBER DELEON: Okay. Then I'd move to amend</p> <p>25 and motion so that we amend the Charter language,</p>



<p style="text-align: right;">Page 241</p> <p>1 existing Charter language, for the Police Commission,  2 the Fire Commission and the Board of Variance and  3 Appeals so that they require membership from Lanai and  4 Molokai.  5 CHAIR STONE: Very good.  6 MEMBER OKAMOTO: And Lanai.  7 CHAIR STONE: First of all, we have to remove  8 the other --  9 MEMBER DELEON: Well, we can get -- well, I  10 think, because of the transportation issues --  11 MEMBER CRIVELLO: I have a question.  12 CHAIR STONE: Yes, Commissioner Crivello.  13 MEMBER CRIVELLO: Are you just -- are we just  14 being specific with just those three commissions? I  15 mean, does the Cultural --  16 MEMBER DELEON: Cultural Resources already  17 requires it.  18 MEMBER CRIVELLO: Okay. So there's Board of  19 Water Supply. We have County water.  20 MEMBER DELEON: Board of Water Supply has zero  21 power.  22 MEMBER CRIVELLO: Well --  23 CHAIR STONE: Commissioners, I would like to  24 keep us on track here. Let's -- right now -- right now,  25 we have the proposal on the table -- we have motion on</p>	<p style="text-align: right;">Page 243</p> <p>1 MEMBER OKAMOTO: Yeah.  2 MEMBER DELEON: Well, I made a motion that's  3 on the floor. And if it doesn't get a second, then it  4 just dies and we go back --  5 MEMBER HASHIMOTO: Second.  6 VICE-CHAIR HEDANI: You made the main motion,  7 you got an amendment.  8 CHAIR STONE: Yeah. Did you amend the motion?  9 Is that what you did?  10 MEMBER DELEON: Yeah. That's what you asked  11 me, to get new language. And my --  12 CHAIR STONE: There's a motion -- there's an  13 amended motion -- a motion to amend the motion.  14 MEMBER DELEON: And my motion was to go back  15 to the particular language with relationship to the  16 different boards.  17 CHAIR STONE: And Cliff has seconded that.  18 Discussion on the amendment to the motion?  19 MEMBER SUGIMURA: How are we going to --  20 CHAIR STONE: Well, okay. We'll take -- all  21 in favor of supporting the amendment to the -- to  22 Wayne's motion, say "aye."  23 MEMBER DELEON: Aye.  24 MEMBER HASHIMOTO: Aye.  25 CHAIR STONE: All opposed, say "nay."</p>
<p style="text-align: right;">Page 242</p> <p>1 the table. And that was -- Wayne, you put that motion  2 forward, correct?  3 VICE-CHAIR HEDANI: BVA.  4 CHAIR STONE: And BVA Commissions need to  5 include a qualified residents of Lanai, Molokai and  6 Hana.  7 VICE-CHAIR HEDANI: You want to include Water?  8 MEMBER CRIVELLO: As long as there is a board  9 and it deals with water, yes.  10 MEMBER OKAMOTO: You got Liquor.  11 MEMBER DELEON: Well, you don't have to have  12 Lanai, though, on that, see, because Lanai doesn't have  13 County water.  14 MEMBER CRIVELLO: I understand.  15 MEMBER OKAMOTO: We don't have County water.  16 CHAIR STONE: Commissioner Okamoto pointed out  17 the fact that there is also --  18 MEMBER DELEON: I made a motion, and I would  19 like to amend my motion to include Hana, even though I  20 think it's kind of a stretch it do that. But I will  21 extend it to Hana as well. So my motion's there without  22 a second. That's what is on the floor.  23 MEMBER OKAMOTO: We haven't done --  24 CHAIR STONE: We had a previous motion on the  25 floor, actually.</p>	<p style="text-align: right;">Page 244</p> <p>1 COMMISSIONER MEMBERS: Nay.  2 CHAIR STONE: I'd say that is a big nay.  3 MEMBER DELEON: I got another dead horse.  4 CHAIR STONE: You got one horse to ride on.  5 (Laughter.)  6 MEMBER DELEON: I need Susan to make my  7 motions.  8 CHAIR STONE: Commissioner Hedani, Chair just  9 has a comment. There seems to be other commissions, for  10 example, Liquor Commission, just came up by Commissioner  11 Okamoto, Board of Water Supply came up from Commissioner  12 Crivello.  13 VICE-CHAIR HEDANI: Made an amendment, add  14 Liquor, add Board of Water Supply for Molokai.  15 CHAIR STONE: Is there an amendment to the --  16 MEMBER HASHIMOTO: You -- you --  17 CHAIR STONE: No. We're back on the original  18 motion.  19 MEMBER CRIVELLO: Oh, we did not approve the  20 amended?  21 CHAIR STONE: No, we did not approve the  22 amended motion.  23 VICE-CHAIR HEDANI: With consent of the  24 seconder, I would like to restate the motion to include  25 the Liquor Commission and Board of Water Supply for the</p>

<p style="text-align: right;">Page 245</p> <p>1 Molokai representative only.</p> <p>2 CHAIR STONE: Very good.</p> <p>3 MEMBER DELEON: Okay. I agree.</p> <p>4 MEMBER HASHIMOTO: One of these days, you're</p> <p>5 going to be starving for water over here. All the water</p> <p>6 is on that side of the island, and on the other side in</p> <p>7 West Maui. You know, if you all who live over here are</p> <p>8 wanting water, one of these days we're going to shut it</p> <p>9 off.</p> <p>10 (Laughter.)</p> <p>11 CHAIR STONE: Okay. Let's not -- remember,</p> <p>12 we're on the record, Cliff. Let's not make idle threats</p> <p>13 on the record.</p> <p>14 So we have a motion -- amended motion. Is</p> <p>15 there a second to that amended motion to include --</p> <p>16 MEMBER DELEON: Well, I'm --</p> <p>17 VICE-CHAIR HEDANI: Seconded --</p> <p>18 CHAIR STONE: Seconded by Dave.</p> <p>19 MEMBER DELEON: I was the original second.</p> <p>20 CHAIR STONE: And you accept that amendment?</p> <p>21 Okay, very good.</p> <p>22 Discussion?</p> <p>23 MEMBER MOIKEHA: Chair?</p> <p>24 CHAIR STONE: Yes, Commissioner Moikeha.</p> <p>25 MEMBER MOIKEHA: I'm still staying with what</p>	<p style="text-align: right;">Page 247</p> <p>1 being -- is it district-wide, maybe Lahaina will always</p> <p>2 have a representative in this Commission, Wailuku,</p> <p>3 something like that, Haiku, Makawao?</p> <p>4 CHAIR STONE: Thank you. The Chair's opinion</p> <p>5 on this proposal is that I side along with Commissioner</p> <p>6 Baxa, that now we're going to have to define -- if we're</p> <p>7 going to say that somebody has to be from one area, we</p> <p>8 need to define that there's going to be a commissioner</p> <p>9 from every area. And that's the only fair way to do it.</p> <p>10 MEMBER BAXA: The reason I mention this, Mr.</p> <p>11 -- oh, I'm so sorry. The reason I mention this is,</p> <p>12 again, going back to the argument that we have been</p> <p>13 giving so much power to Lanai and Molokai, and here we</p> <p>14 are adding that, you know, I am really puzzled. So I</p> <p>15 have -- I have -- I am sorry, but I have to support</p> <p>16 Commissioner Moikeha in this case.</p> <p>17 CHAIR STONE: Very good. Thank you.</p> <p>18 Commissioner Crivello.</p> <p>19 MEMBER CRIVELLO: I would go along with</p> <p>20 Commissioner Moikeha.</p> <p>21 MEMBER BAXA: Yeah, I would go along.</p> <p>22 MEMBER CRIVELLO: And I would go along with</p> <p>23 you, Judge.</p> <p>24 MEMBER BAXA: Yeah, yeah.</p> <p>25 MEMBER CRIVELLO: Because it's not saying</p>
<p style="text-align: right;">Page 246</p> <p>1 is in the current language. I think it -- with due</p> <p>2 consideration to balance geographic representation fits</p> <p>3 it fine. And if it's not being implemented, then --</p> <p>4 then we need to go back to the Mayor who nominates, or</p> <p>5 the blue ribbon commission, and we need to follow up</p> <p>6 with the councilmember of that represented geographic</p> <p>7 location and ask them why they are not pushing for it.</p> <p>8 They have the stewardship or the responsibility to</p> <p>9 interview these candidates, so they should be asking</p> <p>10 those questions of the Administration. And if it's not</p> <p>11 being done, they have the power to do it. So I think</p> <p>12 it's fine the way it is. I'm not going to support the</p> <p>13 motion.</p> <p>14 CHAIR STONE: Thank you very much.</p> <p>15 Commissioner Baxa?</p> <p>16 MEMBER BAXA: Mr. Chair, you know, I've been</p> <p>17 thinking about it. You know the present language of the</p> <p>18 Charter about balance of representation?</p> <p>19 CHAIR STONE: Uh-huh.</p> <p>20 MEMBER BAXA: I think that is more an</p> <p>21 appropriate language because -- let me ask you this: If</p> <p>22 we are saying that Lanai and Molokai are going to have</p> <p>23 this representation on the same boards and commission,</p> <p>24 let me ask you this: What about Lahaina, Wailuku? What</p> <p>25 is the way how they elect commissions? Are they</p>	<p style="text-align: right;">Page 248</p> <p>1 specifically for this commission and that commission, I</p> <p>2 think we should be considered for all commissions. And</p> <p>3 the a consideration is the balance geographic</p> <p>4 representation. I think that says it all. Then if we</p> <p>5 try to dissect it, then we may be left out of a</p> <p>6 commission that may be of importance of our</p> <p>7 representation, or Lahaina's representation, you know.</p> <p>8 MEMBER BAXA: Yeah.</p> <p>9 MEMBER CRIVELLO: So I think it's well said.</p> <p>10 CHAIR STONE: Thank you, Commissioner.</p> <p>11 I'm going to -- without further discussion,</p> <p>12 I'm going to take this to vote. Roll call, please.</p> <p>13 MS. KAHUHU: Commissioner Baxa.</p> <p>14 MEMBER BAXA: No, but I hope it reflects my</p> <p>15 opinion. No.</p> <p>16 MS. KAHUHU: Commissioner Crivello.</p> <p>17 MEMBER CRIVELLO: The motion is Hedani's</p> <p>18 motion, right?</p> <p>19 CHAIR STONE: Yes.</p> <p>20 MEMBER CRIVELLO: No.</p> <p>21 MS. KAHUHU: Commissioner DeLeon.</p> <p>22 MEMBER DELEON: No.</p> <p>23 MS. KAHUHU: Commissioner De Rego, excused.</p> <p>24 Commissioner Hashimoto.</p> <p>25 MEMBER HASHIMOTO: I'm not really sure.</p>

<p style="text-align: right;">Page 249</p> <p>1 (Laughter.)</p> <p>2 MEMBER HASHIMOTO: I'm not really sure. What</p> <p>3 are we voting for? Something against something.</p> <p>4 CHAIR STONE: Okay. We have three noes at the</p> <p>5 moment. The proposal to amend Section 13-2(3), Boards</p> <p>6 and Commissions, to require that the board or commission</p> <p>7 -- the Police, Fire, BVA, Liquor and --</p> <p>8 MEMBER SUGIMURA: Water.</p> <p>9 CHAIR STONE: -- Department of Water, Board or</p> <p>10 Commissions, include a qualified resident of Lanai,</p> <p>11 Molokai and Hana. Yes or no.</p> <p>12 MEMBER HASHIMOTO: I'd say yes.</p> <p>13 CHAIR STONE: That was a -- can you say that</p> <p>14 in the microphone, please?</p> <p>15 MEMBER HASHIMOTO: Yes.</p> <p>16 MS. KAHUHU: Commissioner Hedani.</p> <p>17 VICE-CHAIR HEDANI: Yes.</p> <p>18 MS. KAHUHU: Commissioner Moikeha.</p> <p>19 MEMBER MOIKEHA: No.</p> <p>20 MS. KAHUHU: Commissioner Okamoto.</p> <p>21 MEMBER OKAMOTO: No.</p> <p>22 MS. KAHUHU: Commissioner Sugimura.</p> <p>23 MEMBER SUGIMURA: No.</p> <p>24 MS. KAHUHU: Commissioner Wiger.</p> <p>25 MEMBER WIGER: No.</p>	<p style="text-align: right;">Page 251</p> <p>1 takes place against them, then I think it's automatic</p> <p>2 they should be indemnified.</p> <p>3 So I do believe in a criteria of</p> <p>4 indemnification. So let our Analyst --</p> <p>5 CHAIR STONE: Thank you.</p> <p>6 MEMBER MOIKEHA: -- kind of play --</p> <p>7 CHAIR STONE: We have a motion.</p> <p>8 MEMBER MOIKEHA: -- with that.</p> <p>9 CHAIR STONE: It's been seconded by</p> <p>10 Commissioner Okamoto.</p> <p>11 Discussion? Yes, Commissioner Baxa.</p> <p>12 MEMBER BAXA: Mr. Chair, I don't know. There</p> <p>13 is -- the language that says to indemnify and fund, it</p> <p>14 looks like that it is a good language because you put</p> <p>15 fund, so they will fund it. But in my own humble</p> <p>16 opinion, if you remove the word "and fund," it will be</p> <p>17 more direct and the direction to indemnify will be</p> <p>18 better without putting the word "and fund."</p> <p>19 MEMBER SUGIMURA: Is it implied?</p> <p>20 CHAIR STONE: Very good. Do you want to --</p> <p>21 MEMBER BAXA: Because it isn't really there.</p> <p>22 What is the sense of indemnifying if you are not funding</p> <p>23 it? If you indemnify and fund, you will still require</p> <p>24 funding authority. So you are adding something that is</p> <p>25 not needed and which may be hard to get. If you say</p>
<p style="text-align: right;">Page 250</p> <p>1 MS. KAHUHU: Chair Stone.</p> <p>2 CHAIR STONE: No.</p> <p>3 MS. KAHUHU: Motion fails.</p> <p>4 CHAIR STONE: I'm happy that took 30 minutes.</p> <p>5 Moving on. Proposal Number 13.10, "Proposal</p> <p>6 to amend Article 13, General Provisions, Section 2,</p> <p>7 Boards and Commissions, to add provisions requiring the</p> <p>8 County to indemnify and fund the legal representation of</p> <p>9 members of boards and commissions in the event of civil</p> <p>10 action, as a result of the lawful performance of their</p> <p>11 duties." With further definition, in summary,</p> <p>12 (inaudible).</p> <p>13 MEMBER MOIKEHA: Chair?</p> <p>14 CHAIR STONE: Yes, Commissioner Moikeha.</p> <p>15 MEMBER MOIKEHA: I'd like to make a motion.</p> <p>16 And I'll amend it as I read it. And this is under</p> <p>17 Section 2, Boards and Commissions. Add a provision</p> <p>18 requiring the County to indemnify and fund the legal</p> <p>19 representation of members of boards and commissions in</p> <p>20 the event of civil action as a result of the lawful</p> <p>21 performance of their duties as advised by Corp Counsel.</p> <p>22 And you can play around with that language, but my</p> <p>23 intent is that if they are being advised as a board and</p> <p>24 commission to follow a certain legal action or</p> <p>25 procedure, then they -- and, as a result, legal action</p>	<p style="text-align: right;">Page 252</p> <p>1 "indemnify," I think it is there.</p> <p>2 CHAIR STONE: Thank you. Would you like to</p> <p>3 make an amendment to the --</p> <p>4 MEMBER BAXA: I would like to propose an</p> <p>5 amendment. Except if the author of the motion reject</p> <p>6 it, I would not, but --</p> <p>7 CHAIR STONE: Let's consider it a friendly</p> <p>8 amendment. Susan, do you accept the friendly amendment?</p> <p>9 MEMBER MOIKEHA: Yeah, that's fine.</p> <p>10 CHAIR STONE: Okay. Very good.</p> <p>11 Further discussion?</p> <p>12 (No Response.)</p> <p>13 CHAIR STONE: It would now read as, "Proposal</p> <p>14 to amend Article 13, General Provisions, Section 2,</p> <p>15 Boards and Commissions, to add provisions requiring the</p> <p>16 County to indemnify the legal representation of members</p> <p>17 of boards and commissions in the event of civil action</p> <p>18 as a result of the lawful performance of their duties as</p> <p>19 advised by Corp Counsel."</p> <p>20 Discussion?</p> <p>21 MEMBER DELEON: Call for the motion.</p> <p>22 CHAIR STONE: No discussion? Okay. Very</p> <p>23 good.</p> <p>24 MEMBER OKAMOTO: There is a motion.</p> <p>25 MEMBER DELEON: Call for the vote.</p>

<p style="text-align: right;">Page 253</p> <p>1 CHAIR STONE: Commissioner Wiger has a 2 question. 3 MEMBER WIGER: I just -- I just want to be 4 sure -- understanding Judge Baxa's interpretation, I 5 just want to be sure that that fact is the 6 interpretation of -- yeah, of Corp Counsel and everybody 7 else, I want that to be the interpretation. I don't 8 want somebody coming back to us and saying, "you said 9 I'm indemnified, but you didn't say this." 10 VICE-CHAIR HEDANI: Ed? 11 MEMBER WIGER: Yeah, Ed, what do you think? 12 CHAIR STONE: I'm sorry. Questions? 13 VICE-CHAIR HEDANI: I have a question for Corp 14 Counsel, if we seek your advice on this one so that 15 we'll be indemnified on this vote -- 16 (Laughter.) 17 MEMBER WIGER: There you go. 18 MR. KUSHI: You want to go into Executive 19 Session for this? 20 (Laughter.) 21 MR. KUSHI: I can only say this. Regardless 22 of what language you put in the Charter, our office will 23 still go to the Council for express written approval 24 because if in case we defend and promise to indemnify 25 one of you and something goes wrong in the lawsuit, and</p>	<p style="text-align: right;">Page 255</p> <p>1 MEMBER BAXA: If I may be permitted, can I ask 2 a question to Mr. Kushi. When it says the County to 3 indemnify, are you saying that the Council is not a part 4 of the County? 5 MR. KUSHI: Oh, you need to explain that 6 again. What did you say? The Council is not part of 7 the County? 8 MEMBER BAXA: You were saying that the word 9 fund, in other words, funding is necessary because it 10 will still be funded with the Council. But when we say 11 the County shall indemnify, are you saying that when we 12 say the -- are you saying that the -- the Council is not 13 a part of the County, so that it will not be obligated 14 to fund? 15 MR. KUSHI: No. What I'm saying is the 16 Council has the authority to fund claims, judgments, 17 settlements. 18 MEMBER BAXA: I understand that. 19 MR. KUSHI: We have no authority on our own to 20 fund a -- 21 MEMBER BAXA: I do not mean the Corporation 22 Counsel; I mean the County. Is the Council a part of 23 the County? 24 MR. KUSHI: Of course, Judge. 25 MEMBER BAXA: Okay.</p>
<p style="text-align: right;">Page 254</p> <p>1 you get a judgment, who's going to pay for that? 2 Council is the funding body, so they should know what 3 they're up against. 4 MEMBER MOIKEHA: Chair? 5 CHAIR STONE: Yes, Commissioner Moikeha. 6 MEMBER MOIKEHA: I don't have a problem with 7 you seeking and making the Council aware, but, at the 8 end of the day, if this is in the Charter, regardless of 9 what their decision is, will this still hold? Will it 10 trump? 11 MEMBER WIGER: The Council? 12 MR. KUSHI: Well, based on your proposed 13 language, you know, the key is "as a result of the 14 lawful performance" -- 15 MEMBER MOIKEHA: Okay, yeah. 16 MR. KUSHI: -- "as advised by Corp Counsel." 17 MEMBER MOIKEHA: Okay. 18 MR. KUSHI: So that needs to be expressed and 19 advised to the Council. 20 MEMBER BAXA: I have a -- 21 MR. KUSHI: Now, if your Corp Counsel gives 22 you the wrong advice, and you follow that, then this is 23 not your problem. It's the County employee's fault. 24 MEMBER BAXA: Mr. Chair? 25 CHAIR STONE: Commissioner Baxa.</p>	<p style="text-align: right;">Page 256</p> <p>1 CHAIR STONE: Okay. Thank you. 2 MEMBER BAXA: Thank you very much. I just -- 3 I do not -- I do not mean to disagree, but I just want 4 to erase unnecessary words to complicate matters. There 5 is a provision in statutory -- statutory interpretation 6 that the word indemnify, according to understanding of 7 the people who put that into law, means that it will 8 still pay. Then there is no understanding, the primary 9 language will be the language of the statute. And what 10 is the meaning of indemnify? If there is no such 11 definition, you go to dictionary definition. What is 12 the definition of indemnify? 13 MEMBER MOIKEHA: Chair? 14 VICE-CHAIR HEDANI: Very good. 15 Commissioner Moikeha. 16 MEMBER MOIKEHA: Maybe the Staff Analyst could 17 include a definition so that when we come back, as a 18 draft, we'll know exactly what we're talking about. 19 MEMBER BAXA: That should be included there. 20 MEMBER WIGER: Yeah. 21 MEMBER MOIKEHA: I would also like to say, you 22 know, anybody that does -- I mean, there's -- in my 23 particular case -- and part of what we were -- we ended 24 up having to settle. And we followed the advice of 25 counsel. And two Commissioners, myself and another,</p>

<p style="text-align: right;">Page 257</p> <p>1 were part of that mediation. Well, first, we went to  2 mediation. And everybody carries insurance. So, you  3 know, whatever they were asking for in the amount of  4 dollars as part of this mediation was covered by the  5 County's insurance. So, you know, I just want to throw  6 that out there. I think maybe including a definition of  7 indemnification would be helpful for everybody, so we  8 know we're on the same page.  9 MEMBER BAXA: I would agree, Mr. Chair.  10 MEMBER WIGER: Yeah. That's good.  11 CHAIR STONE: Thank you.  12 MR. KUSHI: Mr. Chair? Let me just say  13 something else, too. And you should note this. We've  14 had some cases in the past, not recently, whether it's  15 board or commission members, or employees, Council  16 approved the authorization to defend the employee, but  17 reserved its authority to -- or its power to indemnify.  18 You know how insurance companies do? You get  19 sued, and, "I'll defend you, but I'm not promising to  20 pay you." They've had -- we've had instances in those  21 situations where the Council recognizes the problem of  22 defense, because the lawsuit progresses, we need to  23 answer the complaint on behalf of the board or  24 commission members or employees, but we are not saying  25 we are going to pay a judgment against you. Lay the</p>	<p style="text-align: right;">Page 259</p> <p>1 ramifications of what they should do, and they followed  2 it, and then there's this big question whether they  3 should be indemnified? That's crap. So I believe let's  4 put it forth, let your Analyst determine any more other  5 pros and cons of this issue. I mean, I want to know  6 everything, that's not a problem. But no volunteer  7 should have to go through that.  8 CHAIR STONE: Thank you.  9 MEMBER MOIKEHA: We're not employees. That's  10 a different story.  11 CHAIR STONE: And, Commissioners, let me point  12 out that, as we get into the draft language, that,  13 obviously, our Analyst will assure -- or work on making  14 the language correct. Commissioner Hedani.  15 VICE-CHAIR HEDANI: Because we're not  16 attorneys, I'd actually like the definition of the word  17 "indemnification" at this point.  18 CHAIR STONE: Very good. Does anybody have a  19 smart phone?  20 MEMBER DELEON: No. We have a good attorney  21 over there.  22 CHAIR STONE: Ed, definition of  23 indemnification?  24 MR. KUSHI: That means, in the layman's sense,  25 to pay a judgment.</p>
<p style="text-align: right;">Page 258</p> <p>1 cards out and wait for the litigation. In that case,  2 the employee or the board and commission member should  3 hire his own counsel to watch what's -- well, watch the  4 actions of the Council.  5 CHAIR STONE: I believe the point of this  6 proposal is to make sure that doesn't happen.  7 MEMBER MOIKEHA: Chair?  8 CHAIR STONE: Commissioner Moikeha.  9 MEMBER MOIKEHA: You know what, first of all,  10 we're not talking about County employees. We're talking  11 about volunteers that are boards and commissions. This  12 only applies to board and commission volunteers. And I  13 can appreciate where Mr. Kushi's coming to give us the  14 other side of it and to give a broader perspective. But  15 no volunteer who has followed the law, has performed  16 their duties in lawful performance, as directed, when  17 there's a legal question by Corp Counsel, should suffer  18 anything in the way of funding their own personal  19 attorney or anything else.  20 And the more this conversation goes on, the  21 more stronger I know that this is the right thing to do.  22 I am serious. Because this is ridiculous. That anybody  23 would think that a volunteer should go out there and  24 hire their own attorney when a Corp Counsel sat here and  25 advised the entire board and commission on the legal</p>	<p style="text-align: right;">Page 260</p> <p>1 CHAIR STONE: Sorry?  2 MR. KUSHI: Pay a judgment or claim against  3 you. I mean, when it comes down to it. Now, defense is  4 something else. The defense of a lawsuit is something  5 else.  6 MEMBER DELEON: Mr. Chair?  7 CHAIR STONE: Yes, please.  8 MEMBER DELEON: We should take this to -- out  9 to proposal level; however, ask our Staff Analyst, who  10 is not tied to the County -- no offense, Ed, but  11 somebody who is neutral on this thing -- to draft the  12 language from our --  13 CHAIR STONE: Thank you.  14 Commissioner Baxa.  15 MEMBER BAXA: Yeah. Mr. Chair, since -- I  16 have to agree with Mr. Kushi, when he said that there  17 must be a judgment. Because the word "indemnify"  18 already connotes that there is something that has been  19 -- oh, no -- against -- I mean, something collectable  20 against that particular commissioner.  21 CHAIR STONE: Hmm.  22 MEMBER BAXA: So, in other words, I am so glad  23 that this was brought up, because now I can say that we  24 should, in fact, add the County to defend and indemnify.  25 CHAIR STONE: Very good. We have a friendly</p>

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<p>1 amendment to add County to defend and indemnify. Do you 2 accepted the friendly amendment? 3 MEMBER MOIKEHA: Accept. 4 MEMBER BAXA: I would defer to Ms. -- to 5 Commissioner Moikeha. 6 MEMBER SUGIMURA: She accepts it. 7 CHAIR STONE: Any further discussion or are we 8 ready to take this to vote? 9 (No Response.) 10 CHAIR STONE: Okay, very good. We're going to 11 take this to vote to move to draft proposal stage 12 Proposal Number 13.10, amended, as "Proposal to amend 13 Article 13, General Provisions, Section 2, Boards and 14 Commissions, to add provisions requiring the County to 15 defend and indemnify the legal representation of members 16 of boards and commissions in the event of civil action 17 as a result of the lawful performance of their duties as 18 advised by Corp Counsel." 19 Lisa, roll call, please. 20 MS. KAHUHU: Commissioner Wiger. 21 MEMBER WIGER: Yes. 22 MS. KAHUHU: Commissioner Sugimura. 23 MEMBER SUGIMURA: Yes. 24 MS. KAHUHU: Commissioner Okamoto. 25 MEMBER OKAMOTO: Yes.</p>	<p>1 Excused. 2 Okay. Moving on, Proposal Number 14.3, 3 "Proposal to amend Article 14, Charter Amendments, 4 Section 14-1, initiation of amendments, Subsections 1 5 and 2, to delete the power of County Council to amend 6 the Maui Charter during the time that a Charter 7 Commission is constituted." 8 Discussion or motion? 9 MEMBER BAXA: I would move, Mr. Chair. 10 CHAIR STONE: We have a motion to move this 11 forward. Do I have a second? 12 VICE-CHAIR HEDANI: Second. 13 CHAIR STONE: Commissioner Hedani seconded the 14 motion. 15 Discussion? 16 MEMBER SUGIMURA: So this means at the time 17 that we're meeting, the Council -- 18 CHAIR STONE: Weren't you excused? 19 MEMBER SUGIMURA: I thought I would vote. 20 CHAIR STONE: Okay. I'd like to reinstate 21 Commissioner Sugimura back to the meeting. 22 (Laughter.) 23 CHAIR STONE: Okay. What's your question, 24 Commissioner? 25 MEMBER SUGIMURA: I'm sorry. I just want to</p>
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<p>1 MS. KAHUHU: Commissioner Moikeha. 2 MEMBER MOIKEHA: Yes. 3 MS. KAHUHU: Commissioner Hashimoto. 4 MEMBER HASHIMOTO: Yes. 5 MS. KAHUHU: Commissioner Hedani. 6 VICE-CHAIR HEDANI: Yes. 7 MS. KAHUHU: Commissioner DeLeon. 8 MEMBER DELEON: Yes. 9 MS. KAHUHU: Commissioner De Rego, excused. 10 Commissioner Crivello. 11 MEMBER CRIVELLO: Yes. 12 MS. KAHUHU: Commissioner Baxa. 13 MEMBER BAXA: Of course. Yes. 14 (Laughter.) 15 MS. KAHUHU: Chair Stone. 16 CHAIR STONE: Yes. 17 MS. KAHUHU: Motion passes, unanimous. 18 CHAIR STONE: Motion passes. That will move 19 to the draft proposal stage. 20 Moving on. Article 14, Charter Amendments. 21 MEMBER BAXA: Excuse me, Mr. Chair. 22 CHAIR STONE: Proposal Number 14.3, "Proposal 23 to amend Article 14, Charter Amendment" -- oh, no 24 problem. "Proposal to amend Article" -- we're going to 25 -- I'm excusing Yuki Lei. She has a meeting at 4:45.</p>	<p>1 vote as much as I can. So this is just -- just during 2 the time we're meeting that they can't make amendments, 3 so they send everything to us, right, per our earlier 4 discussion? 5 CHAIR STONE: Correct. That's correct. 6 Any further discussion? 7 MEMBER DELEON: Mr. Chair? 8 CHAIR STONE: Yes, Commissioner DeLeon. 9 MEMBER DELEON: During the last Charter -- 10 Charter function like this, the County Council and the 11 Charter Commission actually had opposing proposals on 12 the Water Board. And the public chose the Council's 13 proposal. So there is a time when there's merit in the 14 Council giving a different perspective at the same time 15 as we're in function. So, I mean, I would not cast out, 16 as a matter of fact, that there is no merit to that. 17 It's a nuisance. And I think -- I think we're 18 kind of perplexed by the Council's apparent 19 obliviousness to the fact that we were functioning at 20 the beginning of our function. But, you know, that's 21 changed since then. But I think -- I don't know, I 22 don't think I can support this one. Because of the 23 history, I think I believe that there is an appropriate 24 use to the Council having the power at all times. 25 CHAIR STONE: Thank you, Commissioner DeLeon.</p>

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<p>1 Any further -- Commissioner Baxa.</p> <p>2 MEMBER BAXA: Mr. Chair, I do not want to be</p> <p>3 misinterpreted here. I do recognize the power of the</p> <p>4 Council to make the laws, that is their primary</p> <p>5 function. But the way I'm considering is this: The</p> <p>6 Council has so much time before the 10-year period comes</p> <p>7 in, there is so much time to make all these proposals.</p> <p>8 And, why, when we are supposed to -- I'm not saying "we"</p> <p>9 because I'm not referring to a particular commission.</p> <p>10 When that commission sits, why wait until that time to</p> <p>11 make those proposals? So the -- the proposal is only</p> <p>12 during that time they should not be having to make</p> <p>13 proposals.</p> <p>14 CHAIR STONE: Thank you. Thank you for the</p> <p>15 clarification.</p> <p>16 Any further discussion? Commissioner Hedani.</p> <p>17 VICE-CHAIR HEDANI: You know, when I reviewed</p> <p>18 all of the past Charter amendments that were proposed</p> <p>19 for every election, it's kind of an either/or thing,</p> <p>20 yeah. If the Charter Commission meets every 10 years,</p> <p>21 if you look historically at the votes, it's almost not</p> <p>22 necessary to have a Charter Commission. Because we've</p> <p>23 had Charter amendments proposed every two years for the</p> <p>24 last 15 years, 20 years. So it's not once every 10</p> <p>25 years that it comes up. So it's almost an either/or</p>	<p>1 CHAIR STONE: For you, yes.</p> <p>2 MEMBER BAXA: Yes.</p> <p>3 MS. KAHUHU: Commissioner Crivello.</p> <p>4 MEMBER CRIVELLO: Yes.</p> <p>5 MS. KAHUHU: Commissioner DeLeon.</p> <p>6 MEMBER DELEON: No.</p> <p>7 MS. KAHUHU: Commissioner De Rego, excused.</p> <p>8 Commissioner Hashimoto.</p> <p>9 MEMBER HASHIMOTO: Yes.</p> <p>10 MS. KAHUHU: I'm sorry?</p> <p>11 MEMBER HASHIMOTO: Yes.</p> <p>12 MS. KAHUHU: Commissioner Hedani.</p> <p>13 VICE-CHAIR HEDANI: Yes.</p> <p>14 MS. KAHUHU: Commissioner Moikeha.</p> <p>15 MEMBER MOIKEHA: No.</p> <p>16 MS. KAHUHU: Commissioner Okamoto.</p> <p>17 MEMBER OKAMOTO: Yes.</p> <p>18 MS. KAHUHU: Commissioner Sugimura.</p> <p>19 MEMBER SUGIMURA: No.</p> <p>20 MS. KAHUHU: Commissioner Wiger.</p> <p>21 MEMBER WIGER: Yes.</p> <p>22 MS. KAHUHU: Chair Stone.</p> <p>23 CHAIR STONE: Yes.</p> <p>24 MS. KAHUHU: Seven "yes." The motion passes.</p> <p>25 CHAIR STONE: Good. Proposal Number 14.3 will</p>
Page 266	Page 268
<p>1 kind of a thing.</p> <p>2 So in this particular case, if they decide</p> <p>3 that the Charter should -- Charter Commission should</p> <p>4 continue to exist and do reviews of the Charter every 10</p> <p>5 years, then, at least during that period, I think it</p> <p>6 should be held in abeyance. They can do it in the next</p> <p>7 election, it's just as easy. They've done it every time</p> <p>8 before.</p> <p>9 CHAIR STONE: Very good.</p> <p>10 Further discussion?</p> <p>11 (No Response.)</p> <p>12 CHAIR STONE: Okay. Without further</p> <p>13 discussion, we'll take this to vote. Lisa, roll call,</p> <p>14 please.</p> <p>15 MS. KAHUHU: Commissioner Baxa.</p> <p>16 MEMBER BAXA: I just want to be sure. My vote</p> <p>17 is to --</p> <p>18 MEMBER DELEON: It's your motion.</p> <p>19 MEMBER BAXA: They should not be able to make</p> <p>20 any amendment during the time?</p> <p>21 CHAIR STONE: So in order to vote in the</p> <p>22 affirmative means that they will not make a Charter</p> <p>23 amendment while the Charter Commission is --</p> <p>24 MEMBER BAXA: Yeah. So the answer should be</p> <p>25 yes.</p>	<p>1 now move to the draft proposal stage.</p> <p>2 Moving on. Proposal Number 14.4, "Proposal to</p> <p>3 amend the Charter Commission appointment process,</p> <p>4 Section 14.3, so that it follows the time requirements</p> <p>5 for regular Maui County boards and commissions in</p> <p>6 Section 13.2-16."</p> <p>7 Discussion?</p> <p>8 MEMBER DELEON: Mr. Chair?</p> <p>9 CHAIR STONE: Yes.</p> <p>10 MEMBER DELEON: Once again, this is my</p> <p>11 proposal. The purpose of this is, the way the current</p> <p>12 provision is written, in 14-3, the Council has no time</p> <p>13 requirement to -- to actually finalize the appointment</p> <p>14 process. So they could -- the nomination could sit on</p> <p>15 the floor as long as the Council pleases at this point.</p> <p>16 Not that the Council will necessarily do that, and</p> <p>17 haven't demonstrated that in the past, but it became</p> <p>18 very obvious to me that there was a possibility this</p> <p>19 time around. And the 13.2-16 is clear rules for the</p> <p>20 timing of appointments and nominations.</p> <p>21 CHAIR STONE: Discussion or motion?</p> <p>22 MEMBER DELEON: Move to approve.</p> <p>23 CHAIR STONE: We have a motion to approve.</p> <p>24 MEMBER WIGER: Second.</p> <p>25 CHAIR STONE: It has been seconded by -- who</p>

<p style="text-align: right;">Page 269</p> <p>1 seconded that, please? Commissioner Wiger?</p> <p>2 MEMBER WIGER: Yes.</p> <p>3 CHAIR STONE: Very good. The motion is on</p> <p>4 table to move to draft proposal stage Proposal Number</p> <p>5 14.4, to amend the Charter Commission appointment</p> <p>6 process, Section 14.3, so that it follows the time</p> <p>7 requirements for regular Maui County boards and</p> <p>8 commissions in Section 13.2-16. Discussion?</p> <p>9 MEMBER OKAMOTO: Well when I read it, I</p> <p>10 couldn't figure out what it was. It makes sense when</p> <p>11 Dave explains it. Would it be possible to spell it out</p> <p>12 more in the actual Charter?</p> <p>13 MEMBER DELEON: Yeah. Otherwise, the public</p> <p>14 would not have a clue.</p> <p>15 CHAIR STONE: I believe that that would be in</p> <p>16 the draft stage.</p> <p>17 MEMBER OKAMOTO: Okay. Thank you.</p> <p>18 CHAIR STONE: Any further discussion?</p> <p>19 (No Response.)</p> <p>20 CHAIR STONE: Okay. First, I would like to</p> <p>21 excuse Commissioner Sugimura again. Make a little more</p> <p>22 noise, why don't you?</p> <p>23 And let's take this to vote. Lisa, roll call,</p> <p>24 please.</p> <p>25 MS. KAHUHU: Commissioner Wiger.</p>	<p style="text-align: right;">Page 271</p> <p>1 MEMBER BAXA: Mr. Chair, what is the necessity</p> <p>2 for extending it to 18 months?</p> <p>3 CHAIR STONE: I didn't make this proposal.</p> <p>4 I'm not sure.</p> <p>5 MEMBER OKAMOTO: I made -- I don't know that</p> <p>6 that's exactly way I wrote it, but I made a proposal to</p> <p>7 extend the time so that we're not doing what we're doing</p> <p>8 right now, having to cram everything into a very short</p> <p>9 time. Whether it be 18 months or whether we have a</p> <p>10 different start and stop date -- right now, we're under</p> <p>11 a crunch of about eight months to actually get</p> <p>12 everything together. And that's just not -- so somehow</p> <p>13 to extend it.</p> <p>14 CHAIR STONE: Thank you.</p> <p>15 Commissioner Moikeha.</p> <p>16 MEMBER MOIKEHA: Yeah. I agree with that. I</p> <p>17 think there's been so many issues upon us from the</p> <p>18 public that just require more time and resources. And I</p> <p>19 would even go for two years, but I would support it.</p> <p>20 CHAIR STONE: Would you accept a friendly</p> <p>21 amendment to change that to two years? Actually, I'm</p> <p>22 sorry, there's no motion on the floor. Commissioner</p> <p>23 Moikeha, would you like to make a motion?</p> <p>24 MEMBER MOIKEHA: I'd like to hear what others</p> <p>25 think about the timeframe.</p>
<p style="text-align: right;">Page 270</p> <p>1 MEMBER WIGER: Yes.</p> <p>2 MS. KAHUHU: Commissioner Sugimura, excused.</p> <p>3 Commissioner Okamoto.</p> <p>4 MEMBER OKAMOTO: Yes.</p> <p>5 MS. KAHUHU: Commissioner Moikeha.</p> <p>6 MEMBER MOIKEHA: Yes.</p> <p>7 MS. KAHUHU: Commissioner Hashimoto.</p> <p>8 MEMBER HASHIMOTO: Yes.</p> <p>9 MS. KAHUHU: Commissioner Hedani.</p> <p>10 VICE-CHAIR HEDANI: Yes.</p> <p>11 MS. KAHUHU: Commissioner DeLeon.</p> <p>12 MEMBER DELEON: Yes.</p> <p>13 MS. KAHUHU: Commissioner De Rego, excused.</p> <p>14 Commissioner Crivello.</p> <p>15 MEMBER CRIVELLO: Yes.</p> <p>16 MS. KAHUHU: Commissioner Baxa.</p> <p>17 MEMBER BAXA: Yes.</p> <p>18 MS. KAHUHU: Chair Stone.</p> <p>19 CHAIR STONE: Yes.</p> <p>20 MS. KAHUHU: Motion passes, unanimous.</p> <p>21 CHAIR STONE: Motion passes. Motion 14.4 will</p> <p>22 move on to draft language stage.</p> <p>23 Moving down the list, Proposal Number 14.9,</p> <p>24 "Proposal to extend the term of Charter Commission to 18</p> <p>25 months." Discussion or motion?</p>	<p style="text-align: right;">Page 272</p> <p>1 CHAIR STONE: Thank you.</p> <p>2 MEMBER DELEON: Mr. Chair?</p> <p>3 CHAIR STONE: Commissioner DeLeon.</p> <p>4 MEMBER DELEON: I'm having a little difficulty</p> <p>5 trying to figure how this is going to fit into a</p> <p>6 calendar, particularly if there's a new Mayor, like in</p> <p>7 our case. You have new Mayor at the beginning of -- you</p> <p>8 know, like right after an election cycle that just came</p> <p>9 in. So they have to do the nomination process, they</p> <p>10 have to recruit.</p> <p>11 And the one we just approved ahead of time,</p> <p>12 just before, requires names to be to Council in January.</p> <p>13 And the Council gets 60 days to make a decision. So</p> <p>14 they wouldn't be in office until April 1st. And if</p> <p>15 you're going to make an election cycle -- so April 1st</p> <p>16 gives you eight months in that year, then you have about</p> <p>17 eight to -- about eight months until you get it on the</p> <p>18 ballot. So there's 16 there. And the ballot is the --</p> <p>19 it was July, now it's June, because of federal law</p> <p>20 requiring it to push back. So -- so we got until June.</p> <p>21 So you might have a case where you would be</p> <p>22 appointed by one Mayor and then, actually, be serving</p> <p>23 under another. You would have to just rethink the</p> <p>24 timing of this. I mean, you would have to look at it in</p> <p>25 the calendar form and think out it works before you can</p>



<p style="text-align: right;">Page 273</p> <p>1 settle on what the timing would be. Because you want to  2 come out, you want to be able to present to the public  3 and you want to be able to be answerable to the public  4 before the election. So that you go on the road and  5 talk to people and stuff like that, this is why we  6 propose this, this is what this is about. So --  7 And, typically, you're going to go on the  8 ballot and -- well, of course, it's November is when you  9 have the election, the actual election where it needs  10 action. These are not primary issues. But --  11 MEMBER OKAMOTO: Well, I --  12 CHAIR STONE: Commissioner Okamoto.  13 MEMBER OKAMOTO: -- know when I originally  14 sort of wrote it up, I realized that there would be  15 issues with the timing. And it may have to be that it's  16 appointed under one Mayor and you're serving under  17 another. That's -- that's just a reality. And maybe we  18 have to write it in a way that it says by the two years  19 before the 10 year is up or -- you know, we have to  20 write it in a way that gives us -- us -- gives the  21 Commission time to really go out and meet with the  22 people and then do the work.  23 We have put so much on the side already that  24 we know we don't have time to cover. And every --  25 that's going to happen every single time unless there is</p>	<p style="text-align: right;">Page 275</p> <p>1 Commissioners, the more -- the question should not be  2 (inaudible). From practical experience, we will work  3 and we know that when the deadline is so far away, the  4 desire for efficiency and productivity is not there.  5 That is my thought, Mr. Chair. I know you may  6 not share my feelings, but that is my thought.  7 CHAIR STONE: Thank you.  8 Commissioner Hedani. Oh, I'm sorry. Excuse  9 me. Commissioner Moikeha had her hand up first.  10 MEMBER MOIKEHA: Maybe 18 months is long  11 enough. But I think what we struggled with was a  12 procedure in public -- in getting public input. And I  13 just think the time -- if you really think about how  14 many meetings we actually had time to really deliberate  15 something -- we've just been going through lists and  16 redoing our lists and getting it down to a final product  17 with very little time, really, to get a lot of  18 information at the same time. And that would my  19 reasoning for wanting to extend it, is to give time.  20 I think, also, maybe a different process. I  21 mean, we always do type of meetings where there's a  22 three-minute, five-minute limit. Charrettes can also be  23 a way to incorporate the community's input. We did that  24 with the General Plan. And -- and to kind of flesh out  25 what the issues are and then get enough resources to</p>
<p style="text-align: right;">Page 274</p> <p>1 a longer period.  2 CHAIR STONE: Very good. Thank you.  3 MEMBER DELEON: Mr. Chair, then we might want  4 to go back and rethink the one we just approved, because  5 -- because if we put it under -- under that time  6 requirement, then it's not gonna be unique timing, it's  7 going to be with the other boards and commissions. It  8 will be going into office in April, beginning of April,  9 and so you would have to work on it from there. And,  10 usually, you're going to want -- you have to take a back  11 ends to this because you're talking about an election.  12 So you have to -- you know, I think you want your  13 product coming up just as the election comes; otherwise,  14 it's going to be sitting around, collecting dust for a  15 couple months.  16 CHAIR STONE: Thank you.  17 Commissioner Baxa.  18 MEMBER BAXA: Yeah. Mr. Chair, I am of the  19 thought that the longer the time the Commission exists  20 does not necessarily, in fact, translate to greater  21 efficiency or more fruitfulness in the effort. When we  22 have a deadline -- right now, we have eight months. I  23 would agree to one year, but we extend it to 18, to two  24 years, 18 months to two years, the longer we (inaudible)  25 which is in the minds of the people and the</p>	<p style="text-align: right;">Page 276</p> <p>1 narrow it down to is it something that we need to put  2 forth. So my reasoning for the length of time is just  3 to have more time to do the public process, do it in a  4 different way, maybe get more results, and then have the  5 time we actually need to deliberate. So I support that.  6 CHAIR STONE: Thank you, Commissioner.  7 Commissioner Hedani.  8 VICE-CHAIR HEDANI: Do we have a motion on the  9 floor?  10 MEMBER OKAMOTO: Yes.  11 CHAIR STONE: Yes.  12 VICE-CHAIR HEDANI: We do?  13 CHAIR STONE: Yes.  14 VICE-CHAIR HEDANI: I agree with Judge Baxa,  15 generally speaking, because everything that the County  16 does is slow. And this just makes it slower. And I  17 think the work will always expand to fill the time that  18 we have to do it. If we were given a one-year timeframe  19 to complete the Charter amendments, we would have met  20 the one-year timeframe, I think. So I'll be voting  21 against this.  22 CHAIR STONE: Thank you.  23 Commissioner Wiger had her hand up first.  24 MEMBER WIGER: Well, I really support the  25 comments by Kay and Susan. I think that -- while I</p>

<p style="text-align: right;">Page 277</p> <p>1 agree theoretically that you will always find work to  2 fill up the time, that's not been, I think, our  3 experience here. Our experience is that we have more  4 work and not enough time to get the things taken care  5 of. And part of it goes to Susan's comments about  6 process in how we do our business. There are any number  7 of ways of doing this differently than the way in which  8 we've done it, which is having the open testimony,  9 people come and it's three minutes, and maybe we'll make  10 it five or -- and that's not -- it's not a good or a  11 bad; it's simply a process. There's other kinds of  12 processes that can be employed that will get information  13 to a commission. And the commission can move ahead and  14 do some -- and do its business productively,  15 efficiently, but using some different kinds of  16 processes. And I'd like this to go forward as a draft  17 so at least we can look at some possibility of language  18 and some ways of doing things differently.</p> <p>19 I mean, frankly, when I leave the Commission,  20 I will feel very good about what we've done, but I'm  21 also going to have in the back of my mind a whole list  22 of things that we should have spent more time on, paid  23 more attention to. And the reason we haven't is because  24 we simply haven't had the time to do what we need to do.  25 Even if it's a matter of saying, it shouldn't be in the</p>	<p style="text-align: right;">Page 279</p> <p>1 takes a lot of time to chew on.  2 And I think I had earlier had the  3 presentation -- the proposal to have a commission  4 studying County Government as an ongoing thing. And  5 eyeing the possibility of a city manager kind of  6 approach could have been broader, it could have been  7 just, you know, eyeballing the function of the  8 government, and having a more permanent board doing  9 that, with either that board or some other body, or  10 Charter Commission, you know, working on its  11 recommendations, when -- when it comes. And maybe a  12 ongoing chewing process would be better than this thing  13 where we're trying to do it all in one big gulp.</p> <p>14 CHAIR STONE: Thank you.  15 Commissioners, further discussion?  16 (No Response.)  17 CHAIR STONE: So nobody actually put a motion  18 forward on this.</p> <p>19 MEMBER DELEON: No. There is.  20 MEMBER OKAMOTO: As written.  21 CHAIR STONE: As written. And who seconded  22 the motion? I'm sorry. Did you second it?  23 MEMBER MOIKEHA: Yeah.  24 CHAIR STONE: Commissioner Moikeha. Okay,  25 very good.</p>
<p style="text-align: right;">Page 278</p> <p>1 Charter, coming to that as a logical conclusion, rather  2 than coming to it as, okay, there's six things on the  3 agenda, we know we're only going to be able to deal with  4 four, what are the two that get lobbed off.</p> <p>5 So I would support the longer timeframe.  6 CHAIR STONE: Thank you.  7 Commissioner Okamoto.  8 MEMBER OKAMOTO: My concern started because we  9 didn't really start work for four months from the time  10 that the timeframe started. And I think that's --  11 that's part of it. Supposedly, in January, you were  12 appointed, but we really didn't have our first meeting  13 until May, and really didn't start doing anything until  14 June.</p> <p>15 And so somehow, if you have a longer time or  16 if we spell out exactly when the time starts somehow.  17 CHAIR STONE: Thank you.  18 Commissioner DeLeon.  19 Excuse me. That was -- that yawn was not  20 reflective to your response.  21 MEMBER DELEON: Given that this was a brand  22 new body sat down with a brand new Chair, staff's  23 breaking in and just trying to get up and running, this  24 board is rocketing in County time. I mean, we're flying  25 along. So it's just it's a very thick subject. It just</p>	<p style="text-align: right;">Page 280</p> <p>1 Sorry, guys, I lost -- I had a 4:45 moment.  2 MEMBER WIGER: Stay with us.  3 CHAIR STONE: Okay. We'll take this motion to  4 vote. And I believe the draft language, obviously, at  5 the time is the issue and, in the draft language, that  6 can be worked out.</p> <p>7 Please, Lisa, take roll call.  8 MS. KAHUHU: Commissioner Baxa.  9 MEMBER BAXA: No.  10 MS. KAHUHU: Commissioner Crivello.  11 MEMBER CRIVELLO: No.  12 MS. KAHUHU: Commissioner DeLeon.  13 MEMBER DELEON: Yes.  14 MS. KAHUHU: Commissioner De Rego, excused.  15 Commissioner Hashimoto.  16 MEMBER HASHIMOTO: No.  17 MS. KAHUHU: Commissioner Hedani.  18 VICE-CHAIR HEDANI: No.  19 MS. KAHUHU: Commissioner Moikeha.  20 MEMBER MOIKEHA: Yes.  21 MS. KAHUHU: Commissioner Okamoto.  22 MEMBER OKAMOTO: Yes.  23 MS. KAHUHU: Commissioner Sugimura, excused.  24 Commissioner Wiger.  25 MEMBER WIGER: Yes.</p>

<p style="text-align: right;">Page 281</p> <p>1 MS. KAHUHU: Chair Stone.  2 CHAIR STONE: No.  3 MS. KAHUHU: Five "no." Motion fails.  4 CHAIR STONE: Thanks for the drama, Lisa. The  5 motion did not just fail, it failed.  6 Moving on.  7 MEMBER OKAMOTO: I move we take the next one  8 to draft proposal.  9 MEMBER DELEON: Second.  10 (Laughter.)  11 CHAIR STONE: Commissioners, order. Let me  12 read it. Proposal Number 14.10, "Proposal to require  13 that the Charter be republished each time it is amended  14 with a significant amendment."  15 And it has -- a motion has been put forward to  16 take this to draft proposal by Commissioner Okamoto and  17 seconded by Commissioner DeLeon. Discussion?  18 MEMBER HASHIMOTO: Excuse me. I had a  19 question.  20 CHAIR STONE: Yes, Commissioner Hashimoto.  21 MEMBER HASHIMOTO: I don't know what the  22 original draft looks like.  23 CHAIR STONE: Oh.  24 MEMBER HASHIMOTO: I don't have it in my head,  25 but I -- I'll be voting against it, according to this</p>	<p style="text-align: right;">Page 283</p> <p>1 happens, every -- when you republish something, usually  2 something is left out for some reason or another. I  3 mean, all of you have had bylaws in the past with some  4 organization you've gone to, right? Did you have that  5 problem? It's exactly what happens. When you republish  6 the darn thing, it's --  7 CHAIR STONE: Well, not in this case. I don't  8 believe that our Maui County Charter would leave  9 anything out. I -- I don't --  10 MEMBER HASHIMOTO: Listen, I was in the  11 military for over 20 years. And even there, they left  12 things out.  13 CHAIR STONE: Okay. Your point is accepted.  14 Thank you very much, Commissioner Hashimoto.  15 Any further discussion on the proposal?  16 MEMBER DELEON: Call for the question.  17 CHAIR STONE: No further discussion. Roll  18 call, please, Lisa.  19 MS. KAHUHU: Commissioner Wiger.  20 MEMBER WIGER: Yes.  21 MS. KAHUHU: Commissioner Sugimura, excused.  22 Commissioner Okamoto.  23 MEMBER OKAMOTO: Yes.  24 MS. KAHUHU: Commissioner Moikeha.  25 MEMBER MOIKEHA: Yes.</p>
<p style="text-align: right;">Page 282</p> <p>1 description down here. And the reason for that is you  2 don't want to be jumping around from one book or one  3 page from another trying to find out what the original  4 -- or the last amendment was, amendment approved. You  5 need to have all of it right there in front of you.  6 MEMBER DELEON: That's the --  7 CHAIR STONE: That's the proposal. So, for  8 example, we're reviewing 2003 Edition, we have to look  9 at our amended proposals, like 2006, 2010 amendments.  10 What the proposal is, is that every time -- every time  11 new Charter proposals pass in the ballot, a new book is  12 published so that that it's complete. So that you know  13 that the 2000 -- the most recent edition is a complete  14 book. That's the proposal.  15 MEMBER WIGER: Exactly what you just said.  16 MEMBER DELEON: You made a very eloquent --  17 MEMBER HASHIMOTO: Well, 2003 doesn't have all  18 the amendments.  19 CHAIR STONE: Well, that's the point.  20 MEMBER CRIVELLO: That's the problem.  21 MEMBER OKAMOTO: So we want to fix that.  22 MEMBER HASHIMOTO: Even this one doesn't.  23 CHAIR STONE: Agreed. Agreed, Commissioner  24 Hashimoto.  25 MEMBER HASHIMOTO: Well, what happens -- what</p>	<p style="text-align: right;">Page 284</p> <p>1 MS. KAHUHU: Commissioner Hashimoto.  2 MEMBER HASHIMOTO: I'm going to vote "yes"  3 only because -- I hoping to heck it is --  4 MEMBER DELEON: Take our word for it, Cliff.  5 MS. KAHUHU: Commissioner Hedani.  6 VICE-CHAIR HEDANI: Yes.  7 MS. KAHUHU: Commissioner DeLeon.  8 MEMBER DELEON: Yes.  9 MS. KAHUHU: Commissioner De Rego, excused.  10 Commissioner Crivello.  11 MEMBER CRIVELLO: Yes.  12 MS. KAHUHU: Commissioner Baxa.  13 MEMBER BAXA: Excuse me. What is -- is it to  14 go home, the motion?  15 (Laughter.)  16 CHAIR STONE: That's not the motion. The  17 motion is to accept Proposal Number 14.10 to require  18 that the Charter be republished each time it is amended.  19 MEMBER BAXA: Oh, yes. Yes, yes.  20 MS. KAHUHU: Chair Stone.  21 CHAIR STONE: Yes.  22 MS. KAHUHU: Motion passes.  23 CHAIR STONE: Very good.  24 I think we can tell by the collapse of our  25 order, we've hit our max. We have one more. I know</p>

<p style="text-align: right;">Page 285</p> <p>1 everybody wants to go, but, boy, this is the last thing  2 on the page. So I'm going to bring it up and just see  3 if I get a motion to defer.  4 MEMBER MOIKEHA: Clarification, Chair?  5 CHAIR STONE: Yes.  6 MEMBER MOIKEHA: Didn't we already put this  7 forth for a draft amendment?  8 MEMBER DELEON: What's that?  9 CHAIR STONE: Office of County Auditor.  10 MEMBER DELEON: It's already been approved.  11 CHAIR STONE: Oh.  12 MEMBER MOIKEHA: We don't need to.  13 MEMBER WIGER: That's why we --  14 CHAIR STONE: Commissioner Moikeha, thank you  15 very much for the save.  16 And I'd like to congratulate the Commissioners  17 for getting through the first round of our Active  18 Proposal List. I'd like to remind you we have a number  19 of deferred topics which I would like to say please do  20 your homework and study those deferred topics so that,  21 when we come back in our next meeting, we get 'er done.  22 Commissioner Hashimoto.  23 MEMBER HASHIMOTO: Yeah. Chair, I know we're  24 all laughing about this earlier in the day. This is  25 about the meeting in Hana.</p>	<p style="text-align: right;">Page 287</p> <p>1 to be moved. We are going to need to move the Kihei  2 meeting and we are going to need to move the Molokai  3 meeting.  4 MEMBER OKAMOTO: All to January?  5 CHAIR STONE: All to January, yes.  6 MEMBER MOIKEHA: Okay.  7 CHAIR STONE: All right. So the first public  8 meeting will be on December 12th, that's a Monday,  9 December 12th, 2011, 6:30 p.m., at the Lahaina Civic  10 Center, in Lahaina. And you guys have the remainder of  11 that schedule.  12 We'll make sure that we put out a publication,  13 Cliff, before, as soon as possible, with the new dates.  14 Thank you.  15 All right.  16 MEMBER OKAMOTO: Question. After the 28th,  17 what is the next regular meeting?  18 CHAIR STONE: Let me go to my schedule,  19 calendar.  20 MEMBER MOIKEHA: December 12th.  21 CHAIR STONE: Thank you.  22 MEMBER MOIKEHA: December 12th.  23 CHAIR STONE: Thank you. December 12th.  24 MEMBER OKAMOTO: So we will be finalizing  25 things on the 12th, and meeting with Lahaina on the</p>
<p style="text-align: right;">Page 286</p> <p>1 CHAIR STONE: Uh-huh.  2 MEMBER HASHIMOTO: Now, is that official,  3 we're not going to have that meeting in Hana?  4 CHAIR STONE: Yes. Moving on --  5 MEMBER HASHIMOTO: Will that be published?  6 CHAIR STONE: Yes. One second. Let me just  7 move on.  8 Old Business, we have none.  9 New Business, discussion on communication  10 items. Is there any discussion on the communication  11 items?  12 (No Response.)  13 CHAIR STONE: No, we have no discussion on  14 communication items. Please make sure you do review all  15 those items.  16 Announcements, next meeting date, discussion  17 on next meeting agenda items. Just so we're clear, our  18 next regular meeting date is Monday, November 28th,  19 2011, 10:00 a.m., here in the Planning Conference Room,  20 Kalana Pakui Building.  21 Okay. Upcoming public meeting schedule. We  22 are -- because of our issues with Sunshine Law, and the  23 fact that we will not be able to get our draft proposals  24 out following our next our final regular meeting, we are  25 going to need to move the Hana meeting, so that is going</p>	<p style="text-align: right;">Page 288</p> <p>1 12th?  2 CHAIR STONE: Well, we will --  3 MEMBER DELEON: Better be final already.  4 CHAIR STONE: We'll have a draft way before  5 that -- not way before, but we'll have the draft  6 language. So we'll be discussing our draft language on  7 the 12th. And maybe that meeting will go short because  8 we may not have that much to discuss on the 12th.  9 MEMBER OKAMOTO: I'm sorry. I thought when we  10 were going back to the public meetings, we will have  11 copies for them of things that --  12 CHAIR STONE: We will -- that's why --  13 MEMBER OKAMOTO: How can we do that if the  14 meeting is --  15 CHAIR STONE: The draft language, finals,  16 the -- sorry. I don't want to say the word final. All  17 of the draft language proposals will be done on November  18 28th.  19 MEMBER OKAMOTO: We have major ones we haven't  20 even made any decision.  21 CHAIR STONE: Which maybe we're going to be  22 adding meetings or going much longer. We are going to  23 make a strong effort to not blow it. We've come a long  24 way. Okay.  25 Anyways, without any further discussion or</p>

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1 objection, I'm going to adjourn this meeting at 5:00  
2 p.m. on the dot. Thank you very much for being here.  
3 (Meeting adjourned at 5:00 p.m.)

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1 CERTIFICATE

2  
3  
4 I, TONYA MCDADE, Certified Court Reporter of  
5 the State of Hawaii, do hereby certify that the  
6 proceedings contained herein were taken by me in machine  
7 shorthand and thereafter was reduced to print by means  
8 of computer-aided transcription; and that the foregoing  
9 represents, to the best of my ability, a true and  
10 accurate transcript of the proceedings had in the  
11 foregoing matter.

12 I further certify that I am not an attorney  
13 nor an employee of any of the parties hereto, nor in any  
14 way concerned with the cause.

15 DATED this 23rd day of November, 2011.

16 

17  
18 Tonya McDade  
19 Certified Shorthand Reporter #447  
20 Registered Professional Reporter  
21 Certified Realtime Reporter  
22 Certified Broadcast Reporter  
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